

2015

Volume II of the PH-EITI Country Report 2015



Table of Contents

CHAPTER 1: MSG’S RECOMMENDATIONS AND ASSESSMENT OF PROGRESS	1
CHAPTER 2: THE PHILIPPINE ENVIRONMENTAL IMPACT STATEMENT SYSTEM.....	11
OVERVIEW AND LEGAL BASIS OF THE PHILIPPINE ENVIRONMENTAL IMPACT STATEMENT SYSTEM.....	12
ENVIRONMENTAL IMPACT ASSESSMENT, ENVIRONMENTAL IMPACT STATEMENT AND ENVIRONMENTAL COMPLIANCE CERTIFICATE	
A. <i>Environmental Impact Assessment</i>	14
B. <i>Environmental Impact Statement</i>	15
C. <i>Environmental Compliance Certificate</i>	15
SUMMARY STAGES OF THE EIA PROCESS	16
MAJOR RESOURCE EXTRACTIVE INDUSTRIES AS ENVIRONMENTALLY CRITICAL PROJECT	18
REVIEW OF THE EIS OF OPERATING METALLIC MINING COMPANIES.....	18
AN EIA REPORT HAS THE FOLLOWING SUBSTANTIVE CONTENTS:	19
FINDINGS.....	23
A. <i>EIS Documents Reviewed</i>	23
B. <i>EIS Approval and ECCs Issued to Large-Scale Metallic Mining Companies</i>	24
C. <i>Brief Overview of Evolution of EIS guidelines</i>	26
D. <i>Results of the Documentary Review</i>	27
COMMON KEY CONTENTS OF AN EIS	40
CHAPTER 3: TRANSPARENCY WHERE IT MATTERS: A REPORT ON THE HIGHLIGHTS OF THE PH-EITI 2015 LGU ROAD SHOWS	48
A. ISSUES AND CONCERNS	51
1) <i>Shares in national wealth</i>	51
2) <i>Local policies vs national policies</i>	52
3) <i>Lack of consultation with LGUs</i>	53
4) <i>Small Scale mining</i>	54
5) <i>Regulation and monitoring</i>	55
6) <i>Capacity building of stakeholders</i>	56
BEST PRACTICES	56
RECOMMENDATIONS AND WAYS FORWARD	58
CHAPTER 4: SOCIAL DEVELOPMENT AND MANAGEMENT PROGRAM DOCUMENT REVIEW.....	59
CHAPTER 5: NARRATIVE OF SPECIAL REPORTS DURING MSG MEETINGS	80
21ST MSG MEETING: SMALL-SCALE MINING	81
A. <i>Compostela Valley</i>	82
B. <i>South Cotabato</i>	85
23RD MSG MEETING: BIR PRESENTATION ON THE ITH PROCESS	86
23RD MSG MEETING TAX INCENTIVES (BOI).....	88
A. <i>Incentives Application</i>	88
B. <i>Incentives Evaluation</i>	89
C. <i>Incentives Monitoring</i>	90
D. <i>Confidentiality</i>	90
E. <i>Tax Incentives Management and Transparency Bill (TIMTA)</i>	90
23RD MSG MEETING: FREEDOM OF INFORMATION BILL.....	91
A. <i>Salient Features of the FOI Bill</i>	91
B. <i>Recent developments</i>	93
23RD MSG MEETING: TAX INCENTIVES MANAGEMENT AND TRANSPARENCY ACT (TIMTA)	94

A. Salient Features of the Bill.....	95
23RD MSG MEETING: FMRDP OF RAPU-RAPU.....	96
A. Decommissioning	96
B. Monitoring and Evaluation of SDMP.....	98
24TH MSG MEETING: PRESENTATION ON NICKEL ORE SHIPMENT FLOWCHART.....	100
26TH MSG MEETING: LEPANTO CONSOLIDATED MINING GOLD BULLION SHIPMENT AND SELLING PROCESS.....	101
A. Shipment Preparation	102
B. Actual Shipment of Gold Bullion.....	102
C. Sales Process	103
D. Compliance with Reportorial Requirements.....	103
27TH MSG MEETING: BSP- GOLD TRADING POLICIES.....	104
A. Salient laws that govern gold trading	104
B. Responsible Gold Sourcing Policy	105
C. Gold Buying	105
D. Gold Purchases Per Region.....	106
E. Gold Selling Program.....	107
F. Benefits of BSP's purchase of gold to the Philippines.....	107
G. Current Efforts to Strengthen Gold Buying Operations.....	108
CHAPTER 6: SMALL-SCALE METALLIC MINING IN THE PHILIPPINES: A SCOPING STUDY.....	109
A. Small-Scale Metallic Mining Policies	110
B. Permitting and Contractual Arrangements.....	114
C. People's Small-Scale Mining under RA 7076: Program and Minahang Bayan.....	116
D. Reforms in Small-Scale Mining.....	120
E. Sale of Gold to BSP.....	121
F. Payments from Small-Scale Mining.....	123
G. Environmental, Health, Safety and Social Regulations and Safeguards.....	126
H. Institutional Arrangements for Small-Scale Metallic Mining	129
I. Jurisprudence on Small-Scale Metallic Mining	131
J. Existing Data and Gaps to be Addressed to Comply with EITI Requirements.....	132
K. Recommendations for Compliance with EITI Reporting Requirements.....	135
CHAPTER 7: LARGE-SCALE NON-METALLIC MINING IN THE PHILIPPINES: A SCOPING STUDY	138
A. Introduction.....	139
B. Legal and Regulatory Framework	140
C. Revenue Streams and Financial Arrangements.....	155
D. Areas and Companies with Large-Scale Non-Metallic Mining Operations.....	168
ANNEXES	171
ANNEX A: DETAILED TABULATION OF THE EIS REVIEW RESULT	172
ANNEX B: GOLD AND CHROMITE RESERVES OF THE PHILIPPINES.....	180
ANNEX C: SIGNIFICANT CHANGES FROM ORIGINAL 1992 IRR AND 2015 REVISED IRR OF RA 7076.....	181
ANNEX D: REVENUE STREAMS FROM LOCAL ORDINANCES: EXAMPLES.....	182
ANNEX E: P/CMRBs IN THE COUNTRY	184

List of Tables

TABLE 1. DESCRIPTION OF THE EIA REPORT REQUIREMENTS AND LEGAL BASIS	20
TABLE 2. DATE OF RECEIPT AND APPROVAL OF EIS AND ECC ISSUANCE	25
TABLE 3. OVERVIEW OF EVOLUTION OF EIS GUIDELINES	26
TABLE 4. COMPANIES, EIS APPROVAL DATE AND APPLICABLE GUIDELINE	27
TABLE 5. EIA REQUIREMENTS, NUMBER OF COMPANIES THAT PROVIDED INFORMATION AND LIST OF COMPANIES THAT DID NOT PROVIDE INFORMATION.....	32
TABLE 6. OVERVIEW OF KEY IMPACTS AND MITIGATION MEASURES PER ECOSYSTEM AFFECTED AND PER PROJECT PHASE	42
TABLE 7. TOTAL SDMP ALLOCATION AND UTILIZATION OF MINING COMPANIES COVERED IN THE REVIEW	66
TABLE 8. MINERALS IN COMPOSTELA VALLEY.....	82
TABLE 9. SMALL-SCALE MINING IN COMPOSTELA VALLEY.....	82
TABLE 10. FACILITIES AT RAPU-RAPU MINING AREA.....	96
TABLE 11. STATUS OF FMRDP IMPLEMENTATION (DECEMBER 2014)	97
TABLE 12. COMPARATIVE MATRIX OF PD 1899 AND RA 7076	111
TABLE 13. MINAHANG BAYAN IN THE COUNTRY	118
Table 14. Comparative matrix of reported registered and unregistered SSMM operations.....	118
TABLE 15. PAYMENTS FROM SMALL-SCALE MINING	124
TABLE 16. SOUTH COTABATO’S TOTAL COLLECTION FROM SMALL-SCALE METALLIC MINING IN 2013 AND 2014	125
TABLE 17. MUNICIPALITY OF T’BOLI 2013 AND 2014 COLLECTION FROM SMALL-SCALE METALLIC MINING ...	125
TABLE 18. PROVINCES WITH REPORTED USE OF MERCURY IN SMALL-SCALE MINING FOR GOLD (DENR-EMB)128	
TABLE 19. OPERATIONS OF SMALL-SCALE MINING IN ANCESTRAL DOMAIN/ANCESTRAL LANDS.....	129
TABLE 20. SUMMARY OF MANDATES OF GOVERNMENT AGENCIES IN RELATION TO SMALL-SCALE MINING..	130

List of Figures

FIGURE 1. SUMMARY FLOWCHART OF THE EIA PROCESS	16
FIGURE 2. THE TRANSPARENCY HANDBOOK	84
FIGURE 3. CONCEPT OF SUSTAINABLE MINING.....	85
FIGURE 4. MINING AND QUARRYING REVENUES OF SOUTH COTABATO.....	86
FIGURE 5. FLOW CHART OF THE BIR ITH PROCESS	87
FIGURE 6. COE APPLICATION FLOWCHART	89
FIGURE 7. REHABILITATION AND MONITORING SCHEDULE.....	97
FIGURE 8. SIMPLIFIED FLOW CHART OF ORE SHIPMENT	99
FIGURE 9. GOLD BULLION SHIPMENT AND SALES PROCESS	103
FIGURE 10. BSP GOLD PURCHASES PER REGION	106
FIGURE 11. THE PROCESS OF BUYING GOLD FROM BSP	107
FIGURE 12. AT A GLANCE: SMALL-SCALE MINING UNDER RA 7076	113
FIGURE 13. PEOPLE’S SMALL-SCALE MINING PROGRAM UNDER RA 7076	116
FIGURE 14. MAP SHOWING AREAS OF SSMM	119
OPERATIONS, AS REPORTED BY BAN TOXICS AND	119
ADOPTED BY DENR-EMB	119
FIGURE 15. MAP SHOWING AREAS OF SSM OPERATIONS, AS REPORTED BY LGUS AND MGB ROS	119
FIGURE 16. BSP PURCHASE OF GOLD AND SILVER BY BUYING STATION FOR 2014, AS REPORTED BY MGB PER BSP	121
FIGURE 17. GOLD SALE TO BSP FOR 2009-2014, BASED ON THE MGB AS DECLARED BY BSP	122
FIGURE 18. A COMPARATIVE GRAPH OF GOLD PRODUCTION (A) BASED ON REPORTED SALE OF GOLD TO BSP USED TO REPRESENT SMALL-SCALE MINING PRODUCTION DUE TO THE SMALL-SCALE MINERS’ OBLIGATION TO SELL THEIR GOLD TO BSP AND THEIR POOR REPORTING COMPLIANCE TO P/CMRB (B) AS REPORTED BY LARGE- SCALE MINING COMPANIES TO MGB	123

Acronyms

AEPEP	Annual Environmental Protection and Enhancement Program
AFRIM	Alternative Forum for Research in Mindanao
BIR	Bureau of Internal Revenue
BOI	Board of Investment
BSP	Bangko Sentral ng Pilipinas
CCO	Chemical Control Order
CeMAP	Cement Manufacturers Association of the Philippines
CLRF	Contingent Liability and Rehabilitation Fund
CMRB	City Mining Regulatory Board
CRO	Community Relations Offices
CSO	Civil Society Organization
CTWG	Community Technical Working Group
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DMTG	Development of Mining Technology and Geosciences
DMPF	Declaration of Mining Project Feasibility
DOJ	Department of Justice
ECA	Environmentally Critical Projects
ECC	Environmental Compliance Certificate
ECP	Environmentally Critical Projects
EGF	Environmental Guarantee Fund
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMB	Environmental Management Bureau
EPEP	Environmental Protection and Enhancement Program
EWP	Environmental Work Program
FMR/DP	Final Mine Rehabilitation and/or Decommissioning Plan
FPIC	Free Prior and Informed Consent
FTAA	Financial or Technical Assistance Agreement
HNC	Host and Neighbouring Communities
ICC	Indigenous Cultural Communities
IEC	Information, Education and Communication
IPP	Investment Priority Plan
IPs	Indigenous Peoples
ITH	Income Tax Holiday
LBMA	London Bullion Market Association
LGU	Local Government Unit
LSNM	Large Scale Non-Metallic Mining
MGB	Mines and Geosciences Bureau
MMT	Multipartite Monitoring Team
MOEP	Mineral Ore Export Permit

MPSA	Mineral Production Sharing Agreement
MRF	Mine Rehabilitation Fund
MSC	Multi-Stakeholder Council
MSG	Multi-Stakeholder Group
MTF	Monitoring Trust Fund
NCIP	National Commission on Indigenous Peoples
NIRC	National Internal Revenue Code
OTP	Ore Transport Permit
PD	Presidential Decree
PEISS	Philippine Environmental Impact Statement System
PH-EITI	Philippine Extractive Industries Transparency Initiative
PMRB	Provincial Mining Regulatory Board
RCF	Rehabilitation Cash Fund
RO	Regional Office
RRMI	Rapu-Rapu Minerals, Inc.
RRPI	Rapu-Rapu Processing, Inc.
SDP	Social Development Program
SDPM	Social Development and Management Program
SSM	Small-Scale Mining
SSMC	Small-Scale Mining Contract
SSMP	Small-Scale Mining Permits
TIMTA	Tax Incentives Management and Transparency Act
VAT	Value Added Tax

CHAPTER 1: MSG's Recommendations and Assessment of Progress

In the first PH-EITI report, the PH-EITI MSG provided several recommendations to enhance transparency and improve governance of the extractive sector. These recommendations were elevated to the Mining Industry Coordinating Council which tasked the government agencies to act on the recommendations and come up with an action plan for implementation. All agencies except BOI and PEZA submitted their action plans.

Below are the updates on the agencies' actions since the last report, the MSG's assessment of progress and further recommendations:

DENR (MGB/EMB)	RECOMMENDATIONS FROM THE FIRST REPORT: The MSG recommended that the MGB should improve its data base and monitoring system, specifically of the social development management programs and other EITI related information that are not easily accessible to the public. It also recommended the creation or activation of Provincial Monitoring Regulatory Boards.
	MGB'S RESPONSE: In its submitted Action Plan MGB committed to standardize their SDMP monitoring checklist starting 2016. It also mentioned that enhancement of its data base is on progress and this includes information on SDMP and small scale mining.
	<p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • SIGNIFICANT PROGRESS ON DISCLOSURE OF DOCUMENTS FROM DENR (INCLUDING MGB AND EMB) <p>In response to the MSG's recommendation that supporting documents be disclosed and uploaded to PH-EITI's website, the DENR (MGB and EMB) provided the following documents:</p> <p>Documents under Declaration of Mining Project Feasibility (DMPF)</p> <ul style="list-style-type: none"> - Environmental Protection and Enhancement Program (EPEP) - Final Mine Rehabilitation and Decommissioning Plan (FMRDP) - Social Development and Management Program (SDMP) monitoring/ validation report - 5-year Social Development and Management Program (SDMP) - Multi-Partite Monitoring Team (MMT) report - Integrated Safety and Health, Environment and Social Development Management (ISHES) monitoring report - Mine Rehabilitation Fund Committee (MRFC) report - Mine Waste and Tailings (MWT) report - Environmental Impact Statement (EIS)

This is significant progress as far as disclosure of documents are concerned. Notably, however, several written requests had to be made to MGB and other DENR officials before PH-EITI was able to access these documents which were often in hard copies. Moving forward, the MSG recommends that all EITI participating agencies should provide documents readily to PH-EITI without having to obtain approval from government officials. This process takes time and defeats the purpose of having an agency representative in the MSG to facilitate the process of data gathering. The MICC already issued a memo early this year mandating agencies to make their documents readily available to EITI. This memo should be cascaded to all custodians of EITI data in agencies and be followed strictly.

Moving forward, the MSG recommends that the MGB should consistently update its data base and build on the progress it has achieved through the EITI process.

- **ACTIVATION OF PMRBS AND RECONSTITUTION OF PMRB COMPOSITION STILL ONGOING**
- **INCLUSION OF EITI DATA IN MGB'S DATA BASE AT THE REQUIRED LEVEL OF DISAGGREGATION STILL ONGOING**
- **STRICTER IMPLEMENTATION OF LEGAL PROVISIONS AND REGULATIONS IS NEEDED TO IMPLEMENT MSG'S RECOMMENDATIONS**

According to the MGB, actions on these recommendations are ongoing:

1. Activation of PMRBS
2. Improvement of MGB's data base to include EITI data
3. Ensuring coordination between companies and local development councils with regard to formulation of SDMPs
4. Electronic submission of SDMPs and reports to MGB by satellite offices
5. Adoption of transparent mechanisms in the selection and formation of MMTs and MFRCs.

The MSG emphasizes its previous recommendations on the above items and will continue assessing the progress made by MGB.

- **MGB'S LICENSE REGISTER AND MAPS OF MINING TENEMENTS SHOULD BE IMPROVED**

MGB should improve its license register by including the coordinates of operating companies. Other information specified in EITI's reporting template should also be made publicly accessible from MGB's data base at the level of disaggregation required by EITI. It should also create interactive maps of mining tenements to comply with open data formats.

	<p>The MGB should issue an administrative order requiring all companies as identified by the MSG to participate in EITI.</p>
<p>DBM</p>	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT: PH-EITI MSG recommended that the DBM should disaggregate the share of LGUs from national wealth according to the different types and sources of payment on a per company basis. Specifically, DBM should inform LGUs the names of companies in their locality, collections from each company, type of revenue, date of payment, place of extraction and computation of LGU share.</p>
	<p>DBM'S RESPONSE: <u>DBM has committed that starting 2016, it will require collecting agencies to include in the certifications of releases of national wealth all the above information.</u> In addition, DBM will also amend some of its forms such as the Notice of Authority to Debit Account Issued and the reports it publishes on its website to include all the information needed by LGUs with respect to their shares in national wealth.</p>
	<p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • DBM'S SWIFT RESPONSE TO THE MSG'S RECOMMENDATIONS IS COMMENDABLE <p>The MSG notes that the DBM was one of the first agencies to swiftly act on the recommendations from the first report. The MSG will closely monitor the DBM's implementation of the above steps.</p> <ul style="list-style-type: none"> • THE DBM'S ACTION PLAN SHOULD RETROACT TO PREVIOUS YEARS TO TRACK BACKLOGS IN THE DISTRIBUTION OF LGU SHARES. <p>As an additional recommendation, the DBM should likewise disaggregate data for previous years (not just from 2016</p>

Chapter 1 MSG's Recommendation and Assessment of Progress

	<p>onwards) so that we can easily track whether there are backlogs in the distribution of shares for some LGUs. Coordination with DBM revealed that there were instances when the DBM was not able to release the proper amount for certain years because they had to follow the cap set for the LGU's budget for that year. Thus, there is a need to track these backlogs and make sure that LGUs receive these shares in succeeding years.</p>
BIR	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT:The MSG proposed that amendments be made to the Tax Code provision prohibiting BIR to disclose tax information without the taxpayer's consent. This provision is a legal impediment to the full cooperation of companies in the EITI process.</p>
	<p>BIR'S RESPONSE: The BIR indicated in its action plan that it has already coordinated with the DOF to include in the ongoing work on legislative amendments the proposal to make disclosure of tax information for EITI purposes an exception to the prohibition under the Tax Code.</p> <p>On the recommendation that reporting of final withholding taxes should be disaggregated, the BIR already implemented this recommendation and has provided the disaggregated data to PH-EITI.</p>
	<p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • THERE SHOULD BE FOLLOW UP ACTIONS ON THE SUGGESTED AMENDMENT TO THE TAX CODE <p>The proposed amendment seeks to ensure full participation of all companies without requiring them to execute a BIR waiver. The subject confidentiality provision has been repeatedly invoked by companies that refuse to participate, insisting that participation in the EITI is purely voluntary. This is a major legal barrier that has hindered PH-EITI from disclosing all tax payments made to the BIR. The DOF should therefore prioritize this recommendation so that a 100% participation of all companies may be obtained.</p>
NCIP	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT: The MSG recommended that the NCIP should develop a monitoring system for IP royalties and require all companies to furnish NCIP with copies of deposit slips evidencing the companies' deposits to the IP's designated bank accounts.</p>

Chapter 1 MSG's Recommendation and Assessment of Progress

	<p>NCIP'S RESPONSE: The NCIP in collaboration with PH-EITI developed a monitoring mechanism for IP royalties. This tool has been formally adopted by NCIP and will be utilized by NCIP Regional Directors henceforth. Among the information that will be disclosed under this tool are the companies' compliance with stipulations in their Memorandum of Agreement with Indigenous Peoples and whether the legal requirements for management of royalties are met.</p> <hr/> <p>MSG'S RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • THERE IS A SIGNIFICANT DECREASE IN THE PERCENTAGE OF DISCREPANCY FROM THE FIRST REPORT (154%) TO THE SECOND REPORT (22%). <p>It is worthy to note that the discrepancy in the figures of NCIP and companies in the second report has reduced significantly from 154% to 22%. This is a clear outcome of the EITI process. PH-EITI's engagement of all regional directors increased the disclosure rate and allowed for proper reconciliation of figures to take place. NCIP should sustain this by embedding transparent monitoring processes into their existing systems.</p> <ul style="list-style-type: none"> • THERE SHOULD BE FOLLOW UP ACTIONS ON NCIP'S UTILIZATION OF THE EITI MONITORING MECHANISM AND IMPROVEMENT OF ITS DATA BASE <p>NCIP's adoption of PH-EITI'S proposed monitoring mechanism is a welcome development. The MSG recommends that Regional Directors strictly utilize this mechanism and make it a regular part of their reporting processes. There should be a concrete plan to mainstream transparency within the NCIP. The Commission should improve its data base and make sure that royalties and compliance with MOA stipulations are properly monitored by regional offices.</p> <ul style="list-style-type: none"> • NCIP SHOULD CAPACITATE INDIGENOUS PEOPLES TO MONITOR THEIR OWN FUNDS THROUGH THEIR OWN MONITORING MECHANISMS <p>One issue that surfaced during PH-EITI's engagement with IPs is the need to build the IP's capacity to monitor their own royalties and implement projects that are sustainable and most beneficial to them. The MSG recommends that NCIP make use of EITI implementation in achieving this.</p>
<p>DILG/ BLGF</p>	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT: The MSG recommended that LGU payments should be disaggregated per industry, that reporting systems of local government units should be digitized, and that information on grants and donations given by companies to LGUs be disclosed. The MSG likewise recommended a review of the legislation on the revenue sharing scheme</p>

Chapter 1 MSG's Recommendation and Assessment of Progress

	<p>between the company's head office and area of operations so that host communities can equitably share from payments made by companies. The current 70-30 sharing is perceived to be unfavorable to the LGU hosting the extractive operations.</p> <p>DILG/BLGF'S RESPONSE: Acting on the MSG's recommendations, the DILG, BLGF and PH-EITI will start to implement in 2016 the Electronic Statement of Receipts and Expenditures (ESRE) which aims to integrate EITI data into the local government's usual reporting processes. The eSRE will show the sources of LGU shares from national wealth. This system captures with greater granularity the reported local taxes, fees and user charges paid from the extractive industries and detailed account of the shares from national wealth received by LGUs as well as the tagging of expenditure items from such proceeds. Trainings on how to use the online reporting tool for LGUs have been given by DILG, BLGF and PH-EITI to all local treasurers and their technical staff.</p> <p>On the issue of situs of taxation the BLGF stated in its action plan that it will propose amendments to the Local Government Code by reviewing the aforesaid revenue sharing scheme.</p> <p>MSG'S RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • The BLGF's implementation of the eSRE is a significant progress in terms of ensuring timely, accurate and reliable data from LGUs. <p>The eSRE effectively simplifies PH-EITI's data gathering processes from LGUs and ensures that all LGUs submit the required information considering that submission of EITI data now forms part of the LGU's regular reporting processes. Moreover, LGU data will now be in open formats that are easily accessible, inter-operable with other data, and easier to analyze. This system is a good model for mainstreaming transparency for other EITI reporting agencies.</p> <ul style="list-style-type: none"> • FOLLOW UP ACTIONS SHOULD BE DONE TO REVISIT THE LEGAL PROVISION ON SITUS OF TAXATION <p>PH-EITI's engagement with LGUs has surfaced the strong demand to revisit the revenue sharing scheme between principal offices of companies and LGUs hosting extractive operations. As members of PH-EITI, DILG, BLGF and BIR should spearhead and prioritize this reform.</p>
DOE	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT: The MSG recommended that government shares from oil revenues be reported by DOE on a per company instead of a per consortium basis. It was also recommended that information on payments be</p>

	<p>centralized.</p> <p>More importantly, the MSG recommended that DOE should require all companies including Semirara to participate.</p> <p>DOE'S RESPONSE: The DOE stated in its action plan that it will report revenues on a per company and per consortium basis provided that companies agree to follow this system of reporting.</p> <p>On Semirara's participation, DOE has not been able to require Semirara to participate in the EITI process.</p> <p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • DOE SHOULD EXERCISE ITS MANDATE AS A REGULATORY AGENCY TO REQUIRE COMPANIES TO COMPLY WITH EITI PROCESS <p>DOE should not merely rely on companies' voluntary compliance with EITI requirements. As the regulatory agency, DOE is in a position to require companies to follow a reporting mechanism (i.e. reporting per company instead of per consortium) by simply issuing a directive or an administrative order. This level of disaggregation is critical to the reconciliation process and should thus be prioritized by DOE.</p> <p>DOE should also find ways to require Semirara to participate and disclose its payments. Semirara's non-participation is a gap in the EITI report that DOE should address and prioritize for the next report.</p> <ul style="list-style-type: none"> • DOE SHOULD MAINTAIN AN ONLINE LICENSE REGISTER WHERE ALL INFORMATION ON LICENSES AND LICENSEES ARE DISCLOSED <p>One gap identified by the EITI process is DOE's lack of an online and publicly accessible license register. This should be prioritized by DOE as part of its commitment to the EITI process.</p> <ul style="list-style-type: none"> • DOE SHOULD DISCLOSE ALL CONTRACTS INCLUDING SEMIRARA'S CONTRACT
<p>PPA</p>	<p>MSG'S RECOMMENDATIONS FROM THE FIRST REPORT : The recommendation for PPA is for it to revise its reporting system by requiring companies to report to them the names of contractors they hire to transport their goods. This will enable the Independent Administrator to track transportation fees.</p>

Chapter 1 MSG's Recommendation and Assessment of Progress

	<p>PPA's RESPONSE: The PPA expressed difficulty in revising its reporting systems and posited that the companies should initiate the changes with respect to how they issue receipts to their subcontractors.</p> <p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <ul style="list-style-type: none"> • PPA SHOULD REQUIRE COMPANIES TO DISCLOSE THE NAMES OF THEIR SUBCONTRACTORS WHO TRANSPORT THEIR COMMODITIES <p>PPA is well in a position to require companies to disclose the names of their subcontractors. Instead of merely waiting for companies to voluntarily adopt this reform, PPA should issue a directive to this effect.</p>
BOC	<p>MSG's RECOMMENDATIONS FROM THE FIRST REPORT: The MSG recommended that BOC should disaggregate data for VAT and customs duties and revise current systems of recording data.</p> <p>BOC's RESPONSE: BOC stated in its action plan that starting January 2016 it will identify capital equipment that are imported by entities and their corresponding rates of duty. BOC has also disaggregated data for VAT and customs duties in its reporting template.</p> <p>MSG's RECOMMENDATIONS AND ASSESSMENT OF PROGRESS:</p> <p>BOC was the last agency to submit its action plan. BOC has also not been sufficiently engaged in the EITI process the past year. The MSG thus recommends a more active participation from BOC. In addition, follow up actions should be done by BOC on its commitment to identify capital equipment that are imported by entities and their corresponding rates of duty.</p>
BOI	<p>DID NOT SUBMIT ACTION PLAN</p> <ul style="list-style-type: none"> • The MSG reiterates its recommendation from the first report that BOI should disclose all incentives granted to extractive

Chapter 1 MSG's Recommendation and Assessment of Progress

	companies. The MSG further recommends that the process and criteria for awarding incentives be made transparent.
PEZA	DID NOT SUBMIT ACTION PLAN

In 2016, the MSG will propose to Congress a bill creating EITI. The bill will contain provisions on how transparency mechanisms may be institutionalized in agencies, and how more participation in the EITI process can be ensured.

CHAPTER 2:

The Philippine Environmental Impact Statement System

Overview and Legal Basis of the Philippine Environmental Impact Statement System*

The Philippine Constitution declares that “the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”¹

In response to the growing environmental concern brought by rapid natural resource utilization, technological advances, industrial expansion and urbanization, the government issued Presidential Decree (PD) No. 1586, “Establishing an Environmental Impact Statement System.” PD No. 1586 mandates all national government agencies including government owned and controlled corporation and private corporations, firms and entities to prepare an EIS for any project that significantly affects the quality of the environment.

The Philippine Environmental Impact Statement System (PEISS) is anchored on the principles of sustainable development and is implemented to ensure a rational balance between socio-economic development and environmental protection and sound management of natural resources for the benefit of present and future generations.

PEISS was established under PD No. 1586 in 1978 and was fully implemented after the issuance of Presidential Proclamation No. 2146 in 1981 when the technical definition of Environmentally Critical Projects (ECPs) and Environmentally Critical Areas (ECAs) was established. The following types of projects and areas define the scope of the Environmental Impact Statement System:

A. Environmentally Critical Projects

1. Resource extractive industries (major mining and quarrying projects, forestry projects, fishery projects);
2. Heavy industries (non-ferrous metal industries, iron and steel mills, smelting plants, petroleum/petro-chemical/oil and gas industries);
3. Infrastructure projects (major dams, major power plants, major reclamation projects, major roads and bridges); and
4. Golf course projects (as declared by Presidential Proclamation No. 803 in 1996)

B. Environmentally Critical Areas

1. All areas declared by law as watershed reserves, wildlife preserves, sanctuaries and national parks;
2. Areas that constitute habitat for any endangered or threatened species of Philippine wildlife (flora and fauna);
3. Areas set aside as aesthetic potential tourist spots;
4. Areas of unique historic, archaeological or scientific interests;
5. Areas that are traditionally occupied by indigenous cultural communities or tribes;

*By Joylin Saquing, PH-EITI Secretariat

¹ Article II, Section 16 of the 1987 Philippine Constitution

6. Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activities);
7. Areas with critical slope;
8. Areas classified as prime agricultural lands;
9. Recharged areas as aquifers;
10. Water bodies characterized by one or any combination of the following conditions: a. tapped for domestic purposes; b. within the controlled and/or protected areas declared by appropriate authorities; and c. areas which support wildlife and fishery activities;
11. Mangrove areas characterized by one or any combination of the following conditions: a. with primary pristine and dense young growth; b. adjoining mouth of major river systems; c. near or adjacent to traditional productive fry or fishing grounds; and areas which act as natural buffers against shore erosion, strong winds and storm floods; areas on which people are dependent for their livelihood; and
12. Coral reefs characterized by one or any combination of the following conditions: a. with 50% and above live coralline cover; b. spawning and nursery grounds for fish; c. act as natural breakwater of coastlines.

The Department of Environment and Natural Resources (DENR) Administrative Order No. 2003-30 provides the Implementing Rules and Regulations for the PEISS. The DENR Environmental Management Bureau (EMB) released in 2007 the Revised Procedural Manual for DENR Administrative Order No. 2003-30, containing more detailed guidelines and procedures in implementing the PEISS.

In relation to mining projects, the DENR issued Administrative Order No. 2015-02 on March 10, 2015, "Harmonization of the Implementation of the PEISS and the Philippine Mining Act of 1995 in Relation to Mining Projects." The objective is to harmonize compliance, monitoring and reporting systems and funding mechanisms for mining projects in accordance with the PEISS and the Philippine Mining Act of 1995.

The following are the key operating principles of Environmental Impact Statement System*:

- a. EIS System is concerned primarily with assessing the direct and indirect impacts of a company's project on the biophysical and human environment and ensuring that these impacts are addressed by appropriate environmental protection and enhancement measures;
- b. The EIS System aids companies in incorporating environmental considerations in planning their projects, as well as in determining the environment's impact on their project;
- c. Companies are responsible for determining and disclosing all relevant information necessary for a methodical assessment of the environmental impacts of their projects;

* Section 1 of DENR Administrative Order No. 2003-30, the Implementing Rules and Regulations of PD No. 1586, Establishing the PEISS

- d. Review of EIA Reports by the DENR-EMB is guided by the following criteria:
 - 1) that environmental considerations are integrated into the overall project planning; 2) that the assessment is technically sound and proposed environmental mitigation measures are effective, and 3) that the EIA process is based on a timely, informed and meaningful public participation of potentially-affected communities;
- e. Effective regulatory review of the EIA Reports depends largely on timely, full, and accurate disclosure of relevant information by project Proponents and other stakeholders in the EIA process;
- f. The timelines prescribed within which a decision must be issued apply only to processes and actions within the DENR-EMB's control and do not include actions or activities that are the responsibility of the Proponent.

Environmental Impact Assessment, Environmental Impact Statement and Environmental Compliance Certificate

This section aims to provide a brief overview and description of the Environmental Impact Assessment (EIA), Environmental Impact Statement (EIS) and Environmental Compliance Certificate (ECC). Briefly, environmental impact assessment is conducted to determine the possible impacts of a proposed project on the environment and community. Results of this study are reported in a document called Environmental Impact Statement. If the EIS is approved, an Environmental Compliance Certificate (ECC) is issued, certifying that the proposed project will have minimal impacts on the environment and community.

A. Environmental Impact Assessment

Environmental Impact Assessment (EIA) is a set of procedures which consist of identifying, predicting and evaluating the likely impacts (including cumulative impacts) of proposed projects on the environment and on human health and well-being during pre-construction, development, operation and abandonment/decommissioning phases. Environmental impact examined in EIA refers to any change in the environment whether physical, chemical, biological, social, economic or political, that is caused directly or indirectly by an activity or factor.

As a planning and management tool, EIA is interdisciplinary, offering an integrated approach in designing preventive, mitigating and enhancement measures to address likely impacts on the (physical, biological, socio-economic) environment before they occur. EIA aims to help the government, the affected communities, the company and other stakeholders involved in the decision making to assess whether the benefits of the project will outweigh the consequences or risks on the environment.

EIA is conducted at the earliest stage of project planning – the Feasibility Study stage. Companies are directed under Section 2 of Administrative Order No. 42, issued by the Office of the President on November 2, 2002, to conduct simultaneously the environmental impact study and the project planning or Feasibility Study. The process is undertaken by the company, an EIA Consultant,

DENR-EMB, a multi-disciplinary EIA Review Committee composed of technical experts, affected communities and other stakeholders.

B. Environmental Impact Statement

The results of EIA study are disclosed in an Environmental Impact Statement (EIS) – a document prepared and submitted by the company to the DENR-EMB for evaluation, which serves as an application for an Environmental Compliance Certificate (ECC). It is a comprehensive study of the significant environmental impacts (physical, biological, socio-economic) of a project.

EIS includes an Environmental Management Plan (EMP) and Social Development Program (SDP) that the company will fund and implement to protect the environment and the community. For mining companies, the EMP, presented in EIS, is the basis of the Environmental Protection and Enhancement Program (EPEP), for implementation during production stage and Final Mine Rehabilitation/Decommissioning Plan (FMR/DP), for implementation during abandonment/decommissioning phase. FMR/DP is submitted in lieu of the Abandonment Plan as per DENR Administrative Order No. 2003-30. On the other hand, SDP, presented in EIS, is the basis of the Social Development and Management Program (SDMP) for implementation also during production stage. However, EPEP, FMR/DP and SDMP are more detailed and comprehensive documents.

C. Environmental Compliance Certificate

After the company submits its EIS document to the EMB Central Office, the multi-disciplinary EIA Review Committee evaluates the completeness, scientific and technical soundness of the EIS. If these are substantially met, the EMB Central Office Director will endorse the EIS to the DENR Secretary. An ECC will be issued by the DENR, signed by the Secretary. The ECC secured by the mining company is exclusive of other government permits/licenses which may be required.

ECC is not a permit to operate for mining companies. ECC is just one of the requirements (along with EPEP, FMR/DP, SDMP, proof of compliance with MPSA/FTAA conditions, Secretary's Certificate and other documentary requirements) in securing the Declaration of Mining Project Feasibility (DMPF), which is issued by the DENR Secretary. A mining company can only proceed to mine development and operation upon issuance of DMPF. Once the project is implemented, ECC remains valid and active for the lifetime of the project.

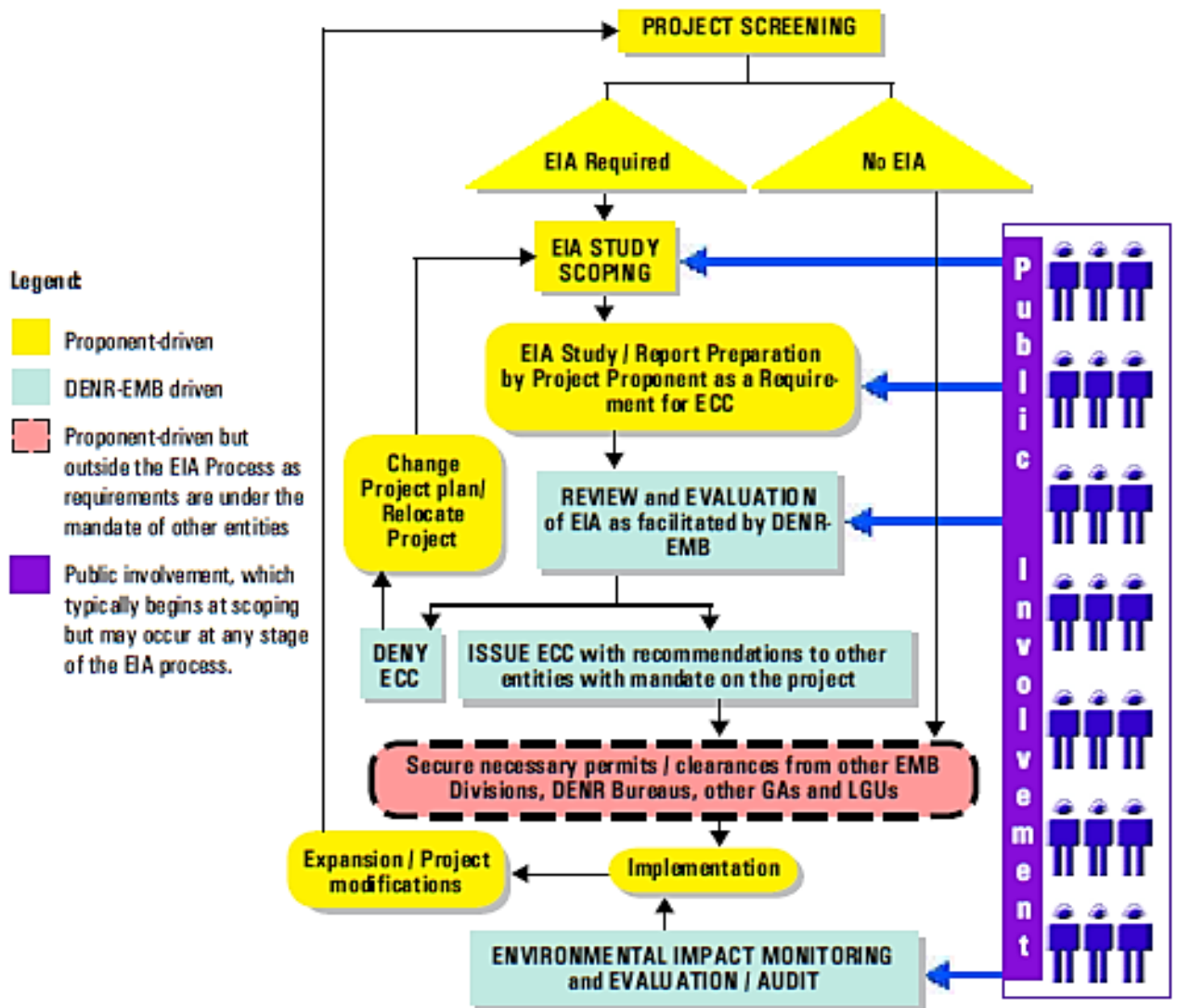
ECC certifies that the project will generate minimal effects on the environment and community. The ECC outlines the commitments of the company, which are necessary for the project to comply with the existing environmental laws, rules and regulations. The commitments contain specific measures and conditions that the company needs to implement before and during the project's operation and abandonment/decommissioning phase to mitigate identified impacts on the environment and community's welfare. Mandatory documents such as EPEP, FMR/DP and SDMP are regular conditions in the ECC for mining companies. EPEP and FMR/DP are approved by the Contingent Liability and Rehabilitation Fund Steering Committee chaired by the Mines and Geosciences

Bureau (MGB), a multi-disciplinary review committee composed of government agencies; SDMP is approved by the MGB Regional Office concerned.

Summary Stages of the EIA Process

The EIA process has six (6) sequential stages as shown in Figure 1. Stages 1, 2, 3 and 6-a are initiated by the company; stages 4, 5, 6-b are initiated by DENR-EMB. The first five (5) stages are part of the application process for ECC.

Figure 1. Summary flowchart of the EIA process



Source: Initiatives to Streamline the PEISS: A Brief Guide for LGUs. 2007. Environmental Management Bureau.

1. Stage 1: Screening (conducted by company). This stage determines if a project is covered or not by PEISS.
2. Stage 2: Scoping (conducted by company). This is the public consultation stage led by the company and participated by representatives of the EMB, affected community/ies and EIA Review Committee. The public and concerned agencies are asked to comment on the purpose and need of the project, issues and impacts and ways to mitigate impacts. Prior to public scoping, companies are also directed to conduct social preparation activities for the communities to inform them about the proposed project.
3. Stage 3: EIA study and report preparation (conducted by company). The EIA study involves a description of the proposed project, the environment, and possible project impacts and mitigation measures. It is encouraged that EIA study is done with local stakeholders as resource persons in primary data collection to optimize access to indigenous knowledge. Social Development, Information, Education and Communication and Monitoring Plans are prepared in consultation with LGUs.
4. Stage 4: EIA review and evaluation (conducted by DENR-EMB). DENR-EMB commissions the EIA Review Committee to review and evaluate the EIS and to make appropriate recommendations. EIA Review Committee is a body organized by DENR-EMB, consisting of technical experts. EIA findings are presented through public consultations and/or public hearings. DENR-EMB evaluates the recommendations of the EIA Review Committee and public's inputs during public consultations and hearings.
5. Stage 5: Decision making (conducted by DENR-EMB). Decisions made by DENR-EMB are made based on the evaluation of EIA recommendations. For large-scale mining projects, approved EIS is endorsed by the Director of the EMB Central Office to the Secretary of DENR for the issuance of ECC.
6. Stage 6-a: Post-ECC monitoring (conducted by company/proponent);
Stage 6-b: validation and evaluation/audit stages (conducted by DENR-EMB and Multi-partite Monitoring Team or MMT). This stage assesses the performance of the company against the ECC and its commitments in the Environmental Management and Monitoring Plans to ensure actual project impacts are prevented or mitigated. Specifically:
 - The company conducts monthly self-monitoring and prepares and submits Compliance Monitoring Report to the EMB Regional Office (RO);
 - The community-based MMT conducts quarterly validation and prepares and submits Compliance Monitoring and Validation Report to the EMB RO;
 - Based on the submitted reports of the company and MMT, EMB RO conducts evaluation and prepares and submits Compliance Evaluation Report to the EMB Central Office; and
 - Based on the submitted reports of EMB RO, EMB Central Office conducts systems and performance audit and prepares Audit Report.

Major Resource Extractive Industries as Environmentally Critical Project

Major resource extractive industries (including mining and quarrying projects) and heavy industries (including oil and gas projects) are categorized as Environmentally Critical Project requiring an EIS, as declared by Presidential Proclamation No. 2146 in 1981. Further, all mining projects under this category are covered by the DENR Administrative No. 2015-02 released on March 10, 2015 ("Harmonization of the Implementation of the PEISS and the Philippine Mining Act of 1995 in Relation to Mining Projects").

Mining activities make extensive use of land, water and air, by its very nature.* These result in major environmental impacts, including the following: 1) open pit mining levels mountains and scrapes off precious vegetation, fertile topsoil and dumps large amounts of rock wastes; 2) underground mining drains off ground water and oftentimes causes cave-in and landslides as a result of ground instability; 3) process of extracting minerals generates large volumes of mine wastes and tailings. During typhoons and floods, uncontrolled tailings are let loose resulting in sedimentation and siltation, which damage agricultural cropland and aquatic life and cause silting of streams and rivers. This is the rationale for proclaiming mining projects as environmentally critical.

Review of the EIS of Operating Metallic Mining Companies

This paper aims to provide a review of the EIS of the following 42 operating large-scale metallic mining companies based on the prescribed form indicated in the Revised Procedural Manual for DENR Administrative Order No. 2003-30 released by EMB in 2007.

1. AAM-PHIL Natural Resources Exploration and Development Corp.
2. Adnama Mining Resources, Inc.
3. Apex Mining Co., Inc.
4. Benguet Nickel Mines, Inc.
5. Berong Nickel Corp.
6. Cagdianao Mining Corp.
7. Cambayas Mining Corp.
8. Carmen Copper Corp.
9. Carrascal Nickel Corp.
10. Citinickel Mines and Development Corp.
11. CTP Construction and Mining Corp. – Adlay Mining Project
12. CTP Construction and Mining Corp. – Dahican
13. Eramen Minerals, Inc.
14. Filminera Resources Corp.
15. Greenstone Resources Corp.
16. Hinatuan Mining Corp.
17. Investwell Resources, Inc.
18. Johson Gold Mining Corp.
19. Krominco, Inc.
20. Lepanto Consolidated Mining Co.
21. Leyte Ironsand Corp.

* National Environmental Protection Council. 1983. Environmental Impact Assessment Handbook.

22. LnL Archipelago Minerals, Inc.
23. Marcventures Mining and Development Corp.
24. Mt. Sinai Mining Exploration and Development Corp.
25. Norweah Metals and Minerals Co., Inc.
26. Oceana Gold Philippines, Inc
27. Ore Asia Mining and Development Corp.
28. Oriental Synergy Mining Corporation
29. Philex Mining Corp.
30. Philsaga Mining Corp.
31. Platinum Group Metals Corp.
32. Rapu-Rapu Minerals, Inc.
33. Rio Tuba Nickel Mining Corp.
34. Shenzhou Mining Group Corp.
35. Shuley Mine, Inc. / Pacific Nickel Phils., Inc.
36. Sinosteel Phils. HY Mining Corp.
37. SR Metals, Inc.
38. Strong Built (Mining) Development Corp.
39. Taganito Mining Corp.
40. TVI Resource Development Philippines, Inc.
41. Wellex Mining Corp.
42. Zambales Diversified Metals Corp.

An EIA Report has the following substantive contents:

- A. Project Description, including its location, project size/scale in terms of products/outputs and projected life span, rationale, alternatives, phases and components, resource requirements (e.g. power, water), manpower complement, estimate of waste generation from the most critical project activities and environmental aspects, estimated project cost.
- B. Baseline Environmental Description (of the land, water, air and people), focused on the sectors and resources most significantly affected by the proposed action;
- C. Environmental Impact Prediction and Evaluation, focused on significant environmental impacts (in relation to pre-construction, construction/development, operation and decommissioning stages), taking into account cumulative, unavoidable and residual impacts; and
- D. Environmental Impact Management Plan, specifying the impacts mitigation plan; information, education and communication framework; social development plan; environmental monitoring plans (with multi-sectoral public participation for EIS-based projects); and the corresponding institutional and financial requirements/arrangements.

It is also prescribed that the presentation of baseline information, impact assessment and environmental management plan is by ecosystem (land, water, air and people) for a more integrated analysis and mitigation of environmental quality.

The following is a brief description of EIA report requirements and legal basis of the requirements (please refer to Table 1 below):

Table 1. Description of the EIA report requirements and legal basis

EIA Report Requirements	Brief Description of the Requirement	Legal Basis
Executive Summary	This section summarizes the main findings of the study. It covers all main issues discussed in the EIA report and contains a brief description of the project and the environment.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
Description of EIA Process	This section discusses public scoping results, EIA team who prepared the EIS (including field of expertise and module assigned to them) and EIA methodology implemented	Revised Procedural Manual for DENR Administrative Order No. 2003-30
Project Description		
- Location	Project site should be properly delineated on a 1:50,000 scale NAMRIA topographic map. It should present project site up to regional location with Philippine map as inset. Project boundaries should be made clear by indicating the geographical coordinates.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Project size/scale and projected mine life	The project area (in hectares), including the projected extraction/production capacity rate (in metric tons) should be clearly stated. Further, the projected life span of the project (in years) should also be included based on the above said scale.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Rationale	Need for the project should be presented based on national and economic development and in terms of contribution to sustainable development agenda or current development thrusts of the Philippines.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Alternatives	Description of the criteria used in determining preliminary options for mine facility siting, development design, mining method, process/technology selection and resource utilization.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Phases and components	Description of plans for each project phase, mine facilities and infrastructures to be established and activities to be implemented during pre-development/construction or exploration, development/construction, production, and mine closure stages	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Resource requirements	Description of source of power for mine facilities, source of water and source of fuel and oil for mining equipment, service vehicles and generator sets	Revised Procedural Manual for DENR Administrative Order No. 2003-30
- Manpower complement	Description of manpower requirements per project phase, including details on expertise needed, nature and estimated	Revised Procedural Manual for DENR Administrative Order No. 2003-30

	number of jobs available, scheme for sourcing locally from host and neighboring communities and those from outside.	
- Estimate of waste generation from the most critical project activities	Discussion of wastes generated by project activities, including volume and rate of discharge. Waste management, primary treatment, pollution control equipment to be installed or mitigating measures to minimize toxic effects and other adverse impacts should also be discussed.	Upon issuance of ECC, this will serve as basis for complying with the following: <ul style="list-style-type: none"> • Republic Act. (RA) No. 9003, Ecological Solid Waste Management Act of 2000 • RA No. 6969, Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990 • RA No. 7942 for management and disposal of mine waste and tailings
- Project cost	This is a natural outgrowth of the proposed project expenditures covering the entire project operation tasks and staffing process. The cost estimate should be tied up with the overall performance and realization of the proposed project covering all project phases.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
Baseline Environmental Description	Presentation of key findings/conclusions per ecosystem (land, water, air and people) in terms of criticality of environmental quality status.	Revised Procedural Manual for DENR Administrative Order No. 2003-30
Environmental Impact Assessment	Presentation of key significant impacts/issues per ecosystem (land, water, air and people) across each project phase	Revised Procedural Manual for DENR Administrative Order No. 2003-30
Environmental Management Plan		Revised Procedural Manual for DENR Administrative Order No. 2003-30
A. Impacts mitigation plan	Presentation of major interventions/actions for each identified significant issue per ecosystem (land, water, air and people) across each project phase	Upon issuance of ECC, this will serve as basis for complying with the following: <ul style="list-style-type: none"> • RA No. 9275, Philippine Clean Water Act of 2004 • RA No. 8749, Clean Air Act of 1999 • RA No. 9003, Ecological Solid Waste Management Act of 2000 • RA No. 6969, Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990 • RA No. 7942 for management and disposal

		of mine waste and tailings
B. Information, education and communication (IEC) framework	<p>IEC is a critical component of the project to establish support, linkages, and participation of the stakeholders by raising awareness about the proposed project and its impact on the environment, including climate change, natural hazards and the associated risks and vulnerabilities. Public consultations are needed to generate awareness, enable informed opinions/views, and solicit suggestions/approaches from the community. It is important that misconceptions are clarified and stakeholders are fully aware and well informed so as to eventually stimulate dynamic participation and support in the implementation of adequate responses in the locality.</p> <p>The IEC Framework shall include the following information: a) Target Sector Identified as needing Project IEC, b) Major topic/s or concerns in relation to the project, c) IEC Scheme/Strategy/Methods, d) Information medium, e) Indicative timelines and frequency, and f) Indicative cost.</p> <p>Discussion of target sector, key messages, scheme/strategy/methods, Information medium, timelines and frequency, cost</p>	Revised Procedural Manual for DENR Administrative Order No. 2003-30
C. Social development program (SDP)	<p>The SDP of the project shall be derived from and aligned with the LGU's existing SDP. The project's SDP normally aims to prevent/mitigate the project's adverse impact and enhance the positive impact on people's livelihood, health and environment. The SDP shall contain the following: a) livelihood or community development programs/activities, b) target beneficiaries, c) partner institutions, d) timeframe of implementation, and e) source of funds and amount allocated per activity/component.</p>	Revised Procedural Manual for DENR Administrative Order No. 2003-30
D. Environmental monitoring plans	<p>Discussion of specific parameters to be monitored based on impact assessment as well as the necessary sampling and measurement plan, responsible entity/ies and environmental quality performance management scheme.</p>	<p>Revised Procedural Manual for DENR Administrative Order No. 2003-30</p> <p>Upon issuance of ECC, this will serve as basis for complying with the following:</p> <ul style="list-style-type: none"> • RA No. 9275, Philippine Clean Water Act of 2004

		<ul style="list-style-type: none"> • RA No. 8749, Clean Air Act of 1999 • RA No. 9003, Ecological Solid Waste Management Act of 2000 • RA No. 6969, Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990 • RA No. 7942 for management and disposal of mine waste and tailings
E. Institutional and financial requirements/ arrangements	Discussion of the organizational scheme and financial mechanisms to implement the Environmental Management Plan	Revised Procedural Manual for DENR Administrative Order No. 2003-30
F. Environmental risk assessment	This section discusses the safety risks associated with a project and the corresponding safety measures and emergency plan to address those risks.	
G. Emergency preparedness and response policy	The policy and generic guidelines are to be consistent with the relevant agencies' requirements that are to be complied with after the ECC is issued, e.g. MGB has a prescribed ERP content for mining projects.	
H. Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines	Statement on company's policies and generic procedures; brief statement on the mine closure plan that will be submitted	

Findings

A. EIS Documents Reviewed

Out of 42 approved EIS documents targeted for review, only 30 EIS documents of the following mining companies were provided by EMB Central Office:

1. AAM-PHIL Natural Resources Exploration and Development Corp.
2. Apex Mining Co., Inc.
3. Benguet Nickel Mines, Inc.
4. Berong Nickel Corp.
5. Cagdianao Mining Corp.
6. Carrascal Nickel Corp.
7. Citinickel Mines and Development Corp.
8. CTP Construction and Mining Corp. – Adlay Mining Project
9. CTP Construction and Mining Corp. – Dahican Nickel Project
10. Eramen Minerals, Inc.
11. Filminera Resources Corp.
12. Greenstone Resources Corp.
13. Hinatuan Mining Corp.

14. Leyte Ironsand Corp.
15. LnL Archipelago Minerals, Inc.
16. Marcventures Mining and Development Corp
17. Norweah Metals and Minerals Co., Inc.
18. Oceana Gold Philippines, Inc.
19. Ore Asia Mining and Development Corp.
20. Oriental Synergy Mining Corporation
21. Philsaga Mining Corp.
22. Platinum Group Metals Corp.
23. Rio Tuba Nickel Mining Corp.
24. Shenzhou Mining Group Corp.
25. Sinosteel Phils. HY Mining Corp.
26. Strong Built (Mining) Development Corp.
27. Taganito Mining Corp.
28. TVI Resource Development Philippines, Inc.
29. Wellex Mining Corp.
30. Zambales Diversified Metals Corp.

Though EIS documents of the following mining companies have been approved with ECCs issued as shown in Table 2 - *Date of Receipt and Approval of EIS and ECC Issuance*, these are unavailable at the EMB Central Office. According to the custodian of the EIS records of EMB Central Office, they previously had no document tracking system in place and there was also no assigned focal person to monitor EIS documents.

1. Adnama Mining Resources, Inc.
2. Cambayas Mining Corp.
3. Carmen Copper Corp.
4. Investwell Resources, Inc.
5. Johson Gold Mining Corp.
6. Krominco, Inc.
7. Lepanto Consolidated Mining Co.
8. Mt. Sinai Mining Exploration and Development Corp.
9. Philex Mining Corp.
10. Rapu-Rapu Minerals, Inc.
11. Shuley Mine, Inc. / Pacific Nickel Phils., Inc.
12. SR Metals, Inc.

B. EIS Approval and ECCs Issued to Large-Scale Metallic Mining Companies

EIS documents of above said companies have been approved and endorsed by the EMB Central Office to the DENR. As shown in the matrix below, DENR granted ECCs to said companies, with the following ECC numbers and corresponding dates of issuance:

Table 2. Date of receipt and approval of EIS and ECC issuance

Company name	Date of receipt by EMB Central Office	Date EIS Approval	ECC No.
AAM-PHIL Natural Resources Exploration and Development Corp.	February 13, 2007	May 8, 2007	0608-009-2150
<i>*Adnama Mining Resources, Inc.</i>	<i>February 22, 2007</i>	<i>September 8, 2008</i>	<i>0803-008-2140</i>
Apex Mining Co., Inc.	December 4, 2000	July 9, 2007	0612-015-2110
Benguet Nickel Mines, Inc.	December 18, 2007	June 11, 2009	0806-015-2140
Berong Nickel Corp.	November 11, 2005	June 14, 2006	0507-008-301
Cagdianao Mining Corp.	May 22, 1998	April 14, 1999	9805-008
<i>*Carmen Copper Corp.</i>		<i>June 25, 1981</i>	<i>81-RC-092</i>
<i>*Cambayas Mining Corp.</i>	<i>October 19, 1995</i>	<i>August 16, 2000</i>	<i>9510-010-301</i>
Carrascal Nickel Corp.	May 5, 2011	February 21, 2012	0702-006-2140
Citinickel Mines and Development Corp. –Pulot Nickel Mining Project	July 25, 2007	June 19, 2008	0707-016-2140
Citinickel Mines and Development Corp. – Toronto Nickel Mining Project	December 11, 2006	September 9, 2010	1006-0021
CTP Construction and Mining Corp. – Adlay Mining Project	December 18, 2003	November 26, 2009	0809-028-1093
CTP Construction and Mining Corp. – Dahican Nickel Project	May 29, 2007	August 23, 2007	0702-007-2140
Eramen Minerals, Inc.	March 27, 2007	July 9, 2007	0605-003-2140
Filminera Resources Corp.	April 20, 1998	June 29, 1998	9804-003-120
Greenstone Resources Corp.	March 12, 1998	April 20, 2009	0811-030-1010
Hinatuan Mining Corp.	March 22, 2012	February 2, 2015	1312-0044
<i>*Investwell Resources, Inc.</i>	<i>February 20, 2012</i>	<i>March 14, 2013</i>	<i>1301-0001</i>
<i>*Johson Gold Mining Corp.</i>	<i>October 25, 2011</i>	<i>November 12, 2012</i>	<i>1209-0018</i>
<i>*Krominco, Inc.</i>	<i>**Operating since 1979, Krominco, Inc. has been issued with a Certificate of Non-Coverage by the DENR-EMB, which certifies that the Dinagat Chromite Project is not covered by the Philippine Environmental Impact Assessment System, therefore, Krominco, Inc. is not required to secure an ECC prior to commencement of operation.</i>		
<i>*Lepanto Consolidated Mining Co.</i>	<i>May 31, 2011</i>	<i>December 2, 2013</i>	<i>1110-0013</i>
Leyte Ironsand Corp.	June 18, 2008	June 11, 2010	1006-0016
LnL Archipelago Minerals, Inc.	October 10, 2007	March 5, 2009	0710-024-2140
Marcventures Mining and Development Corp.	January 15, 2008	December 22, 2008	0807-022-1093
<i>*Mt. Sinai Mining Exploration and Development Corp.</i>	<i>April 1, 2013</i>	<i>May 17, 2013</i>	<i>1304-0040</i>
Norweah Metals and Minerals Co., Inc.	March 4, 2010	June 17, 2010	1005-0015
Oceana Gold Philippines, Inc	June 20, 2011	December 10, 2012	1112-0022
Ore Asia Mining and Development Corp.	November 5, 2006	March 28, 2011	1011-0031
Oriental Synergy Mining Corporation	April 17, 2006	March 12, 2008	0608-008-2150
Philsaga Mining Corp.	May 22, 1989	July 17, 1990	0904-009-1010
<i>*Philex Mining Corp.</i>			
Platinum Group Metals Corp.	June 23, 2010	August 20, 2010	1007-0023
<i>*Rapu-Rapu Minerals, Inc.</i>	<i>November 14, 2000</i>	<i>July 12, 2001</i>	<i>0011-644-301C</i>
Rio Tuba Nickel Mining Corp.	May 28, 2010	May 25, 2015	1010-0030
Shenzhou Mining Group Corp.	June 23, 2010	June 25, 2010	1006-0019

<i>*Shuley Mine, Inc. / Pacific Nickel Phils., Inc.</i>	<i>December 15, 1998</i>	<i>April 8, 1999</i>	<i>9812-002-301</i>
Sinosteel Phils. HY Mining Corp.	March 12, 2008	June 9, 2010	1005-0013
<i>*SR Metals, Inc.</i>	<i>February 17, 2006</i>	<i>March 2, 2006</i>	<i>1302-2006-0302-016-2150</i>
Strong Built (Mining) Development Corp.	October 13, 2008	September 9, 2010	1006-0020
Taganito Mining Corp.	June 29, 1992	November 4, 1993 New ECC was approved on August 15, 2013	1304-0013
TVI Resource Development Philippines, Inc.	February 29, 1996	June 6, 1997	9602-007-301
Wellex Mining Corp.	February 8, 2013	July 11, 2013	1304-0017
Zambales Diversified Metals Corp.	August 16, 2006	February 22, 2008	0708-020-2150

* Mining companies with approved EIS (and with issued ECC) but unavailable at EMB Central Office

** Source: Audit Report on the Integrated Safety and Health, Environment and Social Development Management Systems conducted at Krominco Inc. – Dinagat Islands Chromite Project Located in Dinagat Islands. 2011. Mine Safety, Environment and Social Development Division - Mines and Geosciences Bureau.

Note: Companies in red text are not covered by the Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586

C. Brief Overview of Evolution of EIS guidelines

The following matrix (please refer to Table 3) provides an overview of the evolution of EIS guidelines and description of changes in basic EIS requirements for each guideline. This overview is included in this study to illustrate which requirements were applicable to each company when they were issued their ECCs.

Table 3. Overview of evolution of EIS guidelines

Policies	Basic EIS Requirements and Changes
PD No. 1586 (1978)	Prior to DENR Administrative Order No. 1992-21, there was no specific guideline on EIS preparation. The following are the prescribed information to be included in an EIS:
DENR Administrative Order No. 1992-21, Amending the Revised Rules and Regulations Implementing PD. No. 1586 (EIS System)	<ol style="list-style-type: none"> 1. Project setting (declaration and objective, the need, alternatives, associated projects) 2. Proposal (general layout, pre-construction details, operation and maintenance, contingency plans, abandonment) 3. Baseline environmental conditions for land, water, air, people; future environmental conditions without the project 4. Impact assessment 5. Mitigation measures 6. Environmental monitoring 7. Contingency plans
DENR Administrative Order No. 1996-37, Revising DENR Administrative Order No. 21, Series of 1992	<ol style="list-style-type: none"> 1. Project description (location, rationale, alternatives, project phases) 2. Baseline environmental conditions for land, water, air, people 3. Impact assessment 4. Environmental risk assessment (when appropriate) 5. Environmental management plan 6. Environmental monitoring plan

DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ol style="list-style-type: none"> 1. EIS Executive Summary 2. Project Description 3. Baseline environmental conditions for land, water, air, people 4. Impact assessment (in relation to project phases) 5. Environmental Risk Assessment when applicable 6. Environmental monitoring plan
Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ol style="list-style-type: none"> 1. Project fact sheet 2. Executive summary 3. Basic project information 4. Description of EIA process 5. Project description <ul style="list-style-type: none"> - location, rationale, alternatives, development plan, project components - description of project phases (activities, associated wastes and pollution control measures) - manpower requirements, project cost, project duration/schedule 6. Baseline environmental conditions, impact assessment and mitigation (relevant modules only on land, water, air, people) 7. Environmental risk assessment (when applicable) 8. Environmental management plan (impacts management plan; social development framework; IEC framework; emergency response policy and generic guidelines; abandonment/decommissioning/rehabilitation policies and generic guidelines; environmental monitoring plan) 9. Institutional plan for EMP implementation

D. Results of the Documentary Review

Under the current guidelines (Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586), the following are the basic requirements for EIS:

1. Project fact sheet;
2. Executive summary;
3. Basic project information;
4. Description of EIA process;
5. Project description, including the following:
 - location, rationale, alternatives, development plan, project components
 - description of project phases (activities, associated wastes and pollution control measures)
 - manpower requirements, project cost, project duration/schedule;
6. Baseline environmental conditions, impact assessment and mitigation (relevant modules only on land, water, air, people);
7. Environmental risk assessment;
8. Environmental management plan (impacts management plan; social development framework; IEC framework; emergency response policy and generic guidelines; abandonment/decommissioning/rehabilitation policies and generic guidelines; environmental monitoring plan; and
9. Institutional plan for EMP implementation.

Table 4. Companies, EIS approval date and applicable guideline

Company name	Date EIS Approved	Applicable guideline	Information not required
AAM-PHIL Natural Resources	May 8, 2007	DENR Administrative Order No. 2003-30,	<ul style="list-style-type: none"> - Description of EIA process - Social development plan

Exploration and Development Corp.		IRR of PD No. 1586	<ul style="list-style-type: none"> - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Apex Mining Co., Inc.	July 9, 2007	DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Benguet Nickel Mines, Inc.	June 11, 2009	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Berong Nickel Corp.	June 14, 2006	DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Cagdianao Mining Corp.	April 14, 1999	DENR Administrative Order No. 1996-37, Revising DENR Administrative Order No. 21, Series of 1992	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Carrascal Nickel Corp.	February 21, 2012	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Citnickel Mines and Development Corp. – Pulot Nickel Mining	June 19, 2008	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD	

Project		No. 1586	
Citinickel Mines and Development Corp. – Toronto Nickel Mining Project	September 9, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
CTP Construction and Mining Corp. – Adlay Mining Project	November 26, 2009	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
CTP Construction and Mining Corp. – Dahican	August 23, 2007	DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company provided information on:</p> <ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework
Eramen Minerals, Inc.	July 9, 2007	DENR Administrative Order No. 2003-30, IRR of PD No. 1586	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Filminera Resources Corp.	June 29, 1998	DENR Administrative Order No. 1996-37, Revising DENR Administrative Order No. 21, Series of 1992	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company provided information on:</p> <ul style="list-style-type: none"> - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines
Greenstone Resources Corp.	April 20, 2009	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Hinatuan Mining	February 2,	Revised Procedural	

Corp.	2015	Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Leyte Ironsand Corp.	June 11, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
LnL Archipelago Minerals, Inc.	March 5, 2009	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Marcventures Mining and Development Corp.	December 22, 2008	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Norweah Metals and Minerals Co., Inc.	June 17, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Oceana Gold Philippines, Inc	December 10, 2012	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Ore Asia Mining and Development Corp.	March 28, 2011	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Oriental Synergy Mining Corporation	March 12, 2008	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Philsaga Mining Corp.	July 17, 1990	PD No. 1586	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Platinum Group Metals Corp.	August 20, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Rio Tuba Nickel Mining Corp.	May 25, 2015	Revised Procedural Manual for DENR	

		Administrative Order No. 2003-30, IRR of PD No. 1586	
Shenzhou Mining Group Corp.	June 25, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Sinosteel Phils. HY Mining Corp.	June 9, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Strong Built (Mining) Development Corp.	September 9, 2010	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Taganito Mining Corp.	November 4, 1993	DENR Administrative Order No. 1992-21, Amending the Revised Rules and Regulations Implementing PD. No. 1586 (EIS System)	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company provided information on:</p> <ul style="list-style-type: none"> - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines
TVI Resource Development Philippines, Inc.	June 6, 1997	DENR Administrative Order No. 1996-37, Revising DENR Administrative Order No. 21, Series of 1992	<ul style="list-style-type: none"> - Description of EIA process - Social development plan - IEC framework - Emergency preparedness and response policy - Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines <p>Company, however, provided all the above information</p>
Wellex Mining Corp.	July 11, 2013	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	
Zambales Diversified Metals Corp.	February 22, 2008	Revised Procedural Manual for DENR Administrative Order No. 2003-30, IRR of PD No. 1586	

In terms of compliance with the basic requirements of the EIA reports, shown in Table 5 below are the results of review for the 30 above said companies (please refer to Annex A for detailed tabulation of the review results).

The following matrix presents the number of companies who submitted the basic EIA requirements and list of companies that did not provide information per EIA report requirement even if the guidelines applicable to them require them to (please refer to Table 5).

Table 5. EIA requirements, number of companies that provided information and list of companies that did not provide information

EIA Report Requirements	Number of companies who provided information	Companies who did not provide information
Executive Summary	All 30 companies provided this information	All companies provided information except for: Taganito Mining Corp.
Description of EIA Process	All 30 companies provided this information	All companies provided information
Project Description		

Chapter 2 The Philippine Environmental Impact Statement System

- Location	All 30 companies provided this information	All companies provided information
- Project size/scale and projected mine life	26 companies provided this information	All companies provided information except for: 1. Apex Mining Co., Inc. 2. Oceana Gold Phils., Inc. 3. Philsaga Mining Corp. which only indicated project size and did not include projected mine life 4. Taganito Mining Corp.
- Rationale	All 30 companies provided this information	All companies provided information
- Alternatives	23 companies provided this information	All companies provided information except for: 1. Apex Mining Co., Inc. 2. TVI Resource Dev't. Phils., Inc. 3. CTP Construction and Mining Corp. – Dahican 4. Eramen Minerals, Inc. 5. Filminera Resources Corp. 6. Sinosteel Phils. HY Mining Corp. 7. Taganito Mining Corp.
- Phases and components	All 30 companies provided this information	All companies provided information
- Resource requirements	28 companies provided this information	All companies provided information except for: 1. CTP Construction and Mining Corp. – Dahican 2. Filminera Resources Corp.
- Manpower complement	27 companies provided this information	All companies provided information except for: 1. Eramen Minerals, Inc. 2. Filminera Resources Corp. 3. LnL Archipelago Minerals, Inc.
- Estimate of waste generation from the most critical project activities	24 companies provided this information	All companies provided information except for: 1. Berong Nickel Corp. 2. CTP Construction and Mining Corp. – Dahican 3. Eramen Minerals, Inc. 4. Filminera Resources Corp. 5. Rio Tuba Nickel Mining Corp. 6. Taganito Mining Corp.
- Project cost	27 companies provided this information	All companies provided information except for: 1. CTP Construction and Mining Corp. – Adlay 2. Filminera Resources Corp. 3. Taganito Mining Corp.
Baseline Environmental Description	All 30 companies for modules on land, water, air and people provided this information	All companies provided information

Environmental Impact Assessment		
A. Land Impact Assessment		
1. Exploration	20 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Eramen Minerals, Inc. 4. Leyte Ironsand Corp. 5. Oceana Gold Phils., Inc 6. Ore Asia Mining & Dev't. Corp. 7. Philsaga Mining Corp. 8. Shenzhou Mining Group Corp. 9. Strong Built (Mining) Dev't. Corp. 10. Zambales Diversified Metals Corp.
2. Construction	All 30 companies provided this information	All companies provided information
3. Operation	All 30 companies provided this information	All companies provided information

4. Mine closure	21 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Berong Nickel Corp. 3. Citinickel Mines & Dev't. Corp. 4. Eramen Minerals, Inc. 5. Marcventures Mining and Dev't. Corp. 6. Ore Asia Mining & Dev't. Corp. 7. Oriental Synergy Mining Corporation 8. Strong Built (Mining) Dev't. Corp. 9. Zambales Diversified Metals Corp
B. Water Impact Assessment		
1. Exploration	20 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Eramen Minerals, Inc. 3. Leyte Ironsand Corp. 4. Oceana Gold Phils., Inc 5. Ore Asia Mining & Dev't. Corp. 6. Philsaga Mining Corp. 7. Shenzhou Mining Group Corp. 8. Strong Built (Mining) Dev't. Corp. 9. Wellex Mining Corp. 10. Zambales Diversified Metals Corp.
2. Construction	28 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Ore Asia Mining & Dev't. Corp
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	18 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Citinickel Mines & Dev't. Corp. 4. Eramen Minerals, Inc. 5. Marcventures Mining and Dev't. Corp. 6. Ore Asia Mining & Dev't. Corp. 7. Oriental Synergy Mining Corporation 8. Shenzhou Mining Group Corp. 9. Sinosteel Phils. HY Mining Corp. 10. Strong Built (Mining) Dev't. Corp. 11. Wellex Mining Corp. 12. Zambales Diversified Metals Corp
C. Air Impact Assessment		
1. Exploration	15 companies provided this information	The following companies did not provide information: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Eramen Minerals, Inc. 4. Greenstone Resources Corp. 5. Hinatuan Mining Corp. 6. Leyte Ironsand Corp. 7. Oceana Gold Phils., Inc 8. Ore Asia Mining & Dev't. Corp. 9. Oriental Synergy Mining Corporation 10. Philsaga Mining Corp. 11. Shenzhou Mining Group Corp. 12. Strong Built (Mining) Dev't. Corp.

Chapter 2 The Philippine Environmental Impact Statement System

		13. TVI Resource Dev't. Phils., Inc. 14. Wellex Mining Corp. 15. Zambales Diversified Metals Corp
2. Construction	28 companies provided this information	All companies provided information except for: 1. Benguet Nickel Mines, Inc. 2. Ore Asia Mining & Dev't. Corp.
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	14 companies provided this information	The following companies did not provide information: 1. AAM-PHIL Natural Resources Exploration & Dev't. Corp. 2. Apex Mining Co., Inc. 3. Benguet Nickel Mines, Inc. 4. Carrascal Nickel Corp 5. Citinickel Mines & Dev't. Corp. 6. Eramen Minerals, Inc. 7. Leyte Ironsand Corp. 8. Marcventures Mining and Dev't. Corp. 9. Oceana Gold Phils., Inc 10. Ore Asia Mining & Dev't. Corp. 11. Oriental Synergy Mining Corporation 12. Shenzhou Mining Group Corp. 13. Sinosteel Phils. HY Mining Corp. 14. Strong Built (Mining) Dev't. Corp. 15. Wellex Mining Corp. 16. Zambales Diversified Metals Corp
D. Impact to People		Citinickel Mines & Development Corp. did not provide any discussion on this part
1. Exploration	23 companies provided this information	All companies provided information except for: 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Eramen Minerals, Inc. 4. Oceana Gold Phils., Inc 5. Ore Asia Mining & Dev't. Corp. 6. Strong Built (Mining) Dev't. Corp. 7. Zambales Diversified Metals Corp
2. Construction	27 companies provided this information	All companies provided information except for: 1. Benguet Nickel Mines, Inc. 2. Eramen Minerals, Inc. 3. TVI Resource Dev't. Phils., Inc.
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	22 companies provided this information	All companies provided information except for: 1. Benguet Nickel Mines, Inc. 2. CTP Construction and Mining Corp. – Dahican 3. Eramen Minerals, Inc. 4. Oceana Gold Phils., Inc 5. Ore Asia Mining & Dev't. Corp. 6. Oriental Synergy Mining Corporation 7. Strong Built (Mining) Dev't. Corp. 8. Zambales Diversified Metals Corp
Environmental Management Plan		

Impacts Mitigation Plan		Overall, Cagdianao Mining Corp., Citinickel Mines & Development Corp. and Platinum Group Metals Corp. have provided a general discussion on impacts mitigation plan per ecosystem, not per project phase.
A. Land Impact Assessment		
1. Exploration	30 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Eramen Minerals, Inc. 4. Filminera Resources Corp. 5. Leyte Ironsand Corp. 6. Ore Asia Mining & Dev't. Corp. 7. Philsaga Mining Corp. 8. Shenzhou Mining Group Corp. 9. Strong Built (Mining) Dev't. Corp. 10. Zambales Diversified Metals Corp
2. Construction	All 30 companies provided this information	All companies provided information
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	23 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Berong Nickel Corp. 3. Eramen Minerals, Inc. 4. Ore Asia Mining & Dev't. Corp. 5. Strong Built (Mining) Dev't. Corp. 6. TVI Resource Dev't. Phils., Inc. 7. Zambales Diversified Metals Corp
B. Water Impact Assessment		
1. Exploration	19 companies provided this information	The following companies did not provide information: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Eramen Minerals, Inc. 3. Leyte Ironsand Corp. 4. Marcventures Mining and Dev't. Corp. 5. Oceana Gold Phils., Inc 6. Ore Asia Mining & Dev't. Corp. 7. Philsaga Mining Corp. 8. Shenzhou Mining Group Corp. 9. Strong Built (Mining) Dev't. Corp. 10. Wellex Mining Corp. 11. Zambales Diversified Metals Corp
2. Construction	28 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Ore Asia Mining & Dev't. Corp.
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	13 companies provided this information	The following companies did not provide information: <ol style="list-style-type: none"> 1. AAM-PHIL Natural Resources Exploration & Dev't. Corp. 2. Apex Mining Co., Inc. 3. Benguet Nickel Mines, Inc.

		<ol style="list-style-type: none">4. Citinickel Mines & Dev't. Corp.5. Eramen Minerals, Inc.6. Filminera Resources Corp.7. Hinatuan Mining Corp.8. Marcventures Mining and Dev't. Corp.9. Oceana Gold Phils., Inc10. Ore Asia Mining & Dev't. Corp.11. Oriental Synergy Mining Corporation12. Shenzhou Mining Group Corp.13. Sinosteel Phils. HY Mining Corp.14. Strong Built (Mining) Dev't. Corp.15. TVI Resource Dev't. Phils., Inc.16. Wellex Mining Corp.17. Zambales Diversified Metals Corp
--	--	---

C. Air Impact Assessment		Carrascal Nickel Corp. and Filminera Resources Corp. also provided a general discussion on this component.
1. Exploration	23 companies provided this information	The following companies did not provide information on this component: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Greenstone Resources Corp. 3. Ore Asia Mining & Dev't. Corp. 4. Philsaga Mining Corp. 5. Shenzhou Mining Group Corp. 6. Strong Built (Mining) Dev't. Corp. 7. Wellex Mining Corp.
2. Construction	29 companies provided this information	All companies provided information except for: Ore Asia Mining & Dev't. Corp.
3. Operation	All 30 companies provided this information	All companies provided information
4. Mine closure	16 companies provided this information	The following companies did not provide information on this component: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Eramen Minerals, Inc. 4. Hinatuan Mining Corp. 5. Leyte Ironsand Corp. 6. Oceana Gold Phils., Inc. 7. Ore Asia Mining & Dev't. Corp. 8. Oriental Synergy Mining Corporation 9. Shenzhou Mining Group Corp. 10. Sinosteel Phils. HY Mining Corp. 11. Strong Built (Mining) Dev't. Corp. 12. TVI Resource Dev't. Phils., Inc. 13. Wellex Mining Corp. 14. Zambales Diversified Metals Corp
D. Impact to People		Filminera Resources Corp. also provided a general discussion on this component.
1. Exploration	22 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Apex Mining Co., Inc. 2. Benguet Nickel Mines, Inc. 3. Citinickel Mines & Dev't. Corp 4. Eramen Minerals, Inc. 5. Oceana Gold Phils., Inc 6. Ore Asia Mining & Dev't. Corp. 7. Strong Built (Mining) Dev't. Corp. 8. Zambales Diversified Metals Corp
2. Construction	24 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Citinickel Mines & Dev't. Corp. 3. Eramen Minerals, Inc. 4. Ore Asia Mining & Dev't. Corp. 5. Oriental Synergy Mining Corporation 6. TVI Resource Dev't. Phils., Inc.
3. Operation	28 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Citinickel Mines & Dev't. Corp. 2. Oriental Synergy Mining Corporation
4. Mine closure	21 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Citinickel Mines & Dev't. Corp. 3. CTP Construction and Mining Corp. – Dahican

		<ol style="list-style-type: none"> 4. Eramen Minerals, Inc. 5. Oceana Gold Phils., Inc 6. Ore Asia Mining & Dev't. Corp. 7. Oriental Synergy Mining Corporation 8. Strong Built (Mining) Dev't. Corp. 9. Zambales Diversified Metals Corp
B. Information, education and communication (IEC) framework	28 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Citinickel Mines & Dev't. Corp. 2. CTP Construction and Mining Corp. – Adlay
C. Social development program (SDP)	All 30 companies provided this information	All companies provided information
D. Environmental monitoring plans	All 30 companies provided this information	All companies provided information
E. Institutional and financial requirements/arrangements	All 30 companies provided this information	All companies provided information
F. Environmental risk assessment	28 companies provided this information	All companies provided information except for: <ol style="list-style-type: none"> 1. Benguet Nickel Mines, Inc. 2. Leyte Ironsand Corp.
G. Emergency preparedness and response policy	29 companies provided this information	All companies provided information except for: Citinickel Mines & Dev't. Corp.
H. Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines	29 companies provided this information	All companies provided information except for: Oceana Gold Phils., Inc

Common Key Contents of an EIS

Baseline Information

This section discusses the key baseline environmental conditions focusing on physical, biological and socio-economic aspects of the mining project area as a result of primary and secondary data gathered. Specifically, baseline environmental conditions concentrate on the following, depending on which modules are applicable and relevant:

1. Land: land use, soils, vegetation, wildlife, geomorphology and terrestrial ecology;
2. Water: hydrology, oceanography, water quality, freshwater/marine biology and aquatic ecology;
3. Air: meteorology, air quality and noise; and
4. People: demography, population distribution, population growth rate, number of households and household size by barangay, gender and age composition, land area. Discussed also in this section are socio-economic indicators such as education; health; morbidity/mortality rates, waste management and disposal system, economic activities/main sources of income; employment status, income; housing profile; access to basic social services, transportation, communication, power and water supply.

There are also companies that provided information on environmental scenario without the proposed project. This section provides an idea of the likely environmental conditions of the proposed project area without the changes and stimulating factors the proposed project would pose. This information will serve as basis to determine the significant degree of environmental impacts of the proposed project.

Key Impacts and Mitigation Measures

Discussion on Environmental Impacts focuses on key impacts and issues of the most critically affected modules under Land, Water, Air and People, across each project phase. On the other hand, major interventions/mitigating measures are discussed under the Environmental Management Plan. The Environmental Management Plan provides details on activities to be implemented aimed at eliminating, reducing or controlling the adverse environmental impacts of the proposed project. These plans consist of ecological, scientific or engineering options that the company may consider.

It is also noted that a number of companies did not provide information on the possible environmental impacts, particularly during *exploration* and *mine closure*. This is because pre-development and mine closure activities such as site investigation/geological survey and core sampling produce minimal disturbance only.

As mentioned above, the Environmental Management Plan presented in EIS is the basis of the Environmental Protection and Enhancement Program for implementation during production stage and Final Mine Rehabilitation/Decommissioning Plan for implementation during mine closure/decommissioning phase. On the other hand, Social Development Plan presented in EIS is the basis of the Social Development and Management Program for implementation also during production stage

Identified impacts of pre-development/exploration activities to the environment are specifically addressed in the Environmental Work Program, as mandated under Section 168 of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995.

Identified impacts on the communities during exploration and construction/development stages are specifically addressed in the Two-Year Community Development Program, as mandated under Section 136-A of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995. Projects under this plan include:

- Infrastructure projects (such as farm-to-market roads, bridges and community centers);
- Livelihood/enterprise development programs;
- Capability building/skills development programs; and
- Education and health programs and other basic services.

Mine closure impacts will be addressed through the implementation of the Final Mine Rehabilitation and/or Decommissioning Plan that is mandated under Section 187 of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995. The overall objective is that at the mine closure stage, mined-out areas

will be rehabilitated, developed into stable landforms and re-vegetated; and mine facilities that will no longer be used will be decommissioned.

On the other hand, all companies provided information on the likely impacts of the proposed project on land, water, air and people during *operation*. This is because major earthworks, land clearing, construction of access from mine site to main road, construction of mine facilities, extraction and earthmoving activities are conducted during operation/production period.

Identified impacts of mine production/operation activities to the environment are specifically addressed in the Environmental Protection and Enhancement Program, as mandated under Section 169 of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995.

Identified impacts on the communities during operation stage are specifically addressed in the Five-Year Social Development and Management Program, as mandated under Section 136-A of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995. Mandated projects under this plan include:

- Infrastructure projects (such as farm-to-market roads, bridges and community centers);
- Livelihood/enterprise development programs;
- Capability building/skills development programs; and
- Education and health programs and other basic services.

The following matrix (please refer to Table 6) presents an overview of Key Impacts and Mitigation Measures per ecosystem and per project phase. The information provided here are common impacts and mitigation measures indicated in the EIS of companies. Information on a per company basis is found in Annex A.

Table 6. Overview of key impacts and mitigation measures per ecosystem affected and per project phase

Project Phase	Ecosystem affected	Key project activities	Key impacts	Mitigation Measures
Exploration				
	Land	Site investigation/geological survey, core sampling, exploration	<ul style="list-style-type: none"> - Soil erosion - Soil contamination due to machine leakage 	<ul style="list-style-type: none"> - Soil erosion is controlled by preservation of endemic vegetation, temporary seeding, mulching and sodding - Soil contamination is addressed by proper housekeeping, waste minimization and segregation and proper machine maintenance
	Water	Site investigation/geological survey, core sampling, exploration	<ul style="list-style-type: none"> - Water turbidity due to soil erosion 	<ul style="list-style-type: none"> - Designation of disposal sites; establishment of drainage facilities
	Air	Pre-construction works consist of establishment of	<ul style="list-style-type: none"> - Dust formation - No significant noise quality 	<ul style="list-style-type: none"> - Dust control is done by water spraying and stabilized road, including mulching, sodding

Chapter 2 The Philippine Environmental Impact Statement System

		nurseries, site preparation and soil/slope stabilization	impacts are expected	and temporary seeding
	People	<ul style="list-style-type: none"> - Social preparation - Negotiations for land purchase 	<ul style="list-style-type: none"> - Fears and apprehensions of people - Possibility of improper compensation 	<ul style="list-style-type: none"> - Conduct of community based information, education and communication to address sources of fears and apprehensions of households - Possibility of improper compensation pertains to the purchase/lease of land where mine facilities will be established. Depending on the agreement with landowners, appropriate compensation package will be made
Construction				
	Land	Site preparation, land clearing, construction of access from mine site to main road, construction of mine facilities	<ul style="list-style-type: none"> - Increased soil erosion - Soil contamination due to machine leakage - Sedimentation of bodies of water - Landslides, rockfalls, rockslide, 	<ul style="list-style-type: none"> - Increased soil erosion is addressed by establishing buffer zones, stabilizing road and construction of soil retaining measures, in addition to endemic vegetation, temporary seeding, mulching and sodding - Soil contamination is addressed by proper housekeeping, waste minimization and segregation and proper machine maintenance - Implementation of Solid Waste Management Plan, pursuant to RA No. 9003, Ecological Solid Waste Management Act - Sedimentation of water bodies is addressed by stormwater and runoff management by establishing structures to divert runoff away from the disturbed soil and keeping the runoff velocities low - To address slope impacts, implement slope stability measures; reshaping of slopes; geological, geotechnical investigation/study
	Water	Site preparation, land clearing, construction of access from mine site to main road, construction of mine facilities	<ul style="list-style-type: none"> - Increased turbidity of water due to sediments due to soil erosion and domestic wastes generated by mine workers - Potential contamination of water bodies by oil/grease spillage 	<ul style="list-style-type: none"> - Construction of diversion drainage facilities and siltation pond - Construction of sedimentation pond/trap - Designation of disposal sites near the mine site for mine wastes, replanting of uprooted trees - Proper handling and storage of used oil/grease, pursuant to RA No. 6969, Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990
	Air	<ul style="list-style-type: none"> - Earthworks due to land clearing, construction of access from mine site to main road, construction of mine facilities - Traffic due to 	<ul style="list-style-type: none"> - Increased dust formation - Increase in noise levels 	<ul style="list-style-type: none"> - Increased dust formation is addressed by increased water spraying, including mulching, sodding and temporary seeding; - Imposition of speed limit to vehicles to deter re-suspension of dust particles - To address increase in noise levels, movement of vehicles will be regulated; mufflers will be applied on all vehicles and generators; provision of buffer zone between the mine site and the nearest settlement area; planting vegetation buffers around the operations area; construction

Chapter 2 The Philippine Environmental Impact Statement System

		movement of dump trucks		activities limited during daytime
	People	Construction activities	<ul style="list-style-type: none"> - Construction activities will require increased manpower, thus this stage is expected to generate employment opportunities - Increase in respiratory ailments for mine workers 	<ul style="list-style-type: none"> - Use of proper personal protective equipment (masks, helmets) for mine workers which is mandatory under Section 144 of DENR Administrative Order No. 2010-21, IRR of RA No. 7942, Philippine Mining Act of 1995
Production				
	Land	Mining activity proper, stockyard operation, pile area operation	<ul style="list-style-type: none"> - Increased soil erosion - Soil contamination due to machine leakage - Sedimentation of bodies of water - Slope failure 	<ul style="list-style-type: none"> - Increased soil erosion is addressed by establishing buffer zones, stabilizing road and construction of soil retaining measures, in addition to endemic vegetation, temporary seeding, mulching and sodding - Soil contamination is addressed by proper housekeeping, waste minimization and segregation and proper machine maintenance - Implementation of Solid Waste Management Plan, pursuant to RA No. 9003, Ecological Solid Waste Management Act - Sedimentation of water bodies is addressed by stormwater and runoff management by establishing structures to divert runoff away from the disturbed oil and keeping the runoff velocities low - Slope failure is addressed by progressive rehabilitation and structural measures such as gabions
	Water	Mining activity proper, stockyard operation, pile area operation	<ul style="list-style-type: none"> - Increased turbidity of water due to sediments due to soil erosion and domestic wastes generated by mine workers - Increase in total suspended particles 	<ul style="list-style-type: none"> - Use of diversion drainage facilities and siltation pond/dam - Use of sedimentation pond/silt trap - Designation of disposal sites near the mine site for mine wastes - Progressive rehabilitation/replanting of uprooted trees - Maintain buffer zone along existing natural drainage system (creeks, stream)
	Air	<ul style="list-style-type: none"> - Mining activity proper, stockyard operation, pile area operation - Increased traffic due to movement of dump trucks, increase in the number 	<ul style="list-style-type: none"> - Increased dust formation - Increase in noise levels 	<ul style="list-style-type: none"> - Increased dust formation is addressed by increased water spraying, including mulching, sodding and temporary seeding - Imposition of speed limit to vehicles to deter re-suspension of dust particles - Covering of hauling trucks with tarpaulin or similar material; proper maintenance of vehicles and equipment - Reforestation and afforestation - To address increase in noise levels, movement of vehicles will be regulated; mufflers will be applied on all vehicles and

Chapter 2 The Philippine Environmental Impact Statement System

		of vehicles and equipment going in and out of the mine site, utilization of heavy equipment		generators; provision of buffer zone between the mine site and the nearest settlement area; planting vegetation buffers around the operations area
	People	Production/mining activities	<ul style="list-style-type: none"> - Change of livelihood - In-migration - Health and safety risks - Increased generation of solid wastes - Increased demand of sanitation/waste disposal facilities - Increase incidents of work-related accidents 	<ul style="list-style-type: none"> - Implementation of livelihood program - Priority in employment of qualified residents - Increase in delivery of health services - Establishment of waste disposal facilities/implementation of the RA No. 9003, Ecological Solid Waste Management Act - Trainings on safety management <p>These are some of the programs under social development plan that will be the basis in the formulation of Five-Year Social Development and Management Program. Detailed programs on health, education, livelihood, infrastructure, capacity building programs are part of the Social Development and Management Program submitted to MGB for approval</p>
Mine Closure				
	Land	<ul style="list-style-type: none"> - Cessation of mine activities - Decommissioning activities - Final mine rehabilitation /reforestation activities 	<ul style="list-style-type: none"> - Scarring of the mine site proper, soil erosion/slope failure/sedimentation - Rehabilitated/reforested mined out areas 	<ul style="list-style-type: none"> - Return of overburden - Preservation of endemic vegetation - Mine stabilization <p>Impacts will be addressed through the implementation of the Final Mine Rehabilitation and/or Decommissioning Plan that is mandated by law (Section 187 of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining Act of 1995). The overall objective is that at the mine closure stage, mined-out areas, waste dumps and environmental control structures are decommissioned and developed into stable landforms and revegetated.</p>
	Water	Post-restoration and rehabilitation works	Turbidity of water, tailings	<ul style="list-style-type: none"> - Monitoring and implementation of corrective measures - Slopes and surfaces including dried tailings fully stabilized and covered with endemic vegetation
	Air	Post-restoration and rehabilitation works	Dust generation	<ul style="list-style-type: none"> - Planting of endemic species - Soil conditioning - Consistent with post-mining land use, recontouring of surfaces and slopes for long term physical stability
	People	Cessation of mine activities	<ul style="list-style-type: none"> - Loss of employment - Turnover of all social facilities/structures to the community 	<ul style="list-style-type: none"> - Implementation of Social Plan for affected mine workers (retrenchment package and labor support programs such as job search, skills training, enterprise awareness, counseling), which is integrated in the Final Mine Rehabilitation and/or Decommissioning Plan that is mandated by law (Section 187 of DENR Administrative Order No. 2010-21, IRR of the RA No. 7942, Philippine Mining

				Act of 1995). - Turnover of all social assets and infrastructures/facilities is part of said FMRDP
--	--	--	--	---

As part of the procedure for processing EIA reports, when a company submits its EIA report to the EMB, the document is initially reviewed and validated by a screening officer if it conforms to the prescribed format. Non-conforming document is returned for revision or enhancement to comply with the basic EIA requirements.*

An approved EIS that lacks basic data/information (for example on Environmental Impact Assessment and on Environmental Management Plan) might have implication on the implementation aspect and, consequently, on the environment.

Once the ECC is issued, penalties apply for non-compliance with the ECC conditions. ECC conditions include the implementation of the Environmental Management Plan and the Environmental Monitoring Plan embodied in the approved EIS. As mandated by DENR Administrative Order No. 2003-30, IRR of PD No. 1586, monitoring of the company's compliance with the ECC conditions, Environmental Management and Monitoring Plans, and applicable laws, rules and regulations is conducted quarterly by the Multi-partite Monitoring Team (MMT) chaired by the EMB Regional Office. MMT is a community-based multi-sectoral team composed of representatives of the company, local government units, non-government organizations/people's organizations, communities, concerned EMB Regional Office, relevant government agencies and other sectors that may be identified.

Violations in relation to ECC conditions are classified as minor and major offenses:

1. Minor offenses are violations of administrative conditions in the ECC and the EIS System procedures. These are rules and regulations that will not have direct significant impact on the environment, but can impede or delay compliance against other ECC conditions and/or Environmental Management Plan commitments which the company is required to comply, or can prevent/deter EMB from performing monitoring or audit functions on the company's environmental performance, such as: 1) non-submission or delay in submission of reports/requirements; 2) transfer of ownership of the project/ECC without prior approval from ECC-issuing authority; 3) delay or failure to initiate formation or implementation of ECC conditions which do not have significant impacts on the environment, such as formation of EU, MMT, EMF, EGF, enhancement measures and other similar/equivalent requirements prior to the required deadline in the ECC; 4) non-compliance with other administrative conditions in the ECC; 5) non-compliance with administrative and technical procedural guidelines in the DAO 2003-30 and its Revised Procedural Manual; and 6) Other offenses deemed "minor" at the discretion of the EMB Central Office/Regional Office Director.

2. Major offenses are violations of substantive conditions in the ECC and the EIS System procedures, rules and regulations that will have significant impact on the environment and which the company is required to comply, such as:

*EMB - Environmental Impact Assessment and Management Division. 2007. Revised Procedural Manual for DENR Administrative Order No. 2003-30, the Implementing Rules and Regulations of PD No. 1586, Establishing the PEISS

1) non-implementation of substantive conditions in the ECC on the Environmental Management Plan and Environmental Monitoring Plan and other related substantive commitments in the EIA Report, including modifications during EIA Report Review, 2) exceeding project limits or area; 3) significant addition of project component or product without prior EMB approval; 4) major change in project process or technology resulting in unmitigated significant impacts not addressed by approved Environmental Management Plan; 5) Other offenses deemed "major" at the discretion of the EMB Central Office/Regional Office Director.

CHAPTER 3

Transparency where it matters: A report on the highlights of the PH-EITI 2015 LGU Road Shows

Transparency where it matters: A report on the highlights of the PH-EITI 2015 LGU Road Shows*

From July to August 2015, PH-EITI, in collaboration with the Union of Local Authorities of the Philippines conducted a nationwide road show to disseminate the findings of the first PH-EITI country report. LGUs were clustered into strategic areas, where a two-day forum was held to discuss key issues on extractive operations for which the PH-EITI process is able to shed light on. The participants came from the following provinces and municipalities:

CARAGA road show

Province of South Cotobato	T'boli Municipality
Province of Compostela Valley	Maco Municipality
Zamboanga City	Siocon Municipality
Davao City	

Butuan road show

Province of Surigao del Norte	Taga-anan Municipality
Province of Surigao del Sur	Claver Municipality
Province of Dinagat Island	Tubod Municipality
Province of Agusan Del Norte	Cantilan Municipality
Province of Agusan Del Sur	Tubay Municipality
Nonoc Island, Surigao City	San Jose Municipality
Butuan City	Libjo Municipality
Cagdinao Municipality	Tubajon Municipality
Basilisa Municipality	Rosario Municipality

Palawan road show

Province of Oriental Mindoro	Sofronio Espanola Municipality
Province of Palawan	Quezon Municipality
City of Puerto Princesa	Bataraza Municipality
Narra Municipality	

*By. Atty. Gay Ordenes and Marikit Soliman, PH-EITI Secretariat

Cebu road show

Province of Southern Leyte
Province of Cebu
Province of Eastern Samar
Province of Northern Samar
Province of Samar
Province of Cebu

Province of Aklan
Province of Siquijor
Province of Guimaras
Municipality of Guian, Eastern Samar
Toledo Municipality
Tuburan Municipality
MacArthur Municipality

Luzon road show

Province of Bulacan
Province of Zambales
Province of Albay
Province of Nueva Viscaya
Province of Benguet
Province of Masbate
San Juan City
Makati City
Pasig City

Pasay City
Muntinlupa City
Aroroy Municipality
Jose Panganiban Municipality
Mankayan Municipality
Tuba Municipality
Kasibu Municipality
Dona Remedios Municipality
Candelaria Municipality

Civil society organizations from the following groups also attended:

- AFRIM
- Pigsalabukan Gukom de Bayog
- Save Tawi tawi Movement
- Social Action Centers
- Unified Tribal Chieftains and Elders of Monkayo
- Bantay Kita
- Kematu Tribal Council
- Alyansa Tigil Mina
- Radio Emergency Communication Operations Network
- SILDAP
- Pikhumapongan Dlibo Subawen
- Pambansang Koalisyon ng Kababaihan Sakanayunan
- Baywatch
- Tribal Communities Development Foundation (TRICOM)
- Palawan State University
- Ancestral Land Domain Watch
- Environmental Legal Assistance Center, Inc. Palawan

- Palawan Prime Movers Advocacy Cooperative
- ADLAW Palawan
- Nagkakaisang Tribung Palawan (NATRIPAL)
- Palawan NGO Network Inc.
- Coalition Against Land Grabbing
- Palawan Prime Movers Advocacy Coop
- Visayas State University
- Cebu Alliance for Safe and Sustainable Environment
- Philippine Movement for Climate Justice-Eastern Visayas
- Kalayaan Lihok Mag-aaral
- Bulig Visayas
- University of San Jose-Recoletos
- Kaabag sa Sugbo
- University of San Carlos
- Federation of Environment Advocates in Cagayan
- Kaduami Northern Luzon
- Concerned Laloquenos Against Illegal Mining
- Nueva Vizcaya Peoples Coordinating Council
- Philippine Rural Reconstruction Youth Association

The LGU road show had two objectives: first, to communicate the findings of the first report; second, and more importantly, to provide a platform to discuss issues encountered by communities hosting extractive operations and see how the EITI process can contribute to solving such issues. Below are the highlights of the LGU road show and the issues raised during the discussions. **It is important to note that this only serves as a documentation of the discussions, averments, and opinions expressed by the participants during the forums conducted by PH-EITI. Therefore, the averments and allegations of participants contained in this report should not be construed or cited as conclusive facts attested to by PH-EITI.**

A. Issues and Concerns

1) Shares in national wealth

One concern raised by LGUs, and more pronounced in provinces like Palawan and Nueva Vizcaya, is the release of LGU shares in national wealth. Under the Local Government Code (LGC), LGUs are entitled to 40% of the total collections from national wealth. Ideally, LGUs should be getting such shares every year.

However, delay in the release is a prevailing concern. One local official from Nueva Vizcaya shared during the Luzon forum that they have been requesting for their shares since 2013, to no avail. Attempts to follow up with DBM and BIR remains unsuccessful. Responding to this, DBM and BIR shared that the delay is caused by a pending legal question on the proper tax situs of the subject mining company operating in Nueva Vizcaya. A similar concern is raised in Palawan where there is a pending legal question on whether the Malampaya platform is within their

provincial waters. An affirmative answer would mean that they should receive shares from revenues generated by Malampaya. A Palawan local official averred during the forum that the national government owes their province the total amount of 80 Billion as share in national wealth. He stressed that despite their province being one of the areas in the Philippines that is rich in natural resources with 232 endemic species, 200 types of birds, and 1,500 hosts of plants, their poverty incidence remains high at 63.8 %. At the forum in Cebu and CARAGA, local stakeholders expressed their dissatisfaction over the lack of transparency in the computation of their shares, as well as in the processes followed in releasing the same. Local treasurers revealed that the documents given to them by DBM have no information on how much share should pertain to a particular sector and for a particular year. This lack of information, they claimed, limits their capacity to check whether they are getting their proper share. Some LGUs averred that DBM and banks sometimes do not notify them of the release of their shares. Consequently, they are not able to properly utilize these shares or include them in their budget.

2) Local policies vs national policies

One pressing concern extensively discussed in the CARAGA region is the conflict between local and national policies in terms of granting permits to extractive companies. Under RA 7942 (Mining Act), MGB has the authority to issue mining licenses and permits. In reality, however, some LGUs refuse to issue local permits (e.g. mayor's permit, business permit) to companies. It was pointed out in the CARAGA road show that there are three LGUs with zero mining policies adopted by local councils. When this happens, companies are at a limbo and are unable to operate despite a valid permit from MGB.

Another illustration of conflict between local and national policies is the imposition of additional taxes and fees to companies which some companies deem redundant and amounting to double taxation. The LGC grants LGUs local taxing powers. While this power is granted by law, issues arise when the local imposition is seemingly similar to national taxes like excise tax. Companies argue that some LGUs have been "creative" in exacting impositions to the extent that they end up paying taxes or fees for the same activity. An example was given in Butuan where a participant observed that several permits and fees are required by LGUs. There was a suggestion that BOI, DOLE, SEC, and BIR representatives should be invited to the forum to clarify the permits and fees required from companies.

In Palawan, stakeholders complained about the incentives granted by national government agencies to mining companies. Since incentives like income tax holidays significantly reduce the LGUs shares in collections,

they opined that they should be consulted before incentives are granted because these should be weighed against the social and environmental impacts of extractive companies in their area.

An MGB official mentioned that the mineral industry in Palawan contributed 23-24% from 2010-2012 to their gross production. Thus, a no mining policy could have severe impacts on their production. He opined that local policies in mining should take into consideration the bigger picture, that is, the contribution of mining to the LGU's revenue collection.

On the part of the industry, they expressed the need for the national government to develop a national minerals plan that LGUs should adhere to. In addition, they cautioned against the imposition of excessive fees at the local level which discourage investments in the area.

3) Lack of consultation with LGUs

As hosts of extractive operations, LGUs absorb the impacts of mining activities. In all the roadshows conducted, however, stakeholders complained of the lack of meaningful consultation in the implementation of social projects. LGUs in the Cebu roadshow averred that social projects in their areas are not responsive to their needs. A regional official from MGB articulated that partnership and collaboration is imperative. For instance, local government units should be involved in the planning, approval and monitoring of the projects because LGUs have more knowledge about the needs of the community. However, it was opined by some participants in the road show that the community and the LGU's determination of what is best for them may not be sustainable. Thus, collaboration with other agencies that have the technical expertise should be ensured. For instance, the Department of Agriculture may provide technical assistance when it comes to agriculture-related projects. Local stakeholders emphasized that there has to be a mechanism for local communities and organizations, not just the LGUs, to voice out their opinions and concerns. To achieve balance, they suggested that even anti-mining organizations should be part of the conversation considering that in the end, after mining companies have closed and gone, it is the community members, the barangay, and the municipality who will have to deal with what is left of the mining area.

Another issue raised was the alleged politicization of the SDMP. Participants cited instances where barangays whose leaders are not part of a preferred political party do not benefit from the SDMP.

In Davao, CSOs raised the issue of sustainability of social projects especially in IP communities. CSO representatives in the area commented that the SDMP should be equivalent to the comprehensive Development Plan of the barangay and municipality. Oftentimes, however, the SDMP

and other development programs are designed as mere dole outs. Most projects were animal dispersion projects and environmental rehabilitation projects that proved to be unsuccessful. The problem is that mechanisms to sustain such projects, such as financial feasibility plans and identification of markets for certain products are not in place. An industry representative stressed the importance of capacitating the communities in planning and implementing the SDMP. A participant cited an example where funding for a hog raising project was given despite the fact that community members were not capacitated for hog raising. More than guaranteeing that there are projects, sustainability and appropriateness of such projects to the communities should be considered. In Palawan, some LGUs shared that they are not aware of the progress of the implementation of the companies' SDMPs. They also mentioned that social projects are not integrated in their local development plans. Some participants from Luzon averred that often, companies simply turn over the projects to them without involving them in planning and implementation. As a result, they are left to maintain too many waiting sheds and basketball courts which, they argue, are of minimal value to the community.

4) Small Scale mining

At the Luzon road show, local councils raised the issue of devolution of regulatory powers to LGUs for small scale mining operations. There was a strong sentiment among the participants that the new implementing rules and regulations (IRR) on SSM recently promulgated by MGB clipped the powers of LGUs in regulating the sector. They observed that the IRR made the process for declaration of minahang bayan more tedious because of onerous requirements such as securing the consent of individual land owners within the proposed minahang bayan area, and the lack of mandatory period in the rules within which the MGB should act on the application.

In CARAGA and Cebu, stakeholders noted that when EO 79 was issued prohibiting SSM operations until the MGB declares an area as minahang bayan, local governments refrained from collecting payments from small scale miners for fear that receipt of payments will be construed as tolerance of such operations. Consequently, they lost revenues from such small scale miners which nonetheless continued their illicit operations despite the prohibition under EO 79.

More telling is the current situation in Davao where, based on the inventory conducted by their regional MGB, there are 2,029 tunnels for small scale mining, all of which are unregulated and therefore not paying any fee to the government. Prior to the issuance of EO 79, the Municipality of T'boli in the province of South Cotabato shared that they

used to collect around Php 11 Million annually from small scale miners. EO 79, which prohibited small scale mining operations outside of areas declared as minahang bayan, had the unintended effect of reducing revenues from small scale mining which suddenly became outside the ambit of the government's regulatory powers.

5) Regulation and monitoring

Another pressing concern raised by participants from the roadshow is the inadequate monitoring of extractive operations. In Butuan and Palawan, stakeholders observed that the impact of SDMPs and their actual contribution to communities are not being monitored. Monitoring of IP royalties is as much a concern in Palawan as it is in the Davao region. A participant from Palawan shared that there are instances where IP royalties are not being monitored well. The same participant said that even among IPs themselves, there is discrimination when it comes to who will benefit from these royalties. Another participant shared that companies are often told to let the IP communities decide how to spend their royalties, as companies should have nothing to do with managing the funds. However when the money is not spent properly, the company is often blamed. In Davao, a participant relayed that Php 14 Million was allocated for the SDMP in their locality, but when mining operations ended, the community was left in a rundown condition because the SDMP was not implemented in a sustainable manner.

Monitoring of environmental impacts should also be improved, as noted by participants in Luzon and Palawan. In the Luzon road show, there were a number of participants who raised the issue of mining companies operating and ending operations without the corresponding Environmental Protection and Enhancement Program (EPEP). Participants shared that some areas where mining operations ended were left in conditions that made such lands impossible to use for agricultural purposes, or pose health hazards to communities around the area. Issues on the issuance of ECC permits were also raised in the Luzon road show. In one instance, a province endorsed an ECC permit for a mining company but a neighboring province is claiming jurisdiction over the mining area and is likewise collecting payments from the company for environmental impacts.

It appears that in most LGUs, the local monitoring teams mandated by law such as PMRBs and MMTs are yet to be created. In other provinces in the region where there is a lack of an MMT, other localities established a multi-stakeholder group in lieu of the monitoring committee. In Cebu all provinces in the Region have duly organized PMRBs except Capiz. Every year since 2000, regional summits are held for all PMRBs in the region. However these local bodies are not as organized

in other areas. There are reports that the lack of PMRBs and MMTs are the reasons why social and environmental plans are not monitored well.

Stressing the need to utilize the resources for local development, industry representatives highlighted the importance of properly documenting their social expenditures and evaluating their impact on communities. The representative from the Chamber of Mines stressed that there is a need to increase the capacities of the LGUs to know how much they should receive from the national government in terms of LGU shares from national wealth. This means knowing what the monthly sales figures are based on documents submitted to the MGB, what the company actually paid to the government as excise tax and what their corresponding shares should be in every particular remittance. It was stressed that is important that the LGUs understand the process so they have the capacity to validate whether they are receiving the right amount.

6) Capacity building of stakeholders

One sentiment common among local stakeholders that was made evident during the road show is the need to increase the capacity of barangays to incorporate the SDMP in their local development plans. The SDMPs should be aligned with the plans and priorities of the barangays to better facilitate the improvement of the community. It was suggested that the MGB and LGUs must enhance the monitoring, evaluation and utilization of the Social Development Management Programs (SDMP) fund. Since it is the community who should be deciding as to where this fund will be used, it follows that it should be used in a way that will produce benefits to communities even after mining activities have ended. Towards this end, it is crucial that the community has the capacity to make use of the fund and to have a plan on how benefits can be harvested in the long run.

Best Practices

The road shows were also occasions to highlight the best practices of LGUs in terms of revenue collection and management and governance of the sector.

Region XIII, for instance increased the number of MMT members to 20 to ensure that all sectors are well represented. Surigao del Norte has formed a Community Technical Working Group (CTWG), a non-decision-making body that identifies and monitors SDMP projects at the barangay and municipal levels. To track how they are spending their resource revenues, Agusan Del Sur has adopted the following appropriations for their share in national wealth: 60% for environmental projects, 20% for social projects, and 20% for livelihood projects. Once the LGU receives the actual amount of shares, the equivalent allotment according to the identified funding proportion is released.

The MGB Regional Director in Palawan requires companies to submit a sworn statement attesting to the company's operating costs. This ensures that companies comply with the requirement that 1.5 % of their operating costs should be allotted to SDMPs. The regional office of NCIP in Palawan also has a monitoring template for royalties and expenses from royalties. Moreover, the province of Palawan has a utilization report on their expenditures from natural resource revenues.

Nueva Vizcaya's environmental code, on the other hand, includes provisions requiring companies to furnish LGUs with a copy of the Mineral Ore Export Permit (MOEP) issued by MGB for every shipment made. This will serve as basis for LGUs in estimating their share.

Recommendations and Ways Forward

From the discussions, the following recommendations were given by local stakeholders to address some of the concerns raised by the LGUs:

- Strengthen planning and monitoring mechanisms for SDMP, EPEP, and IP Royalties
 - Create local monitoring bodies and/or establish PMRBs in areas where they have not been duly constituted
 - Take advantage of data from PH-EITI country report, dialogues, and conferences to determine the appropriate payments to localities and to hold accountable the key persons who should be responsible for such payments
 - Support legislative actions that expedite and encourage efficiency in the process of downloading shares in national wealth
 - Ensure that LGUs and local stakeholders are involved in the approval, implementation and monitoring of SDMPs and local development plans
 - Implement mechanisms for a more transparent monitoring of release of LGU shares from national wealth
 - Make use of the EITI process as means to create sustained dialogue among local stakeholders
-

CHAPTER 4: Social Development and Management Program Document Review

A REVIEW OF FUND ALLOCATION AND EXPENDITURES FOR SOCIAL DEVELOPMENT PROJECTS OF MINING COMPANIES*

Mining companies are required by RA 7942 and its Implementing Rules and Regulations to implement social development projects for the welfare of their host communities. In compliance with this requirement, companies submit to the Mines and Geosciences Bureau (MGB) a Social Development and Management Program (SDMP) where they are mandated to prepare a 5-year plan allocating 1.5% of their operating expenses to the following:

- Development of Host and Neighboring communities (HNC): 75% of the 1.5%
- Information, Education and Communication (IEC): 15% of 1.5%
- Development of Mining Technology and Geosciences (DMTG): 10% of 1.5%

An exhaustive discussion of the SDMP—its requirements, legal framework, and rationale—are found in PH-EITI’s first report. This chapter is a review of existing SDMPs based on monitoring reports provided by the Mines and Geosciences Bureau to PH-EITI as of November 2015.

The following companies are included in this review:

	MINING COMPANY	SDMP YEARS COVERED BY THE REVIEW
1.	AAM-PHIL Natural Resources Exploration and Development Corporation	2013 and 2014
2.	Adnama Mining Resources Inc.	2014
3.	Apex Mining Company	2012
4.	Benguet Nickel Mines Inc.	2012 to 2014
5.	Cagdiano Mining Corporation	2013 to 2014
6.	Carrascal Nickel Corporation	2014
7.	Citinickel Mines and Development	2013
8.	CTP Construction and Mining Corp. (Adlay)	2014
9.	Eramen Minerals, Incorporated	2012 to 2014
10.	Hinatuan Mining Corporation	2014
11.	Johson Gold Mining Corporation	2012 to 2013
12.	Krominco, Inc.	2013 to 2014
13.	Lepanto Consolidated Mining Corporation	2012 to 2014
14.	LnL Archipelago Minerals Incorporated	2013 to 2014

* By Atty. Gay Ordenes, Abigail Ocate and Marikit Soliman, PH-EITI Secretariat

15.	Marcventures Mining and Development	2013 to 2014
16.	Ore Asia Mining and Development Corporation	2013 to 2014
17.	Oriental Synergy Mining Corporation	2013 to 2014
18.	Oriental Vision Mining Philippines Corporation (Norweah Metals and Minerals Company, Inc.)	2014
19.	Pacific Nickel Phils., Inc.	2014
20.	Philex Mining Corporation	2012 to 2014
21.	Platinum Group Metals Corporation	2014
22.	Rapu-Rapu Minerals Inc.	2012
23.	TVI Resource Development '(Phils.), Inc.	2012
24.	Wellex Mining Corporation	2014
25.	Zambales Diversified Metals Corporation	2012 and 2014

This review aims to examine the implementation of SDMPs in terms of projected amount vis-a-vis actual expenditures. Ideally, the review should cover the entire 5-year period for all companies but limitations on the documents provided by MGB hindered us from doing so. Nevertheless, this summary provides a snap shot of how SDMP allocations are spent, albeit for periods less than 5 years.

A number of observations can be made from this document review:

1. For some companies, the utilized amount or amount actually spent for SDMPs goes above the allocated amount for each year, that is, more than 100% of the allocated amount.

Among such companies are:

COMPANY	PERCENTAGE AND PERIOD
Benguet Nickel Mines	114% in 2012
Cagdiano Mining Corporation ²	106% in 2014
Eramen Minerals, Incorporated ³	103% in 2012; 105% in 2013
Hinatuan Mining Corporation	102% in 2014
LnL Archipelago Minerals Incorporated	132% in 2013; 126% in 2014
Ore Asia Mining and Development Corporation	110% in 2013
TVI Resource Development '(Phils.), Inc	158% for 2012 ⁴

² Only the amount utilized for the 1st semester of 2013 is covered, no information was provided for the 2nd semester.

³ Only the amount utilized for the 1st semester and 3rd quarter of 2014 is covered, no information was provided for the 4th quarter.

⁴ The data provided only pertains to 2nd semester of 2012

2. For other companies, however, the annual utilization rate is lower than 50% of the allocated amount for a particular year as shown below:

COMPANY	PERCENTAGE AND PERIOD
AAM-Phil Natural Resource Exploration	29% in 2014
Apex Mining Company	13% in 2012
Cagdianao Mining Corporation ⁵	47% in 2013
Johson Gold Mining Corp.	44% in 2012
Lepanto Consolidated Mining Corporation ⁶	33% in 2014
Oriental Synergy ⁷	48% in 2013

3. To have a conclusive assessment of a company's compliance with its SDMP commitments, however, one must look at the entire 5-year program to see if the total allocated amount was utilized at the end of five years. It is possible that the low utilization rate for a given year is offset by high utilization rates for other years, and vice versa. For future EITI reports, the MGB should provide evaluations for the entire five-year period to ensure a conclusive assessment of a company's compliance with its SDMP commitments.

4. The SDMP reports indicate that in some instances, there were backlogs in the utilization of the SDMP budget which means that there were unspent funds from the preceding year. Our review disclosed that the following 11 companies have backlogs:

1. Philex Mining Corporation
2. AAM-Phil Natural Resource Exploration and Development Corporation
3. Apex Mining Company
4. Benguet Nickel Mines Inc.,
5. Cagdiano Mining Corporation
6. Lepanto Consolidated Mining Corporation
7. Marcventures Mining and Development
8. CTP Construction and Mining Corp. (Adlay)
9. Carrascal Nickel Corporation
10. Oriental Vision Mining Philippines Corporation (Norweah Metals and Minerals Company)
11. Zambales Diversified Metals Corporation

⁵ Only the amount utilized for the 1st semester of 2013 is covered, no information was provided for the 2nd semester.

⁶ Data for the 1st quarter of 2014 is not included in the reported amount of utilization.

⁷ Only 1st semester data is available for calendar year of 2013.

It bears stressing, however, that some companies could be offsetting such backlog in the succeeding years. Unfortunately, the information provided by MGB at this point is not enough to verify this. In addition, the MGB has no standard format for the SDMP monitoring report. Thus, for reports that have no information on backlogs, it is not clear whether this information was simply omitted, or it means that the company really has no backlog.

5. In some monitoring reports, the percentage of physical and financial progress is indicated. However, only eleven annual monitoring reports indicate this out of around 41 monitoring reports for 25 companies examined. The percentage of completion is evaluated by the MGB on a quarterly basis but not on an annual basis. Based on the review of reports for 2014, none of the companies have been able to get a 100% completion for all quarters as shown below:

		1 st Qrt	2 nd Qrt	3 rd Qrt	4 th Qrt
AAM-PHIL Natural Resource Exploration and Development Corporation	Physical Accomplishment	85%	75%	86%	29%
	Financial Accomplishment	1%	30%	29%	21%
Cagdiano Mining Corporation	Physical Accomplishment	98%	99%	100%	100%
	Financial Accomplishment	100%	85%	70%	70%
Carrascal Nickel Corporation	Physical Accomplishment	96%	82%	118%	100%
	Financial Accomplishment	97%	57%	141%	90%
CTP Construction and Mining Corp. (Adlay)	Physical Accomplishment	96%	82%	85%	100%
	Financial Accomplishment	97%	575%	86%	90%
Hinatuan Mining Corporation	Physical Accomplishment	35%	96%	94%	89%
	Financial Accomplishment	30%	100%	95%	108%
Krominco, Inc.	Physical Accomplishment	50%	17%	94%	100%
	Financial Accomplishment	97%	8%	78%	72%
Marcventures Mining and Development	Physical Accomplishment		78%	89%	85%
	Financial Accomplishment		82%	95%	89%
Oriental Synergy Mining Corporation	Physical Accomplishment	93%	35%	83%	85%
	Financial Accomplishment	84%	82%	44%	87%
Oriental Vision Mining	Physical Accomplishment	75%	60%	57%	75%

Philippines Corporation (Norweah Metals and Minerals Company, Inc.)	Financial Accomplishment	91%	93%	94%	95%
Pacific Nickel Phils., Inc.	Physical Accomplishment	31%	72%	89%	89%
	Financial Accomplishment	83%	87%	77%	100%
Wellex Mining Corporation	Physical Accomplishment		90%	69%	73%
	Financial Accomplishment		68%	35%	59%

6. Among the projects implemented under SDMPs based on the documents covered by this review are as follows:

Type	Activities	Aggregate utilized amount
Development of Host and Neighboring communities (HNC)	<i>Human Resource and Development Enterprise Development Livelihood Program Educational Program Health, Nutrition and Sanitation Program Infrastructural support Socio-cultural activities Support to LGU initiatives</i>	362,527,097.73
Information and Education Campaign (IEC)	<i>Geo-hazard mapping assessment program Expensed incurred in attending forums, meetings and consultations with different stakeholders Establishment if IEC unit/coordination with local leaders Local and national publications Regular meeting with barangay officials</i>	60,454,203.37
Development of Mining Technology and Geoscience (DMTG)	<i>Trainings Funding for attendance to forums Research in process improvement Provision of logistics for research on mining technology</i>	34,739,772.49
TOTAL		457,721,073.59

7. Monitoring reports do not follow a standard format, which makes evaluation problematic. As mentioned previously, not all reports indicate the progress of completion. Also, the

impact of these projects are not mentioned in the report. There was also no discussion on any mechanism in place to ensure that consultation was done and that participatory process was employed in planning and implementing the SDMP. Lastly, some reports are merely narrative reports on the kind of projects implemented and do not contain financial information, thereby making comparison across companies difficult.

Below is a summary of the allocations and actual expenditures of the companies covered by this review. The spaces left blank indicate that data is not available for those years. There are companies however, specifically Rio Tuba Mining Corp. and Coral Bay Nickel Corporation that are not included in the review because they have joint SDMP monitoring reports. It cannot be distinguished from which company the utilized amount came from.

Table 7. Total SDMP allocation and utilization of mining companies covered in the review

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
AAM-PHIL Natural Resources Exploration and Development Corporation (Brgy. Edera, Basilisa and Loreto, Province of Dinagat Island)	Development of HNC				3,531,603.00	3,245,603.90	92%	2,715,899.25	604,159.00	22%
	IEC				546,322.00	546,322.00	100%	543,179.85	191,111.35	35%
	DMTG				230,881.00	230,881.00	100%	362,119.9	241,709.90	67%
	TOTAL				4,308,806.00	4,022,806.90	93%	3,621,199.00	1,036,980.25	29%
Adnama Mining Resources Incorporated ⁸ (Brgys. Urbiztondo, Tayaga, Ladgaron and Panalao, Municipality of Claver; Brgy. Bagacay, Municipality of Hinabangan, Province of Surigao)	Development of HNC							8,796,802.02	4,931,419.91	56%
	IEC							1,759,360.40	931,658.07	53%
	DMTG							1,172,906.94	186,500.00	16%

⁸ Only the amount utilized for the 1st semester of 2014 is covered, no information was provided for the 2nd semester.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
del Norte; Lapnigan Island, Agusan Del Sur; Municipality of Magallanes, Province of Agusan Del Norte)	TOTAL							11,729,069.36	6,049,577.98	52%
	Development of HNC	6,512,799.74	5,114,528.63	79%						
Apex Mining Company (Brgys. Masara, Elizalde, Panoraon, New Leyte, Tagbaros, Teresa and Kinuban, Maco, Province of Compostela Valley; Mainit, Surigao del Norte,)	IEC	732,644.42	371,037.00	51%						
	DMTG			0%						
	TOTAL	7,245,444.16	5,485,565.63	76%						
	Development of HNC	3,745,999.40	4,569,936.57	122%	7,500,000.00	7,182,329.35	96%	8,388,015.99	5,773,445.20	69%
Benguet Nickel Mines Inc. (Brgys. Bolitoc Guisguis, Lucapon South, Tubo-tubo South, Sta. Cruz, Zamables; Brgys. Binabalian, Dampay and Yamot, Candelaria, Zambales)	IEC	416,282.60	176,203.00		1,500,000.00	505,245.15	34%	1,926,194.77	503,812.02	26%
	DMTG			42%	1,000,000.00	443,107.30	44%	1,220,389.55	52,619.00	4%

SDMP Component	2012			2013			2014		
	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
TOTAL	4,162,282.00	4,746,139.57	114%	10,000,000.00	8,130,681.80	81%	11,534,600.31	6,329,876.22	55%
Cagdiano Mining Corporation ⁹ (Brgys. Valencia, Boa and Legaspi, Cagdiano, Province of Dinagat Island)	Development of HNC			9,872,672.59	966,009.48	10%	7,141,251.77	7,958,517.34	111%
	IEC			1,724,512.05	1,130,492.44	66%	1,428,250.35	1,266,349.49	89%
	DMTG			2,019,351.34	4,318,197.38	214%	952,166.90	880,777.94	93%
	TOTAL			13,616,535.98	6,414,699.30	47%	9,521,669.02	10,105,644.77	106%
Carrascal Nickel Corporation (Brgys. Adlay, Babuyan, Bacolod, Baybay, Bon-ot, Caglayag, Doyos, Embarcadero, Gamuton, ,	Development of HNC						23,250,000.00	20,675,912.00	89%
	IEC						4,650,000.00	3,037,869.54	65%

⁹ Only the amount utilized for the 1st semester of 2013 is covered, no information was provided for the 2nd semester.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
Panikian, Pantukan, Saca and Tag-Anito, Carrascal, Surigao del Sur)	DMTG							3,100,000.00	2,368,179.91	76%
	TOTAL							31,000,000.00	26,081,961.45	84%
Citinickel Mines and Development Corporation ¹⁰ (Brgy. San Isidro, Narra, Palawan; Brgys. Labog, Pulot Interior and Punang, Sofronio Española, Palawan)	Development of HNC				3,433,756.00	1,506,000.00	44%			
	IEC									
	DMTG									
	TOTAL				3,433,756.00	1,506,000.00	44%			
CTP Construction and Mining Corp. (Adlay) (Brgys. Adlay and Dahican, Carrascal, Surigao del Sur)	Development of HNC							10,837,383.59	9,124,483.74	84%
	IEC							2,167,476.72	1,651,152.00	76%
	DMTG							1,444,900.00	1,316,380.00	91%

¹⁰Information on IEC and DMTG is not available and utilization data is only for the 1st Quarter of 2013.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
								84.48	2.01	
	TOTAL							14,449,844.78	12,092,017.75	84%
Eramen Minerals, Incorporated ¹¹ (Brgys. Babuyan, Bangcol, Bayto, Biay, Bolitoc, Bulawon, Canaynayan, Gama, Guinabon, Guisguis, Lipay, Lomboy, Lucapon North, Lucapon South, Malabago, Naulo, Poblacion North, Poblacion South, Sabang, Tubotubo North and Tubotubo South, Sta. Cruz, Zambales; Brgy. Dampay, Candelaria, Zambales)	Development of HNC	2,900,000.00	2,962,360.00	102%	5,350,500.00	5,563,362.65	104% ¹²	9,068,850.00	6,317,303.89	70%
	IEC	368,000.00	414,800.00	113%	410,000.00	418,900.00	102% ¹³	1,813,770.00	1,027,130.90	57% ¹⁴
	DMTG				411,800.00	523,000.00	127%	1,209,180.00	-	0%
	TOTAL	3,268,000.00	3,377,160.00	103%	6,172,300.00	6,505,262.65	105%	12,091,800.00	7,344,434.79	61%
Hinatuan Mining Corporation	Developm							16,692,	17,141,0	103%

¹¹Only the amount utilized for the 1st semester and 3rd quarter of 2014 is covered, no information was provided for the 4th quarter.

¹²The percentage of utilization indicated in the monitoring report is lower (103.19%) due to possible error in computation.

¹³The percentage of utilization indicated in the monitoring report is lower (101.95%) due to possible error in computation.

¹⁴ The percentage of utilization indicated in the monitoring report is lower (56%) due to possible error in computation.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
(Brgy. Talavera, Tagana-an, Surigao del Norte)	ent of HNC							718.50	52.89	
	IEC							3,338,543.70	3,619,634.59	108%
	DMTG							2,225,695.80	1,975,473.50	89%
	TOTAL							22,256,958.00	22,736,160.98	102%
Johson Gold Mining Corporation (Brgys. Luklukan Norte, Luklukan Sur and Bagong Bayan, Jose Panganiban, Camarines Norte)	Development of HNC	485,798.29	234,134.52	48%	408,957.77	335,045.72	82%			
	IEC	97,159.65	19,378.00	20%	109,240.65	117,950.00	108%			
	DMTG	64,773.11	30,000.00	46%	55,746.11	37,772.64	68%			
	TOTAL	647,731.05	283,512.52	44%	573,944.53	490,768.36	86%			

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
Krominco, Inc. ¹⁵ (Brgy. Esperanza, Loreto, Province of Dinagat Islands)	Development of HNC				846,118.68	594,851.56	70%	782,741.02	782,741.02	100%
	IEC				169,223.76	105,023.74	62%	156,548.21	156,548.21	100%
	DMTG				112,815.84	32,407.91	29%	116,365.47	80,000.00	69%
	TOTAL	-			1,128,158.28	732,283.21	65%	1,055,654.70	1,019,289.23	97%
Lepanto Consolidated Mining Corporation ¹⁶ (Brgys. Balili, Bedbed, Bulalacao, Cabiten, Colalo, Guinaoang, Paco, Palasaan, Poblacion, Sapid, Tabio and Taneg, Mankayan, Benguet;	Development of HNC	16,071,007.84	11,697,067.00	73%	21,205,520.76	13,318,182.28	63%	22,868,392.28	6,167,627.09	27%
	IEC	3,214,201.57	1,029,839.21	32%	4,241,104.15	2,356,753.78	56%	4,573,678.46	2,228,730.91	49%
	DMTG	2,142,801.04	940,126.00	44%	2,827,402.77	1,777,023.74	63%	3,049,118.97	1,634,230.49	54%

¹⁵ Only the amount utilized for the 1st semester of 2013 is covered, no information was provided for the 2nd semester.

¹⁶ Data for the 1st quarter of 2014 is not included in the reported amount of utilization.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
Cervantes and Quirino, Ilocos Sur)	TOTAL	21,428,010.44	13,667,032.21	64%	28,274,027.68	17,451,959.80	62%	30,491,189.71	10,030,588.49	33%
LnL Archipelago Minerals Incorporated (Brgys. Bangcol, Biay, Bulawon, Canaynayan, Guinabon, Guisguis, Lipay, Pagatpat, Poblacion North and Poblacion South, Sta. Cruz, Zambales)	Development of HNC				3,600,000.00	4,871,674.38	135% ¹⁷	2,041,200.00	1,968,585.50	96%
	IEC				760,500.00	862,797.80	113% ¹⁸	226,800.00	880,549.91	388%
	DMTG									
	TOTAL				4,360,500.00	5,734,472.18	132%	2,268,000.00	2,849,135.41	126%
Marcventures Mining and Development ¹⁹ (Brgys. Bacolod, Bon-ot, Gamuton, Carrascal, Surigao del Sur)	Development of HNC					130,147.20		12,165,907.43	8,507,871.03	70%
	IEC					23,731.00		2,433,181.49	633,068.98	26%
	DMTG					43,301.00		1,622,100.00	162,740.00	10%

¹⁷The percentage of utilization indicated in the monitoring report is higher (139%) due to possible error in computation.

¹⁸The percentage of utilization indicated in the monitoring report is higher (216%) due to possible error in computation.

¹⁹ Only the amount utilized for the 1st semester of 2013 was indicated in the monitoring report.

SDMP Component	2012			2013			2014		
	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
					0		20.99	00	
	TOTAL				197,179.20		16,221,209.90	9,303,680.01	57%
Ore Asia Mining and Development Corporation ²⁰ (Brgys. Talbak and Camachin, Dona Remedios Trinidad, Bulacan)	Development of HNC			2,384,337.50	2,039,301.00	86%	2,921,407.11	1,717,038.00	59%
	IEC			500,000.00	945,972.96	189%	442,365.56	250,919.00	57%
	DMTG			470,746.67	693,558.25	147%	272,068.00	255,310.00	94%
	TOTAL			3,355,084.17	3,678,832.21	110%	3,635,840.67	2,223,267.00	61%
Oriental Synergy Mining Corporation (Brgy. Ezperanza, Loreto, Province of Dinagat Island)	Development of HNC			1,638,000.00	770,829.40	47%	2,049,172.50	2,130,398.97	104%
	IEC			182,000.00	99,692.25	55%	409,834.50	409,834.50	100%

²⁰The 2014 data does not include information on the 4th quarter

SDMP Component	2012			2013			2014		
	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
	DMTG						273,223.00	-	0%
	TOTAL			1,820,000.00	870,521.65	48%	2,732,230.00	2,540,233.47	93%
Oriental Vision Mining Philippines Corporation (Norweah Metals and Minerals Company, Inc.) (Brgy. Malinao, Tubajon, Dinagat Islands)	Development of HNC						8,407,973.95	4,466,194.00	53%
	IEC						1,681,594.79	213,749.50	13%
	DMTG						1,121,063.19	924,481.50	82%
	TOTAL						11,210,631.93	5,604,425.00	50%
Pacific Nickel Phils., Inc. (Brgy. Talisay, Nonoc Island, Surigao City)	Development of HNC						2,025,000.00	1,864,473.63	92%
	IEC						405,000.00	279,180.00	69%

SDMP Component	2012			2013			2014			
	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	
	DMTG						270,000.00	115,557.19	43%	
	TOTAL						2,700,000.00	2,259,210.82	84%	
Philex Mining Corporation (Brgy. Ampucao, Itogon, Benguet; Brgy. Sioco, Baguio City, Benguet; Tuba, Benguet)	Development of HNC	32,211,256.17	31,987,816.92	99%	49,341,682.50	40,578,092.12	82%	76,113,999.55	51,291,506.08	67%
	IEC	2,514,451.26	1,129,562.52	45%	9,868,336.50	4,989,984.50	51%	15,222,799.91	8,785,825.87	58%
	DMTG	795,000.00	333,794.10	42%	6,578,891.00	5,595,586.00	85%	10,148,533.27	4,327,111.64	43%
	TOTAL	35,520,707.43	33,451,173.54	94%	65,788,910.00	51,163,662.62	78%	101,485,332.73	64,404,443.59	63%
Platinum Group Metals Corporation ²¹	Development of HNC						15,978,220.44	6,842,550.59	43%	

²¹Only the first semester data is available for 2014

SDMP Component	2012			2013			2014		
	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
(Brgy. Cagdiano, Claver, Surigao del Norte)	IEC						-	4,065,500.00	0%
	DMTG						5,422,062.83	1,000,000.00	18%
	TOTAL						21,400,283.27	11,908,050.59	56%
Rapu-rapu Minerals Inc. (Brgys. Pagcolbon, Malobago, Binosawan, Sta. Barbara, Linao, and Tinopan, Rapu-rapu, Albay)	Development of HNC	66,992,143.95	37,178,566.14	-		55%			
	IEC	13,622,326.94	8,436,034.22			62%			
	DMTG	7,924,217.91	3,585,364.09			45%			
	TOTAL	88,538,688.80	49,199,964.45			56%			

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
TVI Resource Development '(Phils.), Inc. ²² (Brgys. Bulacan, Candiz, Jose P. Brillantes, Makiang, Malambuhangin, Malipot, Pangian, S. Cabral, Santa Maria, Tabayo and Tagaytay, Siocon, Zamboanga del Norte; Baliguian, Zamboanga del Norte; Brgy. Malungon, Tungawan, Zamboanga Sibugay)	Development of HNC	12,507,001.10	24,820,727.85	198%						
	IEC	5,139,231.54	5,171,806.57	101%						
	DMTG	1,366,528.75	78,000.00	6%						
	TOTAL	19,012,761.39	30,070,534.42	158%						
Wellex Mining Corporation (Brgy. Palridel, Libjo, Province of Dinagat Islands)	Development of HNC							1,890,000.00	745,015.74	39%
	IEC							378,000.00	358,000.00	95%
	DMTG							252,000.00	252,000.00	100%

²² The total allocation and amount utilized only covers 2nd semester of 2012, no information was provided for the 1st semester.

SDMP Component		2012			2013			2014		
		Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization	Allocation	Amount utilized	% of Utilization
	TOTAL							2,520,000.00	1,355,015.74	54%
Zambales Diversified Metals Corporation ²³ (Brgy, Lucapon South, Sta. Cruz, Zambales; Brgys. Malabon, Malimanga, Pamibian, Pinagrealan, Sinabacan, Taposo, Uacon and Yamot, Candelaria, Zambales)	Development of HNC	4,319,998.36	2,643,083.58	61%				2,531,437.50	1,207,151.86	48% ²⁴
	IEC	480,000.00	613,664.34	128%				506,287.50	498,388.05	98%
	DMTG							337,525.00	304,580.00	90%
	TOTAL	4,799,998.36	3,256,747.92	68%				3,375,250.00	2,010,119.91	60%

²³ Only the amount utilized for the 1st semester of 2012 is covered, no information was provided for the 2nd semester.

²⁴ The percentage of utilization indicated in the monitoring report is lower (47%) due to possible error in computation.

CHAPTER 5:

Narrative of Special Reports during MSG Meetings

Narrative of Special Reports in MSG Meetings*

MSG meetings are venues for learning sessions to better understand the extractive industries. These meetings have become platforms for raising issues on how the extractive sector is governed, and for understanding specific processes and laws that affect the industry. To ensure a more substantial discussion of these issues, the MSG regularly includes in its agenda learning sessions where current issues or potential areas for reforms in the sector are discussed by resource persons from government, industries and civil society.

Among the objectives for EITI implementation in the Philippines is to improve the public's understanding of the management of natural resources. This documentation of all presentations made during MSG meetings contributes to this objective.

21st MSG Meeting: Small-Scale Mining February 27, 2015

HIGHLIGHTS:

Three presentations on small-scale mining were provided by the provinces of Compostela Valley and South Cotabato.

Compostela Valley became the first LGU in the country to introduce its own local version of a transparency manual through the "Transparency Handbook."

South Cotabato increased its requirements for mining permits and improved its monitoring for better mining revenue collections.

Revenues from mining and quarrying increased by double-digit in South Cotabato from 2011 to 2012.

Resource Persons: Augusto Blanco, Compostela Valley &
Sigfried Flaviano, Provincial Environment Management Office South Cotabato

On its 21st the MSG heard presentations concerning the situation of small-scale mining in Compostela Valley (Region XI) and South Cotabato. Both presentations gave insights on how small-scale mining is being operated in these areas, the mechanisms in place to monitor and regulate the sector, as well as transparency initiatives at the subnational level.

* By Marikit Soliman and Prinz Magtulis, PH-EITI Secretariat

A. Compostela Valley

The province of Compostela Valley, led by Governor Arturo T. Uy, is home to a vast amount of extractive minerals, including gold, copper and shale (See Table 8 below). The province sits on more than 80,000 hectares of mining land, where small-scale mining, albeit occupying a smaller area, is fast increasing. A total of 506 hectares are currently covered by seven small-scale mining permits or have already been declared as "Minahang Bayan," according to the local MGB office. There are four additional approved small-scale mining contracts, while 11 permits have also been approved. An additional 1,174 hectares is being proposed to be placed under the people's small-scale mining area (See Table 9).

Table 8. Minerals in Compostela Valley

METALLIC MINERAL RESERVES

MINERAL COMMODITY	ESTIMATED RESERVE	UNIT USED	AVERAGE GRADE
Gold	181,745,339	MT	3.67 gm AU/MT.38% Cu
Copper	481,775,616	MT	

NON-METALLIC MINERAL RESERVES

Shale	3,000,000	MT	45% SiO ₂
Marble	54,000,000	CU.M.	
Silica	1,000,000	CU.M.	75% SiO ₂
Sand & Gravel	7,400,000	CU.M.	

Table 9. Small-scale mining in Compostela Valley

SMALL-SCALE MINING	No. of permits/ contracts/declared/ proposed	Area (Hectares)	% of total land area
Declared Small-Scale Mining Areas (under RA No. 7076)	7	506	0.10%
Proposed Areas	12	1,174	0.25%
Approved Contracts	4	61.14	0.0131%

Approved Mining Permits	11	160.266	0.034%
TOTAL	34	1,840.266	0.39432%

Source: MGB-Region XI (2013)

While the benefits of large mineral deposits in the province cannot be understated, issues concerning the safety and impact of mining operations in the province were also underscored. Among others, the province's governor pointed to collateral damage of "uncontrolled" mining activities, below safety standard mining operations, below standard and crude processing procedures and unhealthy and unsanitary conditions for workers.. These problems drove the provincial government to create a crisis management committee, which, among others, pays visit to the Minihang Bayan and advises miners when to stop their mining operations. In addition, a number of ordinances targeted at ensuring the welfare of the miners and the province have been issued by the local government. The ordinances forbid anyone from building houses near processing plants, as well as govern the adjudication of conflict as far as the scope of mining tunnels are concerned. An order giving the subnational government power to suspend mining operations during intense rainfall was also issued.

Aside from these efforts, social and economic concerns with regard to small-scale mining were likewise addressed through the following:

- proper zoning of mining areas
- strengthening the incident command system of municipalities
- establishment of revenue collection and monitoring centers
- construction of water facilities in mining areas for clean water
- inclusion to Gawad Kalinga program of displaced miners and their families

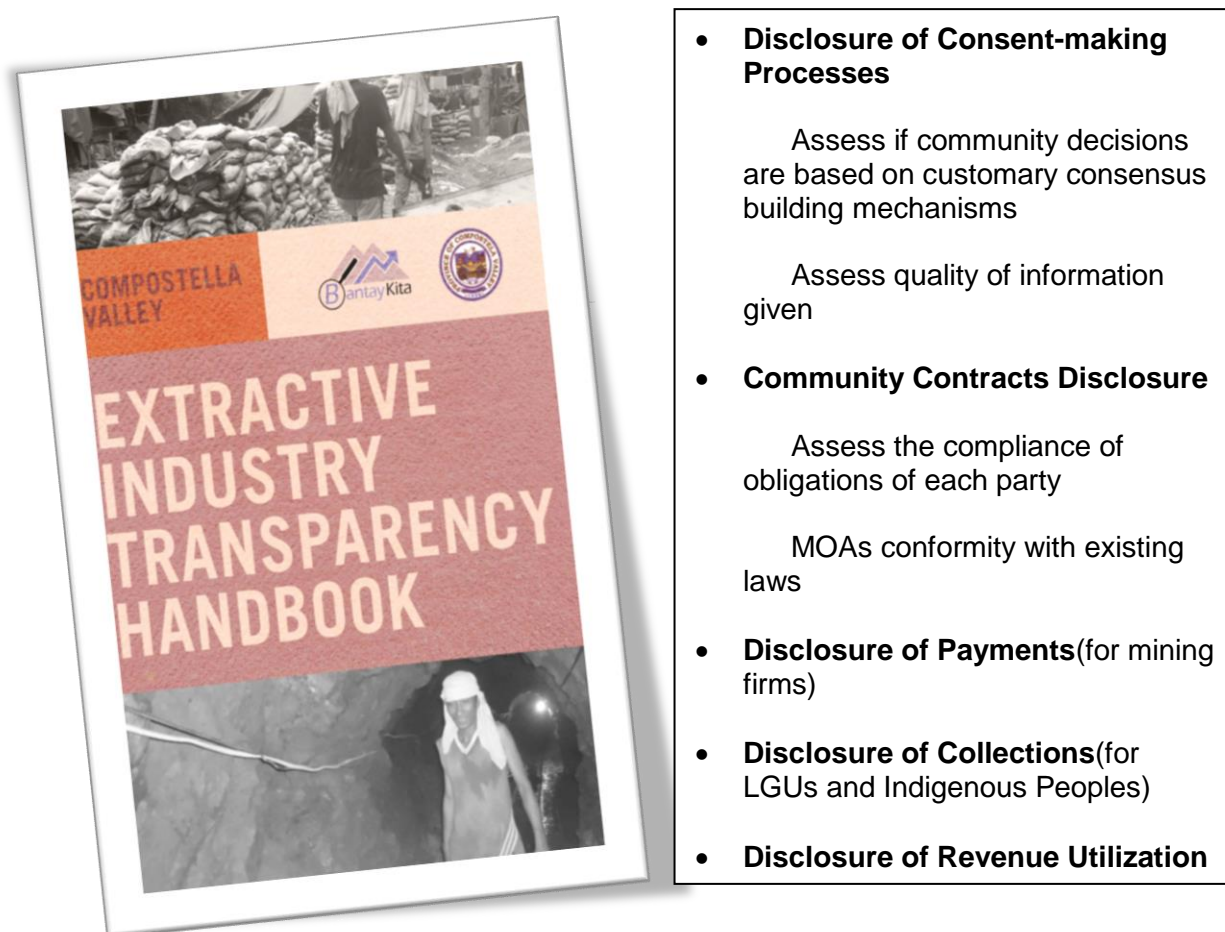
Transparency and Accountability

As part of the efforts to better regulate the local mining industry, the Compostela provincial government has undertaken its own version of transparency and accountability in the sector. An executive order was issued in 2013 to formally organize the multi-stakeholder council (MSC), which is in charge of formulating policies and regulations to better oversee local mining operations through transparent, efficient and accountable

reporting of funds going in and out of the industry. The MSC groups have representatives from the government, civil society organizations and mining firms.

The MSC also developed a "Transparency Handbook," (See Figure 2) a first of its kind among the local governments in the Philippines. The handbook stipulated, among others, the pertinent rules on information disclosure and reporting, together with a reporting template. According to the provincial government, three pilot municipalities of Nabunturan, Maco and Maragusan, is targeted to come out by the second or third quarter of 2015.

Figure 2. The transparency handbook



The Transparency Handbook (right) of Compostela Valley subnational government is the first of its kind in the country. The handbook lists the requirements for municipalities and other covered areas to disclose certain information (left) regarding the extractive industry.

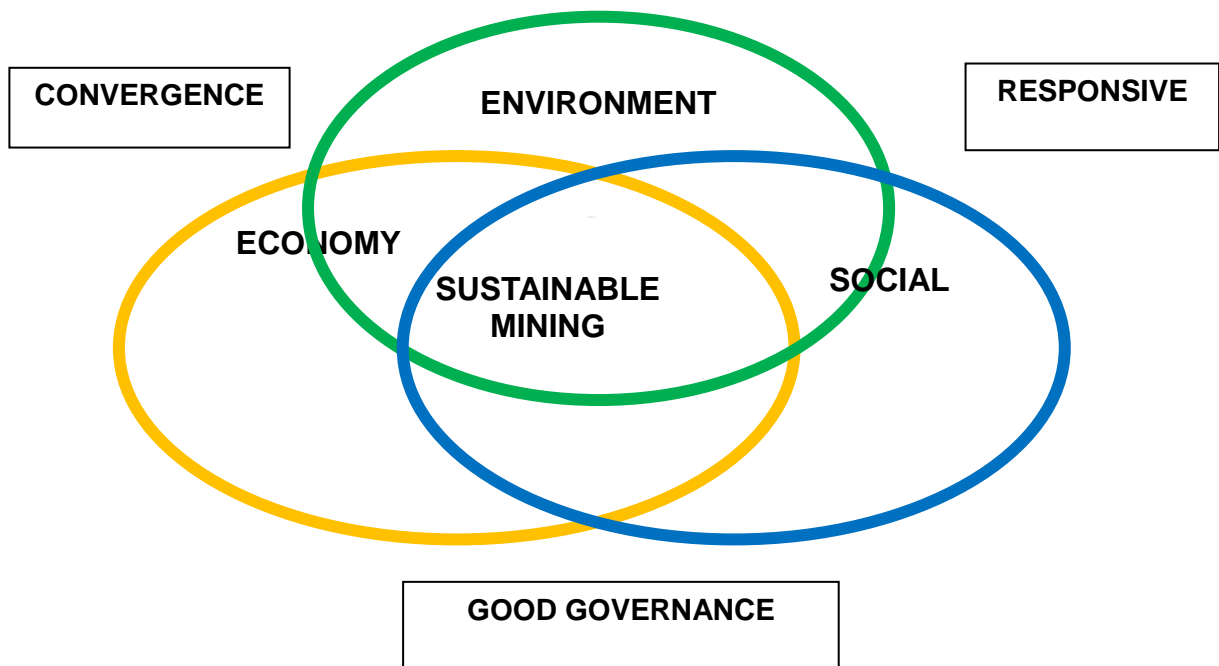
Source: Compostela Valley EITI presentation

The transparency initiative was undertaken as a way to plug revenue loopholes preventing the government from collecting what is due from the sector

B. South Cotabato

All areas declared as “minahang bayan” in South Cotabato are those which are only found in T’boli. The LGU decided to institute the "Minahang Bayanihan" program as an answer to common issues surrounding small-scale mining such as environmental degradation, socio-cultural challenges, as well as health and safety issues. In this way, such mining operations are put under the mantle of the law, and are being supervised and overseen by the South Cotabato LGU. The goal is to have a "sustainable" industry where economic, social and environmental well-being "converge" and are "responsive" to each other, through the practice of "good governance. (See Figure 3).

Figure 3. Concept of sustainable mining



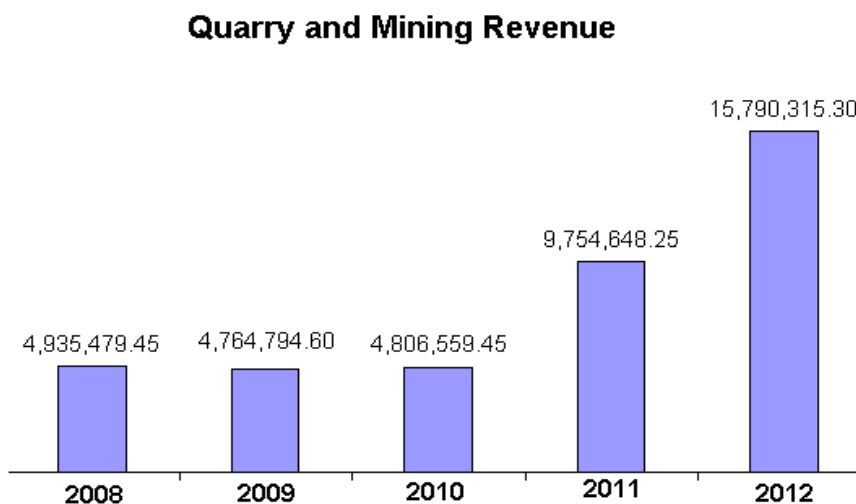
The South Cotabato government has also issued different policy ordinances such as Provincial Ordinance No. 7, Series of 2003, otherwise known as the "Small Scale Mining and Processing Operation Ordinance of the Province of South Cotabato," as well as the Provincial Environment Code in 2010. In addition, the government also prescribed additional requirements for those securing mining contracts. Aside from the Environmental Compliance Certificate, MGB area status clearance and mining plan, the LGU now also requires operators to obtain a clearance from the Municipal Environment and Natural Resources Office. Reforestation and rehabilitation of the area will also be required from the operators after their mining activity. Finally, every operator is now required to attend seminars on mining

safety and environmental protection, and submit quarterly mining production report to the LGU and the MGB regional office.

Monitoring of small-scale mining operations were likewise improved, through the establishment of an anti-illegal mining task force, institutionalization of geo-tagging and geo-hazard assessment and installation of CCTV cameras at mining sites, among others. Capability building activities were also held, including regular trainings and seminars for local officials.

South Cotabato LGU pointed to these efforts as reasons for its increasing mining and quarrying revenue collections (See Figure 4).

Figure 4. Mining and quarrying revenues of South Cotabato



23rd MSG Meeting: BIR Presentation on the ITH Process

May 7, 2015

HIGHLIGHTS:

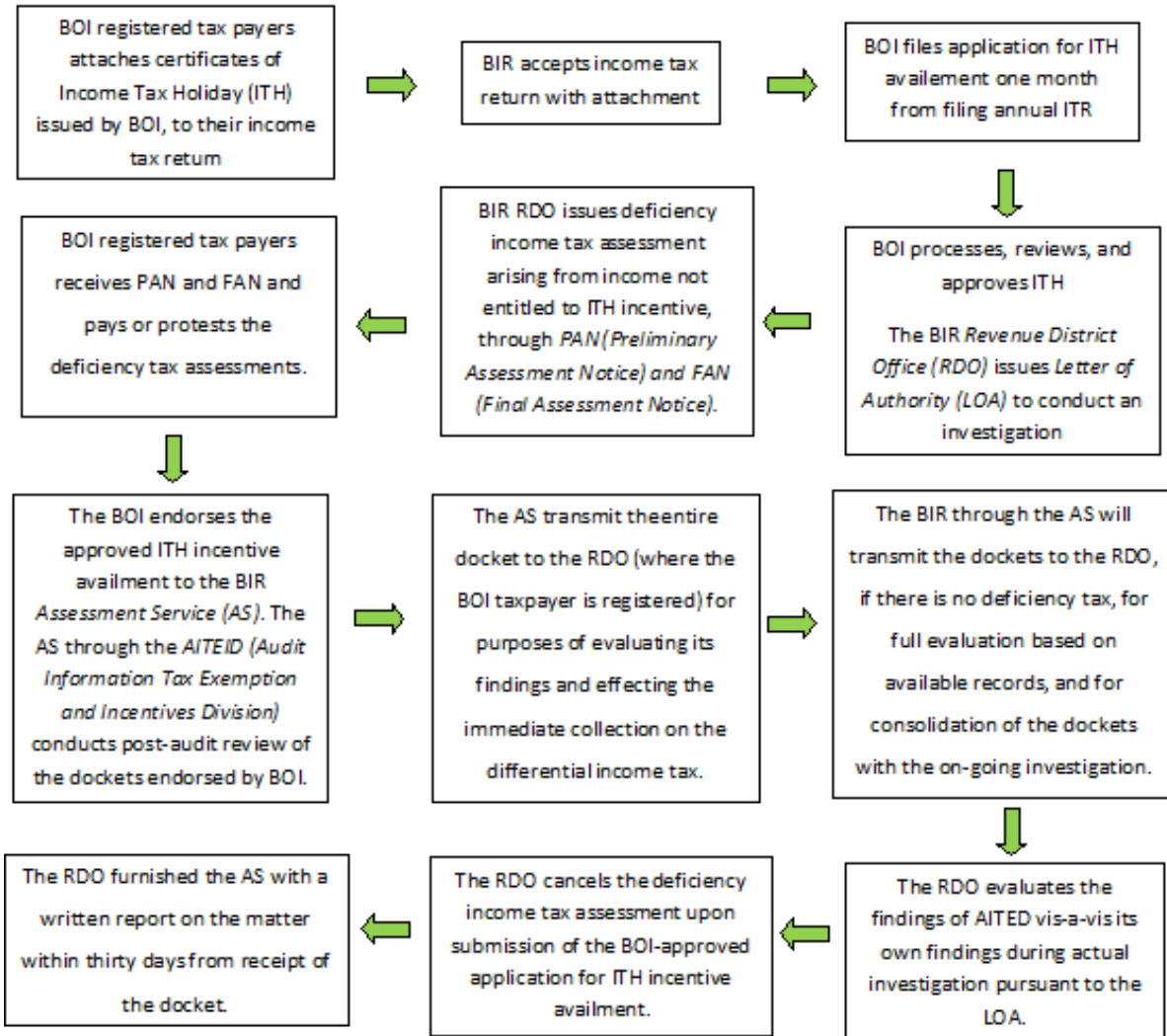
The BIR receives Income Tax Holiday (ITH) entitlement certificates that are *issued by the BOI* upon filing of annual income tax return by BOI registered tax payers

BIR Revenue District Office (RDO) reviews the certificates issued, determining if income is entitled to ITH incentive

If approved the BIR Assessment Services (AS) through the AITEID (Audit Information Tax Exemption and Incentives Division) conducts audit of the endorsed ITH incentives

Resource person: Sarah Mopia, Bureau of Internal Revenue (BIR)

Figure 5. Flow chart of the BIR ITH process



Based on the BOI and the BIR’s presentation to the MSG on the process for approving applications for income tax holidays, the following procedure is followed:

23rd MSG Meeting Tax Incentives (BOI)

May 7, 2015

HIGHLIGHTS:

The Board of Investments (BOI) is one of the primary agencies tasked to promote investments in the country by offering incentives.

Each company wanting to avail of incentives will need to secure a certificate of entitlement from the BOI. The certificate is attached to the income tax return submitted to the BIR.

The BOI monitors the activities of firms granted incentives even as the amount of incentives granted to them remain confidential.

A reform is underway under the Tax Incentives Management and Transparency Bill where publication of tax incentives yearly will be institutionalized.

Resource person: Erlinda Arcellana, Board of Investment (BOI)

Under Executive Order (EO) No. 226, or the Omnibus Investments Code of 1987, the Board of Investments (BOI) is the primary body in charge of promoting investments in the country by giving out incentives.

A. Incentives Application

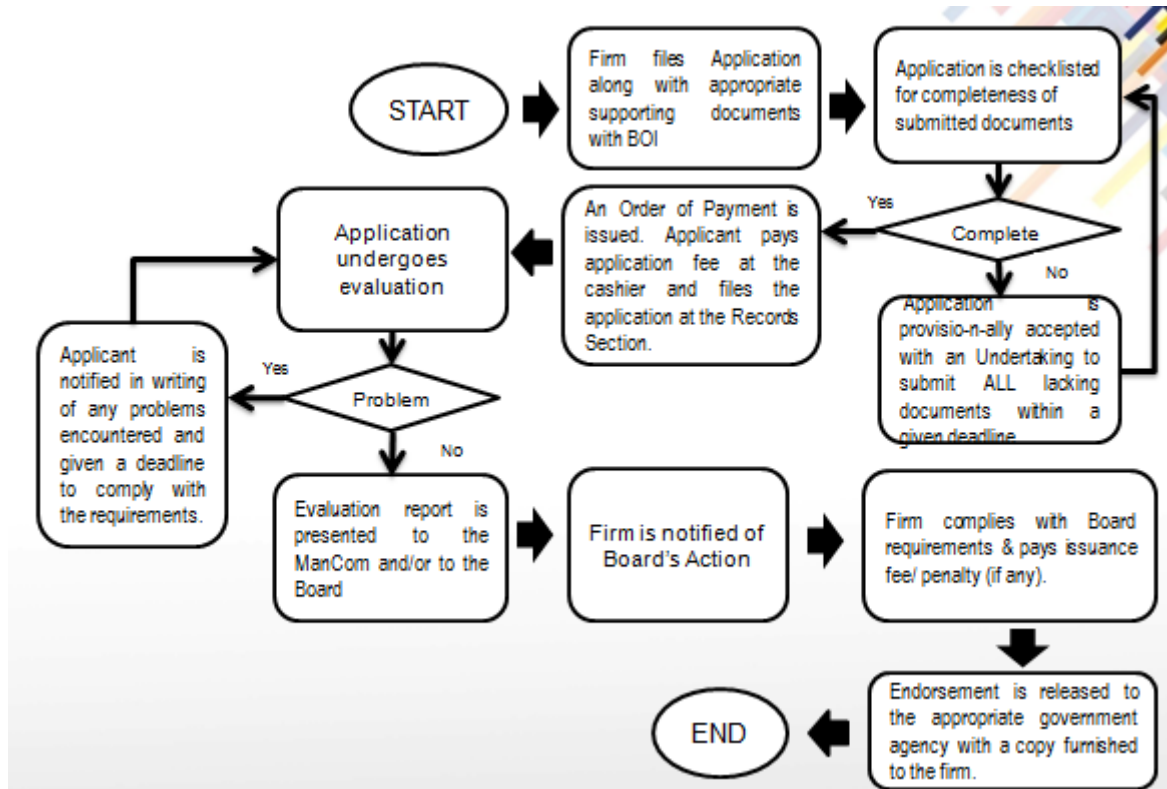
The BOI, under the Department of Trade and Industry, may grant the following incentives to qualified investors in the country:

- Income tax holiday (ITH)
- Additional deduction for labor expense
- Duty-free or reduced duty for capita equipment importations
- Unrestricted use of consigned equipment
- Tax- and duty-free importation of spare parts and supplies
- Wharfage dues exemption
- Employment of foreign nationals
- Zero-rated value added tax (VAT)

Specifically for ITHs, exemptions usually ran up to eight years depending on the industry, but the BOI clarified that companies need to be BOI-registered to be able to qualify for incentives. To facilitate the processing of availment, a certificate of entitlement (COE) also

needs to be secured from the BOI before filing an income tax return (ITR) with the BIR. The certificate is a product of an agreement between the two agencies targeted at eliminating revenue leaks from potentially providing incentives to unqualified businesses. The COE should be attached to the ITR to be submitted to the BIR. After securing the COE, the process of applying for an ITH begins. Application is made on a per project basis, not per firm. The chart below shows the over-all application process for COE as well as the procedures undertaken when problems are encountered on the way.

Figure 6. COE application flowchart



Source: Board of Investments

B. Incentives Evaluation

The evaluation of an incentives application involves the verification of documents submitted and data included in the papers submitted by the firm. The BOI then provides an estimated computation of the tax exemption that the investor is entitled to. The agency only provides an "estimate", noting that it is the Bureau of Internal Revenue (BIR) which has a final say on the matter. This is noted in the notification letter that the BOI sends to investors after granting the COE:

"However, please note that your ITH claim is subject to adjustment, if any, after completion of the audit by the Bureau of Internal Revenue."

The COE should be attached to the ITR to be submitted by the investor to the BIR. In turn, the agency conducts its own surveillance of the company to see if there are taxes not eligible for exemption. The outcome of the surveillance is issued through the Revenue District Office (RDO) where the BOI taxpayer is registered. BIR assessments, which may differ from what is indicated in the COE, may be accepted or questioned by the investor.

Otherwise, if there is no tax deficiency found, the RDO will need to process the incentive application and must report the status to the BOI within 30 days from its receipt.

C. Incentives Monitoring

In terms of monitoring, all BOI-registered firms are required to submit annual reports to the agency. These reports contain all their existing projects, and thus, would also reflect those granted incentives. The BOI, in particular, monitors the following for each registered project: amount of capital/monetary investments made, labor generation, foreign exchange earnings of export enterprises, and net value added of operations. All these information are gathered and monitored because of the expectation that incentives are granted to investments because they contribute to economic development by providing jobs and boosting economic sectors.

D. Confidentiality

Under EO No. 226, applications and all documents pertaining to incentives granted to specific firms are confidential in nature. Only aggregate incentives granted per sector/industry can be provided by the BOI.

E. Tax Incentives Management and Transparency Bill (TIMTA)

A bill is pending approval with the bicameral conference committee to institutionalize the submission and publication of tax incentives for monitoring purposes. Under House Bill No. 5831 and Senate Bill No. 2669, which are yet to be reconciled, data on incentives granted will be collated and published on a single database administered by the Department of Finance (DOF). In addition, investment promotion agencies such as the BOI and the Philippine Economic Zone Authority will need to submit pertinent data to the National Economic and Development Authority (NEDA) for cost-benefit analysis. This data include employment generation, investment costs and export earnings, among others.

Registered investors will also need to be registered with the BIR's e-filing system where they will electronically file all matters pertinent to availment of tax exemptions. Violators will be penalized under the law.

DOF noted that the TIMTA is consistent with the Aquino administration's thrust for transparency and accountability which are also the main objectives of PH-EITI.

23rd MSG Meeting: Freedom of Information Bill

DATE: May 7, 2015

HIGHLIGHTS:

The Freedom of Information Bill is one of the priority bills of the Aquino administration.

A study group was formed to study the possible features of the bill, also to safeguard executive privilege and other "reasonable" exemptions.

Two separate FOI bills were filed at both Houses of Congress. The Senate Bill was already approved on final reading, while the House measure awaits second reading.

Resource Person: Atty. Sarah Sison, Presidential Communications Development Strategic Planning Office

The Freedom of Information Bill (FOI) is one of the priority bills of the Aquino administration as mentioned by President Benigno Aquino III during his State of the Nation Address in 2011. Since then, efforts have been made to submit an acceptable bill to Congress, where deliberations are ongoing. According to the Presidential Communications Development and Strategic Planning Office (PCDSPO), a study group was formed by the President to study the bill's provisions.

A. Salient Features of the FOI Bill

a. Mandatory Disclosure

1. The list of information and records for mandatory disclosure was increased and made consistent with existing laws and regulations;
2. Information required to be disclosed in the agency's official website include the SALNs of national officials, freedom of information manual, public interest

documents such as procurement contracts, annual procurement plan, annual budget, etc.

b. Measures to Promote Openness in Governance

1. Government agencies should publish, print and disseminate at no cost and in an accessible form timely, true, accurate, and updated key information through their website.

c. Exceptions

1. Presidential Exemptions: Defense, National Security

-includes those information declared "Secret" under an Executive Order or those that concern defense and national security affairs.

-includes those which may compromise legitimate military operations or law enforcement activities as well as implementation of border controls.

2. Diplomacy

-includes those foreign affairs information which can put the Philippines at a disadvantage in bilateral or multilateral negotiations.

3. Heads of Office, Bureaucratic Exceptions

-minutes or opinions given during decision-making and policy formulation process. Once decision has been made, minutes may be made public, except if declared under "Executive Session."

-includes disclosure of techniques and procedures for law enforcement purposes, identity of a confidential source who furnished information on condition of confidentiality, as well as those that will endanger the life or physical safety of an individual.

-drafts of orders, memorandum, resolutions or decisions.

4. Legislative Exception

-information tackled during an "Executive Session" of Congress and its committees and offices.

5. Privacy Exceptions

-includes information that would create unwarranted invasion of personal privacy of an individual.

6. Economic Exceptions

-includes trade secrets, financial and commercial information that may jeopardize another party's position in trade, industrial, financial or commercial competition.

-premature disclosure on banks, currencies, interest rates and securities which could lead to fraud.

7. Judicial Exceptions

-includes information classified as privilege information under the law or Rules of Court.

d. Culpabilities

1. Administrative liability-- imposed against public officers who would violate the provisions of the FOI law, after an initial determination of malice.

2. Abuse of right-- information that is already available from another agency is exempt from disclosure. Likewise, repeated similar requests from the same persons shall excuse the government from complying.

B. Recent developments

Currently, the Senate has passed its own version of the FOI bill under Senate Bill No. 1733 which is on its third and final reading. They are awaiting the passage of its counterpart measure at the Lower House, House Bill No. 3237, which is awaiting second reading approval.

The House Committee of Public Information of the House of Representatives has formed a technical working group to expedite the passage of the house version. The TWG has conducted regular meetings to discuss the provisions from February to June 2015. Resource

persons from the different offices from the executive participated in the meetings. The Office of the President was represented by Undersecretary Manuel L. Quezon III.

23rd MSG Meeting: Tax Incentives Management and Transparency Act (TIMTA)

May 7, 2015

HIGHLIGHTS:

The Philippine government has passed laws that aim to stimulate investment and encourage the public to engage in socially beneficial activities by reducing tax burdens through the grant of tax exemptions, reduced tax rates, tax deductions, tax credits and other forms of preferential tax treatments.

The TIMTA bill aims to disclose tax incentive information granted to investors

Tax incentives is a fiscal policy tool to spur economic growth and improve social welfare- currently there is no central system monitoring and measuring tax incentive

The bill is pending in both Senate and Congress.

Resource person: Juvy Danofrata, Department of Finance

The TIMTA bill was conceptualized in relation with the proposed rationalization of the fiscal incentives system. Tax incentives represent an alternative form of government assistance to spur economic growth. This kind of policy measure results in tax expenditures for financing government policies outside the budgetary framework. There is a serious lack of information on the tax incentives granted by various government agencies to enterprises under different laws.

In 2013, the Department of Finance prepared a Tax Expenditure report covering the major investment tax incentives in FY 2011. The incentives covered in the report are the: Income Tax Holiday (ITH), Gross Income Earned (GIE), import tax, and duty incentives, categorized by the Investment Promotion Agencies (IPA). The data used was from BIR and BOC import documents. It was submitted to the DBM and published in the Budget of Expenditures and Sources of Financing (BESF) report in 2015. This report helped in improving the understanding of fiscal risk of tax incentives, and serves as a first step in strengthening the tax incentive regime in the country.

Out of this the TIMTA bill was conceptualized. **It aims to achieve:**

1. Better information for analysis towards a more efficient system in line with being consistent with government's effort to promote good governance in fiscal prudence.
2. Enhanced transparency in the national budget, targeting to facilitate analysis and evaluation of the cost, economic impact, and benefit incidence of tax incentives.
3. Alignment with international best practice estimating and reporting tax expenditures in the budget as considered best practice in OECD countries. Annual report measures of tax expenditures in their budget to enhance transparency and to inform policy debates.
4. Fiscal incentive rationalization that has a tax expenditure reporting system as an indispensable component of the government's agenda to rationalize fiscal incentive system of the country.

A. Salient Features of the Bill

As mentioned, the bill covers the reporting of investment tax incentives. The goal is to institutionalize the process of filing for IPA registered investors through the e-filing system of the BIR. The system aims to develop a single data base for easier analysis. The DOF will monitor and analyze the tax incentives once the e-filing system is institutionalized. The IPA will prepare the cost-benefit analysis and submit investment related information to NEDA. The bill contains penalties for non-compliance in the e-filing and non-submission of reports.

The PH-EITI MSG issued a resolution supporting the TIMTA bill.

23rd MSG Meeting: FMRDP of Rapu-Rapu

May 7, 2015

HIGHLIGHTS:

The Rapu-Rapu Polymetallic Project in Albay, Bicol ceased milling and mining operations in 2013. Rehabilitation also started that year.

17.09% of the entire 309.88 million in budget for the final mine rehabilitation and decommissioning project (FMRDP) has already been utilized.

The SDMP is a key part of mining operations that ensure the sustainability of the mining areas even after the conclusion of operations.

The MGB approves the SDMPs of each company. As of April 2015, 305 five-year SDMPs have been approved, benefitting 586 barangays.

Resource person: Engr. Danny Berches, Mine Safety,
Environment and Social Division of MGB

The Rapu-Rapu Polymetallic Project, located in Albay, Bicol, ceased milling and mining operations in 2013 and from then started the implementation of the final mine rehabilitation and decommissioning project (FMRDP). The following developments have been noted from the project operated by the Rapu-Rapu Minerals Inc. (RRMI) and Rapu-Rapu Processing Inc. (RRPI).

A. Decommissioning

The Rapu-Rapu area was found rich in copper and zinc concentrates with gold and silver as by-products. Table 10 below shows the structures and facilities installed in the area during the mining and milling period that ended in 2003.

Table 10. Facilities at Rapu-Rapu mining area

Structures/Facilities	Area (ha)
Industrial Site	180
Open Pit	26
Tailings Storage Facility	24
Tailings Storage Embankment	26
Processing Plant	5
Road and Camp Facilities	20

Source: MGB

Table 11, on the other hand, shows the progress in the decommissioning and rehabilitation which costs more than 309 million pesos. The list shows, among others, how much of the

budget is allotted for each undertaking, how much had been utilized and accomplished. As of end-2014, 17.09% of the rehabilitation process has been completed, according to the Mines and Geosciences Bureau (MGB).

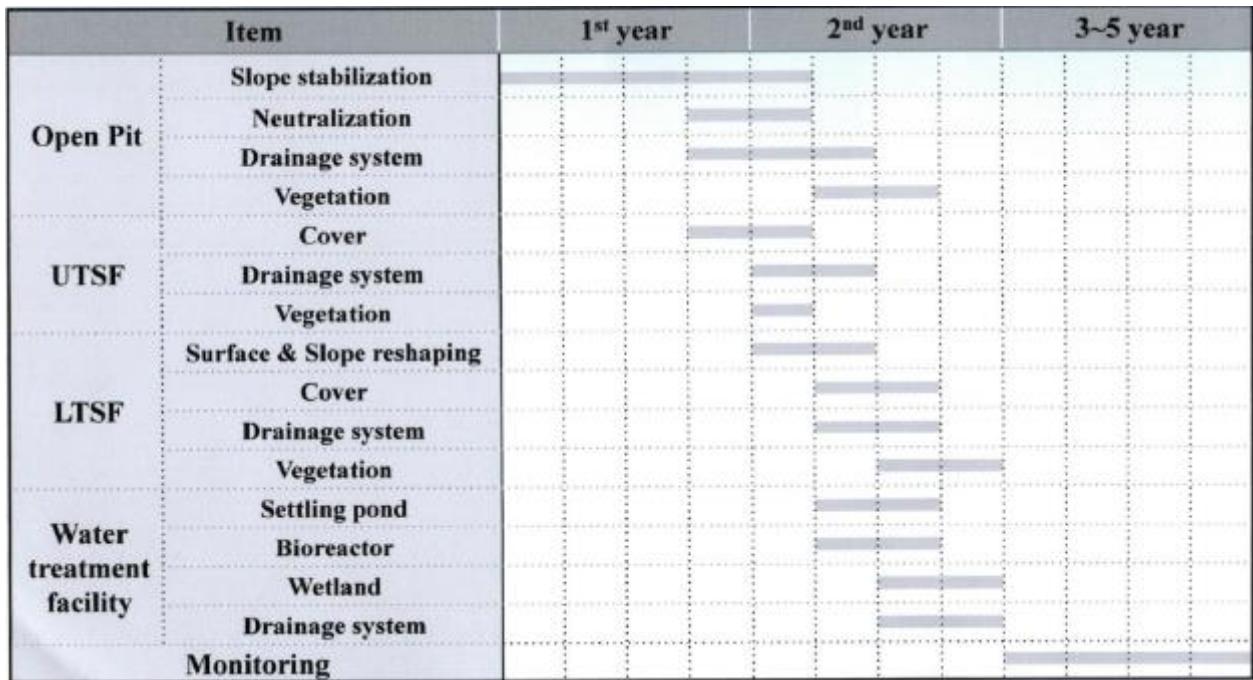
Table 11. Status of FMRDP implementation (December 2014)

Items	Approved FMRDP Budget	Utilized FMRDP Budget	Remaining Budget	FMRDP Budget Utilized (%)	Physical Accomplishment (%)
Open Pit	55,403,807.00	10,975,922.35	44,427,972.82	20%	6.8%
Upper Tailings Storage	6,189,210.00	2,798,180.00	3,391,380.00	45%	1.72%
Lower Tailings Storage	63,387,340.00	4,243,948.80	64,143,054.85	6%	2.57%
Bioreactor	16,831,116.00	-	16,972,908.62	-	-
ROM Pad	26,367,300.00	8,972,680.70	6,481,695.00	58%	6%
Management Cost (G&A)	108,503,500.00	94,890,516.65	13,612,983.35	87%	-
VAT	33,201,900.00	8,366,631.31	24,835,268.69	25%	-
TOTAL	309,884,173.00	130,247,879.81	173,865,263.33	43%	17.09%

Source: MGB

Figure 7, meanwhile, illustrates the rehabilitation and monitoring schedule as follows:

Figure 7. Rehabilitation and monitoring schedule



Currently, rehabilitation focuses on the ripping and side casting of wall in the open pit, re-sloping of upper tailings storage, as well as planting in different areas of the mining area.

B. Monitoring and Evaluation of SDMP

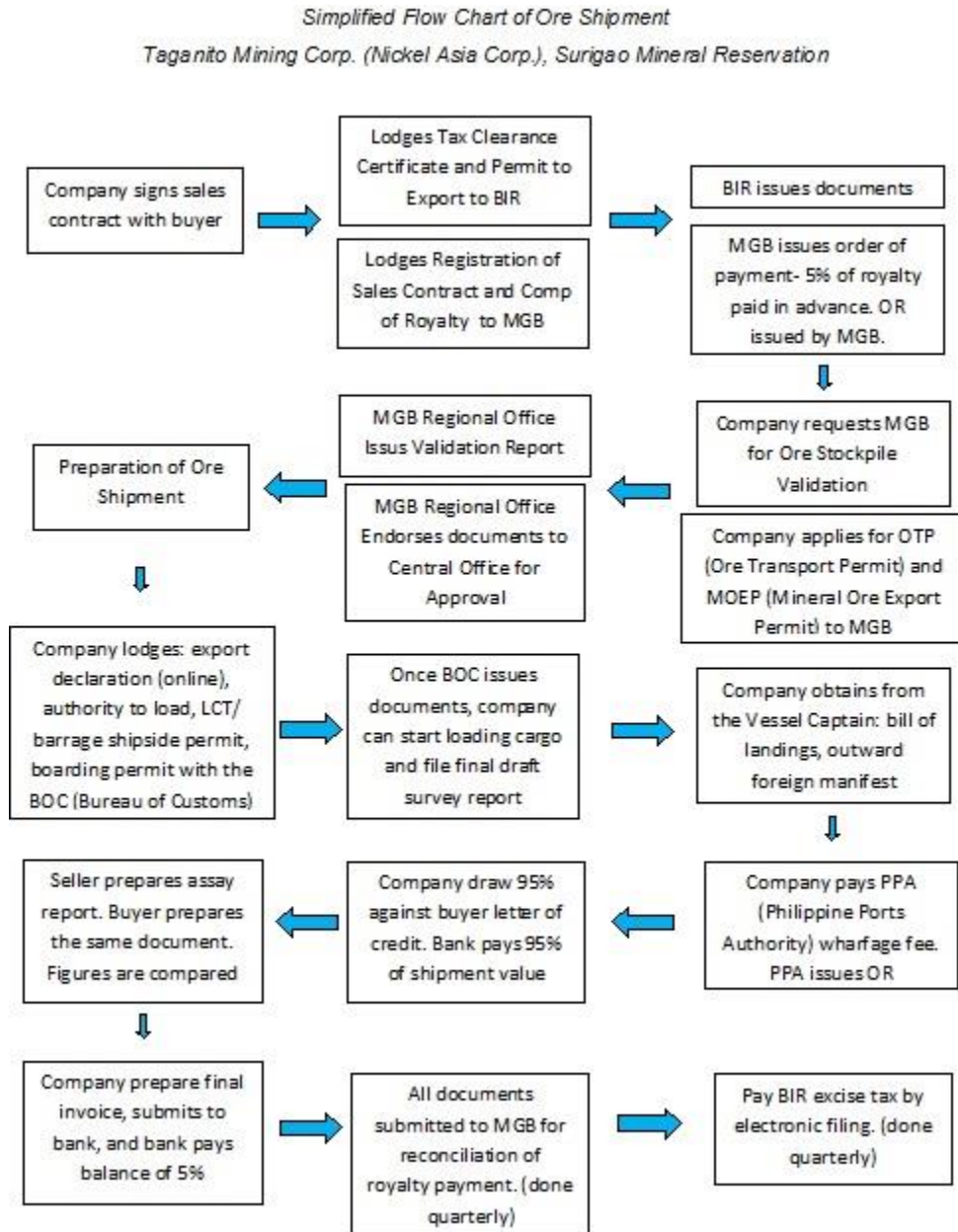
The Social Development and Management Program (SDMP) is a key component of the mining operations. According to the MGB, the goal is to ensure "sustained improvement in the living standards of the host and neighbouring communities" even after the conclusion of mining operations. The contractor or permit holder, therefore, is required to allot a minimum of 1.50% of operating costs annually to implement SDMP projects.

Each mining firm in operation needs to establish a Community Relations Officer (CRO) who will be working with the local government unit in ensuring that SDMP projects are on track. Monthly internal monitoring of the projects shall be done, while the CRO is required to submit quarterly reports to MGB regional office on accomplishments under the program. In turn, the regional office conducts semi-annual monitoring of SDMP, whose reports are submitted to the MGB head office as basis for company audits.

SDMPs can be reviewed or revised even during their implementation should there be changes in the nature and cost of activities covered.

As of April 13, 2015, a total 305 five-year SDMPs amounting to 7.131 billion pesos have been approved or renewed since 2002 by the MGB. These SDMPs benefitted 586 barangays.

Figure 8. Simplified flow chart of ore shipment



**24th MSG Meeting: Presentation on Nickel Ore Shipment Flowchart
July 3, 2015**

HIGHLIGHTS:

The process of shipping Nickel Ore from Taganito Mining Corporation in Surigao involves the BIR, BOC, PPA, and MGB.

The primary documents issued in the BIR are the Tax Clearance Certification and Permit to Export

The MGB files an order of payment for the royalties, where 5% is paid in advance

The MGB also issues the OTP (Ore Transport Permit) and MOEP (Mineral Ore Export Permit) which is processed in the regional offices endorsed to the central office for approval

The seller issues a report for the value of the assay, and the buyer independently issues the same. If there is no significant difference, the necessary adjustments are made for final payments

Excise tax is filed electronically with the BIR, and the same agency conducts an annual audit.

Resource persons: Angel Villamor, Nickel Asia Corporation

The process of Nickel Ore Shipment of Taganito Mining Corp. (Nickel Asia Corp.), in Surigao begins with the signing of a sales contract with the buyer. After this, a Tax Clearance Certification and Permit to Export are applied for with the BIR. Simultaneously, application of Sales Contract and Company Royalty is filed with the MGB. When the BIR issues the Tax Clearance by giving an Official Receipt and a Permit to Export, the MGB issues the order of payments. Payments are in the form of 5% Royalty in advance, P10,000.00 Umpiring Fee, and P1,000.00 Processing Fee. The MGB then validates the ore stockpile. After validation of the stockpile inventory report by the MGB Regional Office, the application for OTP (Ore Transport Permit) and MOEP (Mineral Ore Export Permit) are processed by the MGB Regional Office and endorsed to the MGB Central Office. The MGB central Office issues both permits.

The company then prepares for the shipment of ore. Several documents are lodged with the Bureau of Customs (BOC): export declaration (online), authority to load, LCT/Barge Shipside Permit, and Boarding Permit. When the BOC issues these documents, the nickel ore can be loaded to the vessel. The company then obtains the Final Draft Survey Report. The Vessel Captain signs the Bill of Lading, which specifies the merchandise for a particular shipment. The company likewise obtains an Outward Foreign Manifest signed by the Vessel Master. The Philippine Ports Authority (PPA) issues the computation of Wharfage Fees and an Official Receipt upon payment.

The company then prepares a Letter of Credit worth 95% of shipment. The bank pays 95% of Shipment Value. The next crucial step is determining and reconciling the assay. The company prepares an assay report and issues a certificate of quality. The buyer cross checks the assay, and issues a certificate of weight and certificate of quality. If there is no significant difference a final invoice is prepared. The necessary adjustment in the price of ore is made and submitted to the bank with other required documents. The bank then pays 5% of the balance plus adjustments in price, if any.

Final documents for Royalty and Excise Tax Payments are prepared. Reconciliation of royalty payments are submitted quarterly. The following processed documents are submitted to MGB: final invoice, certificate of weight, certificate of quality, OTP, MOEP, MGB OR for advanced royalties, Vessel Captain receipt of cargo. MGB then verifies the documents and provides order of payments for net amount due for royalties. If there is excess payment, the balance is credited to the next shipment.

The excise tax on the other hand is paid through electronic filing with the BIR. Excise tax is computed on shipments made during the quarter based on final weights and assays if available. Any adjustment in Excise Tax payments resulting from final assays are reflected in the succeeding quarter. Alternatively, any adjustment in excise taxes for the year based on audited year-end figures are reflected in an amended Excise Tax return for the year. The BIR also conducts an annual audit where supporting pertinent documents are reviewed and reconciliation is done between provisional and final invoices.

26th MSG Meeting: Lepanto Consolidated Mining Gold Bullion Shipment and Selling Process

October 2, 2015

HIGHLIGHTS:

Lepanto Consolidated Mining Company has been established since the 1960s. The company sells Gold Bullions to refineries in Hong Kong.

The process of selling begins with shipment preparation.

One of the crucial steps is determining the assay of the gold. The initial value is determined by Lepanto. Afterwards it is crossed checked by the seller. If there is a significant percentage of disagreement an umpire will settle the final price.

The process ends with accomplishing the required documents of sale of the gold bullion.

Compliance is ensured for accomplishment of other documents and reports submitted to the BOC, BOI, BIR, and MGB.

Resource Person: Mario Lavente, Lepanto Consolidated Mining Company

The main step in the selling process begins with shipment preparation before the gold bullion is physically transported. The required set of documents is prepared for the actual shipment. After the shipment and sale, the company submits reports and documentation to the regulating government agencies.

A. Shipment Preparation

The company has an Export Officer in charge of preparing logistical requirements for shipment of the gold bullion. The same person receives the incoming shipment notification, and facilitates the airline booking and armoured security service for pick-up of the cargo. Afterwards, the booking officer confirms the shipment and prepares the export documents. The documents prepared are as follows: provisional sales invoice, statement of bullion, packing list, export declaration, Board of Investment (BOI) certification for Board of Customs (BOC). These documents are forwarded to BOC and to the customer for payment preparations.

B. Actual Shipment of Gold Bullion

The export officer is also in charge of checking the cargo upon turn-over to the armoured security service for onward delivery to the company plane. The Gold Bullion Delivery Receipt shows the weight of the cargo upon turn-over to the armoured security service. The armoured security service on the other hand will cross check the weight of the cargo, and issue a weigh-in tape receipt. Afterwards the cargo is reloaded to the armoured truck. Results of the weigh-in will be relayed to the export officer via phone, who will call the forwarder regarding the actual quantity and weight of the cargo for the Airway Bill preparation. The Air Way Bill will be processed, then the forwarder will receive the document, and the armoured security service will load and seal the cargo. The company representative will sign the acknowledgement receipt and the trip ticket, then will monitor the departure of the aircraft.

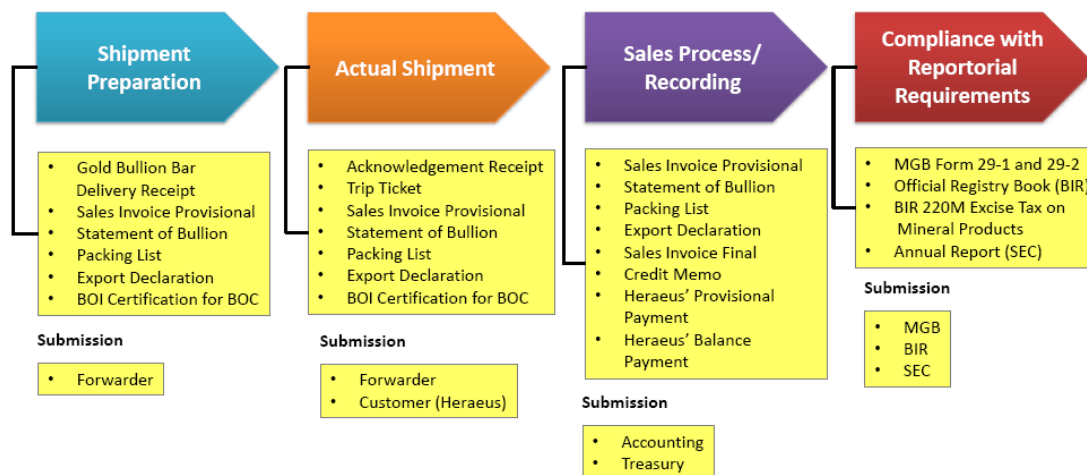


Figure 9. Gold bullion shipment and sales process

C. Sales Process

Upon shipment, the accounting officer in charge will issue a provisional invoice. The monetary equivalent of the cargo will depend on the metal prices for the day based on the London Bullion Market Association (LBMA), the foreign exchange of the day, and the metal contents determined by the seller's assay. The next step is settlement and adjustment, where the metal contents will be crossed checked by the buyers. If acceptable to the seller, the final sales invoices can be issued. If the figures have a significant variance an umpire will resolve the disagreement and make the final settlement.

Collection of payment is done in two steps. The first step is the provisional payment where 98% of estimated returnable gold and silver contents, net of smelting and treatment charges are paid. A credit memo from the bank is issued in this step. The second step is payment of the remaining balance. This amount is determined after final assay of gold and silver contents of refined material is done. The second credit memo from the bank is issued.

D. Compliance with Reportorial Requirements

After the sale is done the mining company files and pays the excise tax. This is done quarterly by the accounting officer in charge. Thereafter, the company submits the necessary documents to MGB, BIR, and SEC such as: MGB form 29-1 and 29-2 submitted monthly, which indicates the monthly quantity sold and its monetary equivalent; and MGB

form 29-16 submitted annually, which has information on mine site particulars such as total production and total export and local sales.

27th MSG Meeting: BSP- Gold Trading Policies

November 13, 2015

HIGHLIGHTS:

BSP has a gold refinery and continues to develop gold trading program since 1947

RA No. 7076 (1991) states that all gold produced by small-scale miners shall be sold to the Central Bank. RA No. 7653 (1993) allows the Central Bank to buy and sell gold in any form.

The BSP Responsible Gold Sourcing Policy ensures gold products complies with the standards set by the LBMA

The Banks purchase gold from gold sellers, small-scale miners, traders, and panners, and sell to any individual or company interested

The institution is now in the process of the current tax regime of small scale mining and propose legislative measures

Resource person: Sittie M. Butocan, Banko Sentral ng Pilipinas (BSP)

The Banko Sentral ng Pilipinas (BSP) was directed to establish a gold refinery in 1947. In 1979 the London Gold Market which is now the London Bullion Market Association (LBMA) formally recognized the gold refinery as an acceptable melter and assayer of good delivery bars. Since then, BSP has been a major trader of gold in the country.

A. Salient laws that govern gold trading

One of the significant laws governing gold trading in the Philippines is RA No. 7076 (1991) which states that all gold produced by small-scale miners shall be sold to the BSP. This law was made with the objective to help small scale miners and protect them from possible extortion from other traders.

RA No. 7653 (1993) allows the BSP to buy and sell gold in any form, subject to the regulation that the Monetary Board may issue. This also stipulates that the BSP may buy gold as part of its international reserves. With these laws making BSP a major player in gold trading, the institution established a Responsible Gold Sourcing Policy.

B. Responsible Gold Sourcing Policy

This policy ensures that the BSP's source of gold products complies with the standards set by the LBMA with the ultimate goal of building customer trust. Among the salient points of the policy are:

- BSP shall buy its gold only from known sources and areas that have not used gold to finance any form of crime or conflict, terrorism, human rights violations, and money laundering activities
- BSP shall suspend or discontinue transacting with gold suppliers identified as operating in contravention to this policy
- Adherence to laws and regulations against money laundering, any form of crime, human rights violations, terrorism and its financing
- Provision of relevant trainings on this policy to involve BSP employees and sellers
- Maintenance of a QMS (Quality Management System) subject by a third party certifying body

C. Gold Buying

BSP purchases gold from gold sellers, small-scale miners, traders, and panners. The gold is bought in pesos and the price is determined by the prevailing international gold buying price and prevailing peso dollar exchange rate. The gold is then refined into forms that are acceptable in the international bullion market. However, gold may also be manufactured into semi-finished materials in the form of grains and sheets for re-sale by the BSP. The organization has five existing buying stations located in Quezon City, Baguio City, Naga City, Zamboanga City, and Davao City. If an individual or a company expresses interest to sell gold to BSP they should meet the following requirements:

1. Letter of delivery and sale
2. Customer information packet
3. Risk assessment checklist for source of origin
4. Government issued ID and Tax Identification Number (TIN)

5. ID picture of the seller and authorized representative, if any
6. Registered bank details

To be accepted by BSP, the gold should be in bar or disc form and should be free of mercury, amalgam, slags and other foreign matter. Specific dimensions and weight are as follows: 6.5' long x 3' wide x 1.5' thick. In disc form the dimensions required are: 4' diameters x 2' thick. The gold should also have a minimum gold assay of 30%.

BSP pays an initial amount equivalent to 99% of the value of delivery based on received weight and preliminary assay. A 2% excise tax and 5% creditable withholding tax will be deducted. The final settlement of the balance shall be paid upon completion of final assay.

D. Gold Purchases Per Region

Figure 10. BSP gold purchases per region

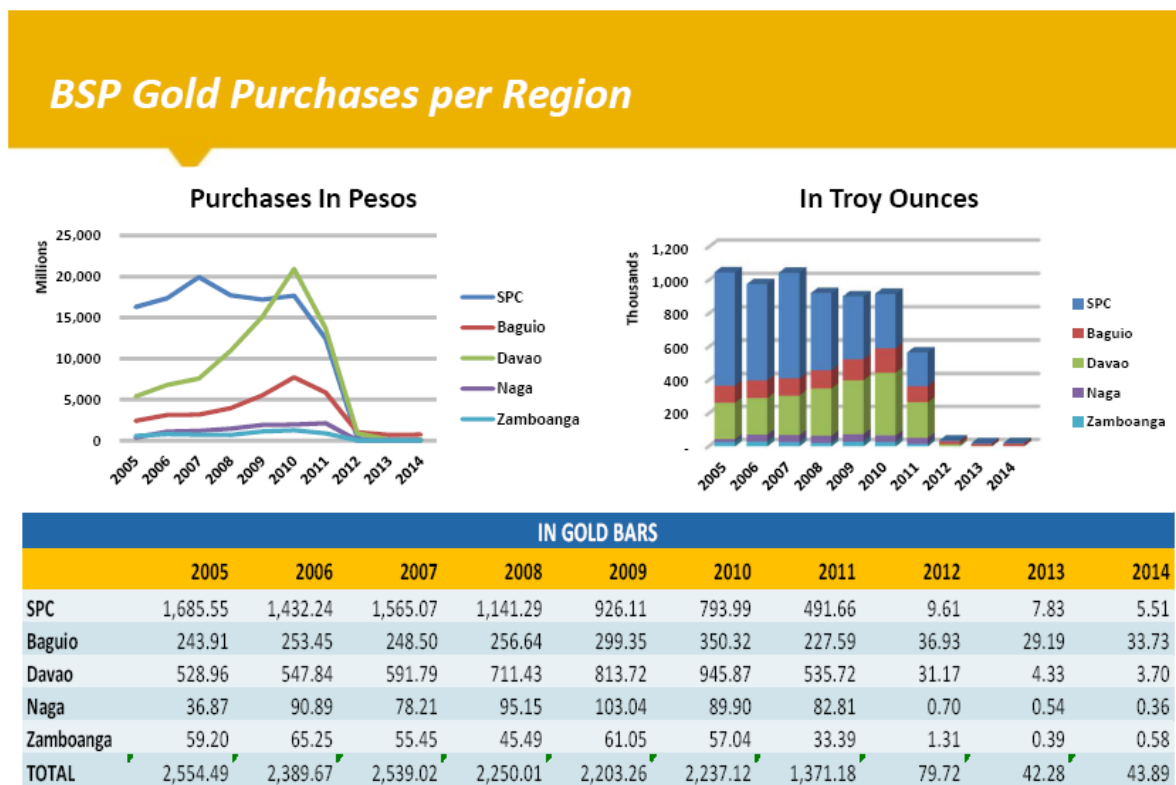


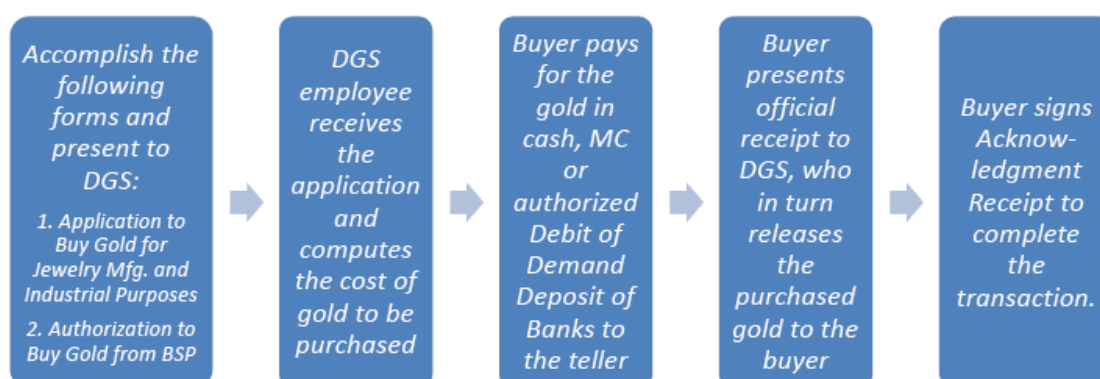
Figure 10 shows that starting 2012, the amount of gold purchased by BSP dramatically decreased. The reason behind this decrease is the imposition of a 7% tax on gold imposed on small scale miners.

E. Gold Selling Program

The BSP sells gold in forms or grains and sheets packaged into 50 and 100 grams, which is sold at the DGS (Department of General Services), Security Plant Complex. A minimum of 24k and 99.5% assay is required. The Gold is sold at the prevailing international market price and prevailing peso-dollar exchange rate set by the BSP Treasury Department on a daily basis.

The process of buying gold from BSP is as follows:

Figure 11. The process of buying gold from BSP



Importation in any form is allowed except for coin blanks which require prior BSP approval; any manufactured article where stamps, brand or marks do not indicate the actual fineness of gold quantity. Exports on the other hand are allowed in any form except for gold from small scale mining.

F. Benefits of BSP's purchase of gold to the Philippines

1. Builds up International Reserves using local currency
- Maintaining adequate international reserves to meet any foreseeable demands include having gold and assets in foreign currency. Acquiring gold increases the levels of Gross

International Reserves (GIR) which in turn improves credit worthiness and serves as self-insurance against external shocks.

2. Diversifies reserve portfolio

Having gold in the Central Banks allows asset diversification to protect the value of total reserve portfolio. It accords economic security as gold is less volatile compared to the value of currencies. It also fosters physical security because gold maintains intrinsic value and is less susceptible to foreign exchange controls.

3. Ensures fair trade for small scale miners

Consistent with the intent of R.A. No. 7076, selling gold to BSP provides small scale miners with access to international market prices and fair valuation for their gold.

Because Small Scale Miners are targeted beneficiaries of BSP's gold trading policies a brief background on small scale mining was also given. The following facts on this sector were presented: There are around 500,000 small scale miners in the Philippines, 75% of which are engaged in subsistence mining. Thirty out of eighty provinces has small scale mining, and it supports as many as 2.3 million Filipinos. This sector also accounts for 75% of total gold mining production.

G. Current Efforts to Strengthen Gold Buying Operations

BSP is currently reviewing the current tax regime of small scale mining to propose legislative measures. BSP is also engaging in further information campaign and conducts dialogues and interviews with the small scale mining cooperatives and traders.

CHAPTER 6: Small-Scale Metallic Mining in the Philippines: A Scoping Study

**SUMMARY REPORT OF SCOPING STUDY:
SMALL-SCALE METALLIC MINING IN THE PHILIPPINES*****A. Small-Scale Metallic Mining Policies***1. State Ownership of Natural Resources and Small-Scale Utilization of Minerals*

The 1987 Constitution of the Philippines provides that all minerals and other natural resources are owned by the State. Accordingly, the State, as owner of the mineral resources whether located in public or private lands, exercises full control and supervision of their exploration, development, and utilization. One mode of utilizing these minerals is through small-scale mining carried out by Filipino citizens as may be allowed by Congress. (Art. XII, Sec. 2) (See Annex B for Gold and Chromite Reserves)

2. Subsistence of Two Laws on Small-Scale Mining: PD 1899 and RA 7076

At present, there are two major laws that govern small-scale mining in the Philippines, even while the sector remains largely an informal one. The first law is Presidential Decree No. 1899, entitled "An Act Establishing Small-Scale Mining as a New Dimension in Mineral Development" (PD 1899). Exercising both executive and legislative powers during the Martial Law period, President Ferdinand Marcos enacted PD 1899 on January 23, 1984, prior to the 1987 Constitution. The second law is Republic Act 7076, entitled "People's Scale Mining Act of 1991" (RA 7076), passed on July 18, 1991. There was no express repeal made in the later law, and the co-existence of both laws has brought about confusion and conflict in the implementation and regulation of small-scale mining activities between local government agencies and the national government or among the agencies of the national government.

Republic Act No. 7942 or the Philippine Mining Act of 1995, which is the most current major legislation pertaining to the mining industry, provides that small-scale mining shall continue to be governed by RA 7076 and other pertinent laws (Sec. 42) which impliedly includes PD 1899. The co-existence of the two valid laws was confirmed by the DENR Memorandum Circular 2007-07 (July 5, 2007) that provides guidelines on how to harmonize the implementation of the two concurrent laws.

Previously, the Department of Justice (DOJ) rendered three opinions regarding the interpretation of the two laws. In DOJ Opinion No. 74, s.2006 (November 30, 2006), the DOJ stated that Section 1 of PD 1899 regarding the annual production quota limitation "must be deemed to have been repealed or at least, amended – albeit impliedly – by RA 7076." Subsequently, the DENR Secretary requested the immediate rectification of the DOJ Opinion based on the clarification contained in DENR-MC 2007-07. In response, DOJ issued DOJ Opinion No. 64, s. 2007 (July 30, 2007), maintaining its original opinion. Four years later, DENR-Mines and Geoscience Bureau (MGB) Director requested DOJ to render an opinion to settle "all doubts or confusion regarding the applicable law, insofar as small-scale mining is concerned." DOJ thus issued DOJ Opinion No. 29, s. 2011 (June 27, 2011) stating "that R.A. No. 7076 has completely repealed P.D. No. 1899, and that the latter no longer has the force and effect of law."

*By Atty. Alett C. Nunez and Atty. Julius M. Lotilla for the Philippines EITI Multi-Stakeholder Group

On July 6, 2012, the President issued Executive Order No. 79, Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources (EO 79). It ordered that small-scale mining activities shall comply with RA No. 7076 or the People’s Small-Scale Mining Act of 1991 and that pursuant to RA No. 7076, small-scale mining operations shall be undertaken only within the declared People’s Small-Scale Mining Areas or *Minahang Bayan*.

On June 4, 2014, the Supreme Court, adjudicating the same issue that gave rise to the first two DOJ opinions on the interpretation of the annual production limitation of 50,000 metric tons of nickel-cobalt ore under a Small-Scale Mining Permit, ruled that: Two different laws governing small-scale mining co-exist: PD 1899 and RA 7076. x x x There are other differences between the two laws, but we cannot hastily conclude that there is an implied repeal because of the omission. Both laws may stand. (SR Metals, Inc., San R Mining and Construction Corp. and Galeo Equipment and Mining Company, Inc., vs. Hon. Angelo T. Reyes, Secretary, DENR, G.R. No. 179669, June 4, 2014 or SR Metals)

The Supreme Court, as the branch of government mandated to interpret laws and settle judicial controversies with finality, thus declared the co-existence of the two laws, PD 1899 and RA 7076. This judicial interpretation is consistent with the legislative intent and history of RA 7076 for the two laws to subsist and co-exist. When Congress drafted and passed RA 7076 at a time during the gold rush in Diwalwal, among others, they contemplated on the three levels of mining ventures.

These are large-scale mining, small-scale mining by corporations and partnerships for commercial purposes, and people’s small-scale mining for individuals and cooperatives. Congress passed RA 7076 to allow subsistence miners to legally engage in people’s small-scale mining, as an exception to the existing mining laws, and carve out an access to otherwise would be a close area of operation. (Minutes of Meeting, Bi-Cameral Conference Committee on Natural Resources) A comparative summary of the salient features of PD 1899 and RA 7076, as amended, is shown below:

Table 12. Comparative matrix of PD 1899 and RA 7076

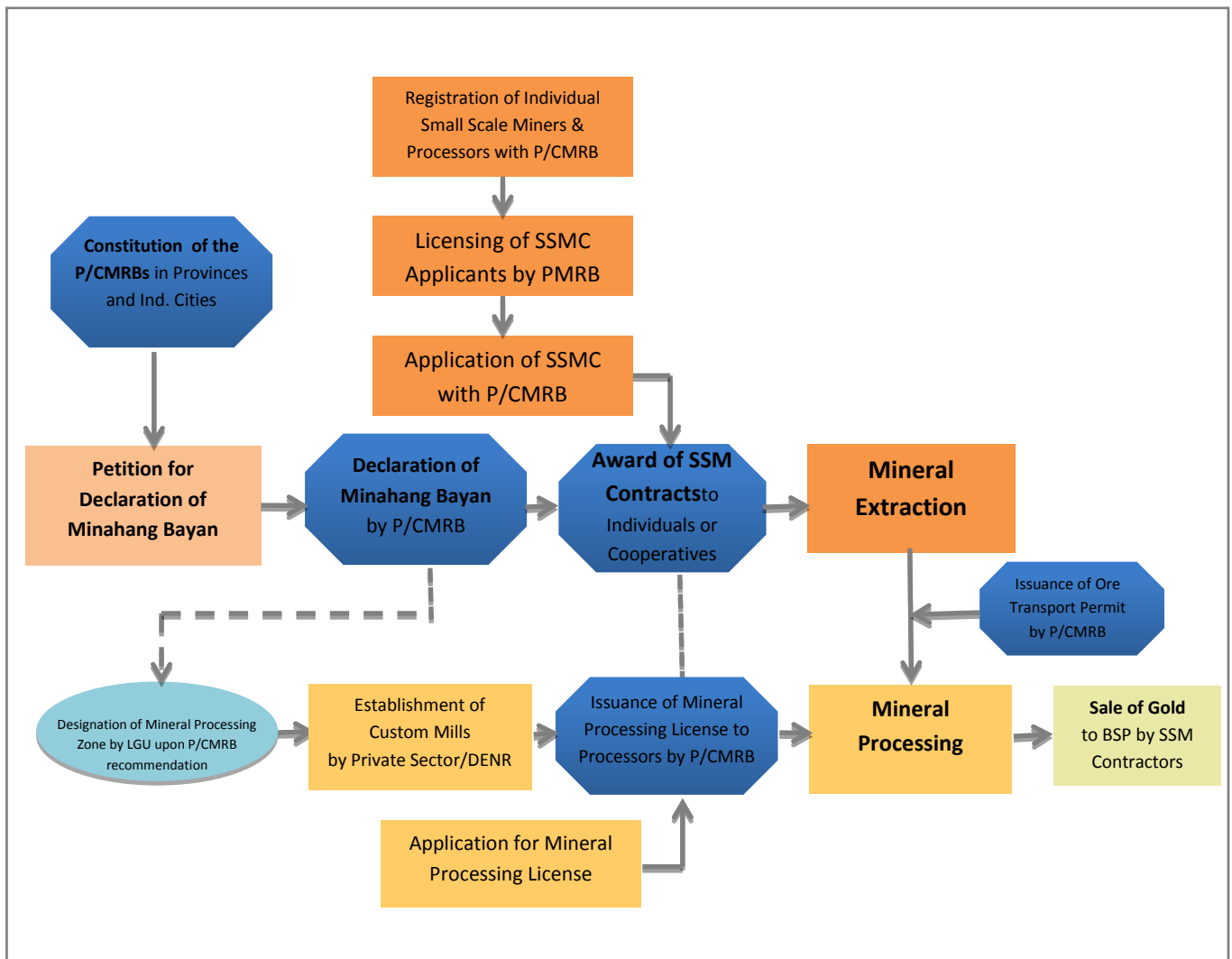
Features	PD 1899	RA 7076
Type/Name of Agreement	Small-Scale Mining Permit/ License (SSMP)	Small Scale Mining Contract (SSMC)
Allowed Mining Activities	<ul style="list-style-type: none"> o operation of a single unit mining operation having an annual production not exceeding 50,000 metric tons of run-of-mine ore with the following requisites: <ul style="list-style-type: none"> o the working is artisanal, whether open cast or shallow underground mining o without the use of sophisticated mining equipment o minimal investment on infrastructures and processing plant o heavy reliance on manual labor(PD 1899) o small-scale mining for commercial purposes (Bi-Cam Conference Meeting Minutes) 	<ul style="list-style-type: none"> o mining activities which rely heavily on manual labor o using simple implements and methods o and do not use explosives or heavy mining equipment (RA 7076) o annual production of 50,000 m.t.applies to both SSMP and SSMC (DMC 2007-07 and S.R. Metals, Inc. vs. Reyes, G.R. No. 179669, June 4, 2014) o people’s small-scale mining by subsistence miners (Bi-Cam Conference Meeting Minutes)
Type of Minerals Allowed to be Extracted	<ul style="list-style-type: none"> o precious metals o primary gold (& associated metals) o other metallics like copper, chromite, mercury, lead, zinc, manganese, iron, and nickel o and other mineral commodities as may be included by the Director of the MGB 	<ul style="list-style-type: none"> o limited to only 3 metallic minerals <ul style="list-style-type: none"> o gold o silver o chromite

Term of Agreement	<ul style="list-style-type: none"> term of 2 years, renewable 	<ul style="list-style-type: none"> term of 2 years, renewable maximum of a total of 6 years (Revised IRR-RA 7076, DAO 2015-03)
Permitting Authority	<ul style="list-style-type: none"> originally, MGB Regional Director issues the SSMP (IRR-PD 1899), subsequently amended to grant authority to Provincial Governor/City Mayor through Provincial/City Mining Regulatory Board (P/CMRB) to issue SSMP/SSMC outside of Mineral Reservations MGB Director for issuance of SSMP/SSMC within Mineral Reservations (DAO 96-40, Revised IRR-RA 7942, MRDB AO 3/3A, RA 7160, DAO 11-2000, DAO 21-2010) 	<ul style="list-style-type: none"> Provincial/City Mining Regulatory Board (P/CMRB), through the Provincial Governor/City Mayor awards the SSMC (RA 7076, DAO 34-92, DAO 11-2000, DAO 21-2010, PD 1899, MRD 41) as of March 2015, MGB Regional Director as P/CMRB Chairperson now awards SSMC (Revised IRR-RA 7076)
Qualified Applicants	<ul style="list-style-type: none"> a Filipino citizen, of legal age, and with capacity to contract, or a corporation or partnership authorized to engage in mining, registered with the Securities and Exchange Commission, at least 60% of the capital of which is owned at all times by Filipino citizens (IRR-PD 1899) 	<ul style="list-style-type: none"> Filipino citizens who individually or in the company of other Filipinos form a small-scale mining cooperative licensed as small-scale miners (RA 7076) with the MGB Regional Office (Revised IRR-RA 7076)
Allowed Area Size	<ul style="list-style-type: none"> maximum area one meridional block or containing an area eighty-one (81) hectares, more or less for metallic minerals; maximum area one-fourth of one meridional block or containing an area 20 (20) hectares, more or less for non-metallic minerals; for individuals, one permit in any one province while partnerships and corporations may be issued a maximum of two (2) permits in any one province covering its own mining areas with option to operate another (2) permits belonging to another person or entity, or a total of (4) permits. (IRR-PD 1899) 	<ul style="list-style-type: none"> maximum contract area must not exceed twenty (20) hectares per contractor, and the depth or length of the tunnel or adit shall be subject to the limits imposed by the MGB Director.
Areas for Small-Scale Mining	<ul style="list-style-type: none"> areas covered by a valid and existing mining claims and existing mining leases including those already covered by existing mining leases; areas covered by quarry application, permit or licenses and those covered by exploration permits/ applications; all other government reservation except mineral reservations, subject to prior verification by the bureau; new areas not covered by a valid and existing claims before P. D 1899 (IRR-PD 1899) 	<ul style="list-style-type: none"> only in areas declared by the P/CMRB as People's Small Scale Mining Areas or Minahang Bayan, subject to review by the DENR Secretary, with priority to areas already occupied and actively mined by small-scale miners before August 1, 1987 new areas not covered by existing forest rights and have not been declared as tourist or marine reserves, parks and wildlife reservations
Areas Closed to Mining	<ul style="list-style-type: none"> near or under the building, cemeteries, bridges, highways, waterways, railroads, reservoirs, dams, or any other public or private works unless prior clearance from the government agency or owner concerned is obtained; and all banned areas proclaimed and established by the government 	<ul style="list-style-type: none"> areas expressly enumerated under Section 19 of RA No. 7942; protected areas categorized and established under the National Integrated Protected Areas System (NIPAS) under RA No. 7586; prime agricultural lands, in addition to lands covered by RA No. 6657 or the Comprehensive Agrarian Reform Law of 1988; tourism development areas, as identified in the National Tourism Development Plan (NTDP); and, other critical areas, island ecosystems, and impact areas of mining. (EO 79)
Payments to Government	<ul style="list-style-type: none"> income tax payment only exempt from payment of other taxes including but not limited to special import tax, compensating tax, tariff duties, royalties, sales tax, real estate tax, occupation fees/rentals regulatory fees are also imposed (PD 1899) 	<ul style="list-style-type: none"> income tax, royalties or government production share, as provided by law (RA 7076) application fee of P1,000 for small scale mining license to the MGB Regional Office application fee to enter into small scale mining contract of P20,000 for metallic excise tax of 2% of the production output/

		<ul style="list-style-type: none"> o government production share o royalty fee of 5% of the production output in mineral reservations o occupation fee of P100 per hectare o local taxes imposed by local government units (Revised IRR, DAO 2015-03)
--	--	---

In 2012, when President Benigno Aquino issued EO 79 directing that small-scale mining activities shall only be undertaken in accordance with RA 7076, the implementation of PD 1899 was effectively abandoned by executive action. Such executive action, however, does not invalidate nor repeal a law. Until Congress repeals PD 1899, it co-exists side by side with RA 7076. The small-scale mining procedures under RA 7076 is shown below:

Figure 12. At a Glance: small-scale mining under RA 7076



3. Policy on Small-Scale Mining

Both PD 1899 and RA 7076 promote the development of small mineral deposits and develop, protect and rationalize viable small-scale mining activities with aims to generate more employment opportunities. PD 1899 further states that the development of small mineral deposits will alleviate the living conditions in the rural areas and will contribute to additional foreign exchange earnings. RA 7076 expanded the policy to include the aim of providing an equitable sharing of the nation's wealth and natural resources. (Whereas Clause, PD 1899; Sec. 2, RA 7076)

4. Scope of Activities

Under PD 1899, small-scale mining refers to any single unit mining operation having an annual production of not more than 50,000 metric tons of ore. It requires that the working is artisanal, whether open cast or shallow underground mining, without the use of sophisticated mining equipment, minimal investment on infrastructures and processing plant, heavy reliance on manual labor; and owned, managed or controlled by an individual or entity qualified under existing mining laws, rules and regulations. (Sec.1) RA 7076 defines small-scale mining as any mining activities that rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment. (Sec. 3.b) The 50,000 metric tons of ore limit annual production under RA 1899 also applies to a small-scale mining under RA 7076. (DMC 2007-07, SR Metals)

5. Types of Minerals for Small-Scale Metallic Mining

Under PD 1899, small-scale mining), a permit shall cover precious metals, primary gold with or without associated metal such as silver, etc. and other metallics like copper, chromite, mercury, lead, zinc, manganese, iron, and nickel and other mineral commodities as may be included by the Director of the MGB. (Mines Administrative Order No. MRD – 41 Series of 1984 or the Implementing Rules and Regulations of PD 1899) RA 7076 limits small-scale metallic mining to only three metallic minerals, namely gold, silver and chromite.

B. Permitting and Contractual Arrangements

1. Small-Scale Mining Permits and Small-Scale Mining Contracts

Under PD 1899, the grant of privileges to undertake small-scale mining operations is by way of permits or licenses. (Sec. 2, 3, 4) Under RA 7076, the privilege is granted by way of a contract. A small-scale mining contract may be a co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land. (Sec. 3.d)

Prior to the award of any small-scale mining contract, RA 7076 introduces a new prerequisite. There must be a declaration of an area as a People's Small-Scale Mining Area or "Minahang Bayan" (Minahang Bayan) before any contract may be awarded. (Sec. 5) This is not required under PD 1899.

To harmonize and clarify the two small-scale mining laws, DENR-MC 2007-07 provides that small-scale mining operations in areas not declared as Minahang Bayan shall be covered by small-scale mining permits issued under PD No. 1899 (SSMPs). Small-scale mining operations in Minahang Bayan declared under RA No. 7076 shall be covered by small-scale mining contracts (SSMCs). (Sec. 2)

As discussed, EO 79 erases this distinction by requiring that all small-scale mining must be undertaken in compliance with RA 7076 and only within Minahang Bayan. Small-scale mining operations covered with SSMPs issued under PD 1899 shall be recognized until their expiration, unless earlier revoked or terminated, and affected SSMP holders mining gold silver and chromite were given the option to continue operations through a SSMC pursuant to RA 7076. Existing SSMPs with a remaining term of one (1) year may be given a temporary SSMCs by the Governor or City Mayor upon the recommendation of the P/CMRB to continue operations within a period of six (6) months or until the area is declared as Minahang Bayan, whichever comes first. (Sec. 14.a, DAO 2012-07, IRR-EO 79)

2. Permitting/Contracting Authority

Originally, under the IRR-PD 1899, applications for SSMPs are filed with either the then Mines and Geo-sciences Regional Office or with the Mineral District Office concerned. (Sec. 5) The MGB Regional Director grants the permits (Sec. 16), except in case of gold mining through panning or sluicing, where either the Regional Directors or the then Mineral District Officers may issue such permit (Sec. 23). Under RA 7076, Provincial Mining Regulatory Boards or in the case of independent cities, City Mining Regulatory Boards are created in each province or independent city and are authorized to award SSMCs (Sec. 9, 24.c). P/CMRBs are composed of the MGB Regional Director as Chairperson and representatives of the governor or city mayor, 1 small-scale mining representative and 1 large-scale mining representative and the representative of an environmental non-government organization as members. (Sec. 25)

In 1992, in keeping with devolved function of small-scale mining to LGUs, the MGB Director was given the authority SSMP or SSMCs within Mineral Reservations. Outside of Mineral Reservations, the Provincial Governor/City Mayor through the P/CMRB shall issue SSMPs or SSMCs. (PD 1899, RA 7076, , DAO 30-92, as amended by DAO 37-1992, DAO 96-40, Revised IRR-RA 7942, MRDB AO 3/3A, MRDB AO 3/3A, DAO 34-92, DAO 37-92, MRD 41, DAO 11-200, DAO 21-2010, Consolidated IRR-RA 7942). In March 2015, the MGB Regional Director as Chairperson of the P/CMRB was given the authority to award the SSMCs. (Sec. 12, Revised IRR-RA 7076)

3. Qualifications of Applicants & Obligations

Under the IRR-PD 1899, any individual or entity qualified under existing mining laws and regulations may apply for an SSMP. A qualified person means a Filipino citizen, of legal age, and with capacity to contract, or a corporation or partnership authorized to engage in mining, registered with the Securities and Exchange Commission, at least 60% of the capital of which is owned at all times by Filipino citizens. (Sec. 1.j) Under RA No. 7076, Filipino citizens who individually or in the company of other Filipinos form a small-scale mining cooperative may apply for an SSMC. (Sec. 3.c,e, 4.d, 8, 9). All persons undertaking small-scale mining activities shall register as miners with the Provincial Mining

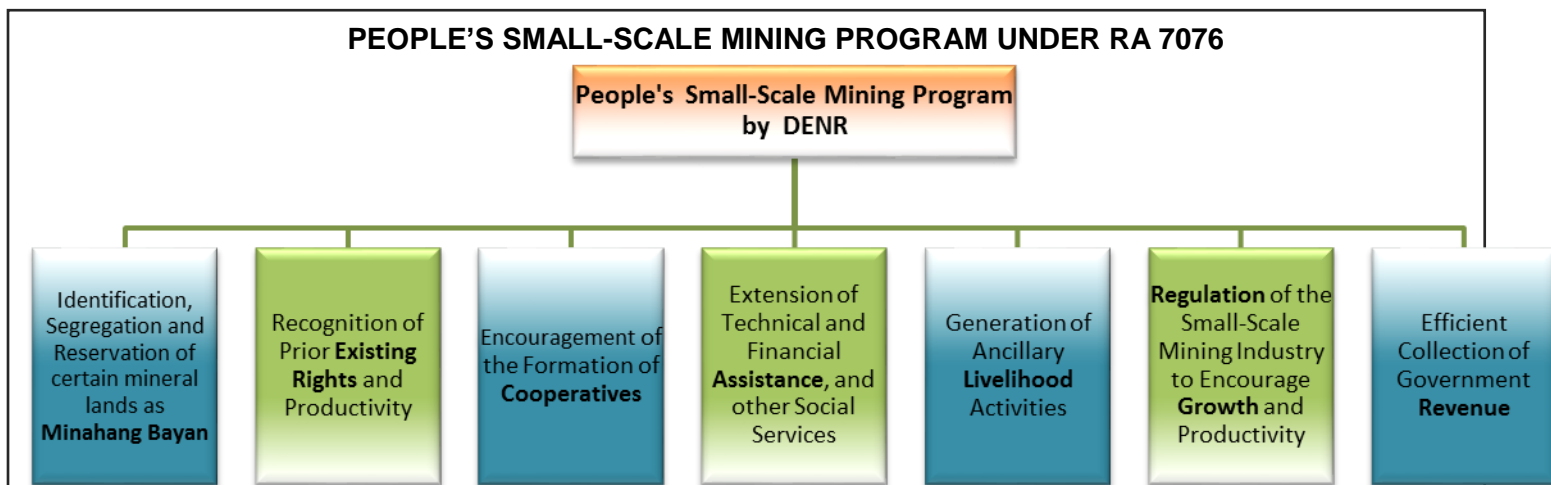
Regulatory Board or in the case of independent or highly urbanized cities, City Mining Regulatory Board (P/CMRB) and may organize themselves into cooperatives in order to qualify for the awarding of a people’s small-scale mining contract. (Sec. 8) Once issued an SSMP or awarded an SSMC, the permittee and contractors are obliged to comply with the terms and conditions of the grant of privilege. This includes the periodic reporting of production of minerals under oath, the compliance with environmental regulations, among others.

C. People’s Small-Scale Mining under RA 7076: Program and Minahang Bayan

1.1 People’s Small-Scale Mining Program

Small-scale mining authorized under RA 7076 is set within the context of a People’s Small-Scale Mining Program. The law mandates the DENR Secretary to implement the program. This is to carry out the declared State policy of developing, protecting and rationalizing viable small-scale mining activities with aims to generate more employment opportunities and to provide an equitable sharing of the nation’s wealth and natural resources. (Sec. 2) The People’s Small-Scale Mining Program has the following features: (Sec. 4)

Figure 13. People’s small-scale mining program under RA 7076



Such program has not been fully implemented. Small-scale mining in the country remains an informal sector operating outside the law. Currently, there is no specific budgetary allocation for a People’s Small-Scale Mining program, and only about 2-6 staff at the MGB Central and Regional Offices are tasked with small-scale mining concerns, on top of other regular duties. The People’s Small-Scale Mining Program mandated by Congress is yet to be fully implemented to achieve the objectives of RA 7076.

1.2 Pre-Requisite of a Declared People’s Small-Scale Mining Area or Minahang Bayan

A key feature of the People’s Small-Scale Mining Program is the identification, segregation and declaration of certain mineral lands as people’s small-scale mining area or Minahang Bayan. The P/CMRB is authorized to declare and set aside people’s small-scale

mining areas in sites onshore suitable for small-scale mining. The law immediately prioritizes the declaration of Minahang Bayan of areas already occupied and actively mined by small-scale miners before August 1, 1987. It further provides that the declaration of Minahang Bayan is based on the following criteria: (a) areas are not considered as active mining areas (b) the minerals found therein are technically and commercially suitable for small-scale mining activities (c) the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such is withdrawn by competent authority. (Sec. 5, RA 7076, Sec. 7 IRR)

For future people's small-scale mining areas, the following lands, when suitable for small-scale mining, may be declared by the P/CMRB as people's small-scale mining areas: (a) public lands not subject to any existing right; (b) public lands covered by existing mining rights which are not active mining areas; and (c) private lands, subject to certain rights and conditions, except those with substantial improvements or in bonafide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq.m.) or less. (Sec. 6)

The immediate priority for the declaration of Minahang Bayan of areas that are already occupied and actively mined by small-scale miners before August 1, 1987 as well as the inclusion in the criteria of areas that are not considered as active mining area, among others, are important. This gives flesh to the text and spirit of the law to carve out an exception to subsistence small-scale miners to grant them access to areas that are not actually explored, developed or exploited or commercially producing by existing mining claimowners.

The declaration of Minahang Bayan has not been fully operationalized. Small-scale mining that were authorized were mostly pursued under PD 1899. This is due to the more tedious requirements and procedures under RA 7076 that have not been implemented alongside the People's Small-Scale Mining Program meant to achieve the objectives of RA 7076 of generating employment opportunities and providing for an equitable sharing of the natural wealth.

To date, there are only a few Minahang Bayan in the entire country, and the number and location varies according to the reported information of the MGB Central Office and MGB Regional Offices. The MGB Central Office reports that there are 3 declared Minahang Bayan in 3 provinces in the entire country namely in Quezon, Dinagat Island and Agusan del Sur; while the MGB Regional Offices report that there are 10 declared Minahang Bayans in 4 provinces namely Compostela Valley, South Cotabato, Sultan Kudarat and Agusan del Sur. (Survey Response, Key Informant Interview) These are as follows:

Table 13. Minahang bayan in the Country

Region	Declared Minahang Bayan, per MGB Regional Offices	Declared Minahang Bayan, per MGB-Central Office	On Process/Pending Declaration, per MGB Regional Offices
1	None		None
2	None		6
3	None		None
4-A	No Answer	1 (Quezon)	No Answer
4-B	None		1 (Romblon)
5	None		1 (Aroroy, Masbate) (Jose Panganiban, Labo, Paracale, all in Camarines Norte)
6	None		2 (Libertad, Antique) (Nabas, Aklan)
9	None		None
10	None		43 (under DAO 2015-03)
11	9 (Compostela Valley)		No Answer
12	9 (South Cotabato -3) (Sultan Kudarat – 7)		4
13	1 (Agusan del Sur)	2 (Agusan del Sur) (Dinagat Island)	39
CAR	None		27 (Benguet 9) (Ifugao -1) (Mt. Province -3) (Kalinga - 1) (Apayao -5) (Abra -3) (Baguio -5)

While there are only 3 or 4 provinces with declared Minahang Bayan, there are other provinces that authorize small-scale mining outside of the Minahang Bayan, as reported by the LGUs and the MGB Regional Offices. Some of these may be the extended operations of holders of SSMPs that, however, should have all expired by April 2015. The LGUs report that there are registered or legal operations in 7 provinces while 11 provinces are estimated to host unregistered or illegal operations. (LGU Survey Responses) The MGB Regional Offices report 5 provinces hosting registered operations and 24 provinces hosting unregistered or illegal operations. (MGB Regional Offices Survey Responses)

Table 14. Comparative matrix of reported registered and unregistered SSMM operations

Region	Registered SSMM Operations		Unregistered SSMM Operations	
	As reported by LGUs	As reported by MGB RO	As reported by LGUs	As reported by MGB RO
CAR	Apayao - 26 Benguet – 12 0 – Ifugao, Kalinga, Mt. Province, Abra	Apayao – 21 Benguet - 143	Apayao – 10 Benguet – 60 0 – Ifugao, Kalinga, Mt. Province, Abra	Apayao - 19 Benguet - 12 Baguio - 233 Ifugao - 6 Abra - 52 Kalinga -125 Mt. Province - 8
1	0 – Ilocos Sur	0	Ilocos Sur - 1	Ilocos Sur - 1
2	0	0	Nueva Vizcaya - 6	Nueva Vizcaya- 11 Isabela - 1
3	Zambales – 164	0	0	0
4-A				
4-B				

5	0 – Albay, Camarines Norte, Camarines Sur, Masbate	0	0	Masbate & Camarines Norte – both at 328
6	Negros Occidental - 2	0		Negros Occidental - 44
7	Cebu – 50+		Cebu – 50+	
8				
9		0		Zamboanga Sibugay - 2 Zamboanga del Norte - 4 Zamboanga City -1 Zamboanga del Sur - 4
10			Bukidnon - 2	
11	Cagayan de Oro - 58	Compostela Valley - 9	Davao del Sur - 1	
12	South Cotabato - 104	South Cotabato-7 Sultan Kudarat-2	South Cotabato - 30	Saranggani – 1 Sultan Kudarat - 2
CARAGA	Surigao del Sur - 1	0	Agusan del Norte – 4 Agusan del Sur – 15 Surigao del Sur - 10	Agusan del Norte Agusan del Sur Surigao del Norte Surigao del Sur Butuan City - all at 350
ARMM				
TOTAL	415	182	189	1,204

* Note: Blanks reflect that the LGUs/MGB Regional Office did not provide any answer.

These numbers show a total of 31 provinces with small-scale mining based on information from the government agencies. A 2011 study showed the existence of small-scale mining in 32 provinces. (DENR-EMB 2011 National Strategic Action Plan for the Phase-Out of Mercury adopting and annexing BanToxics Study).

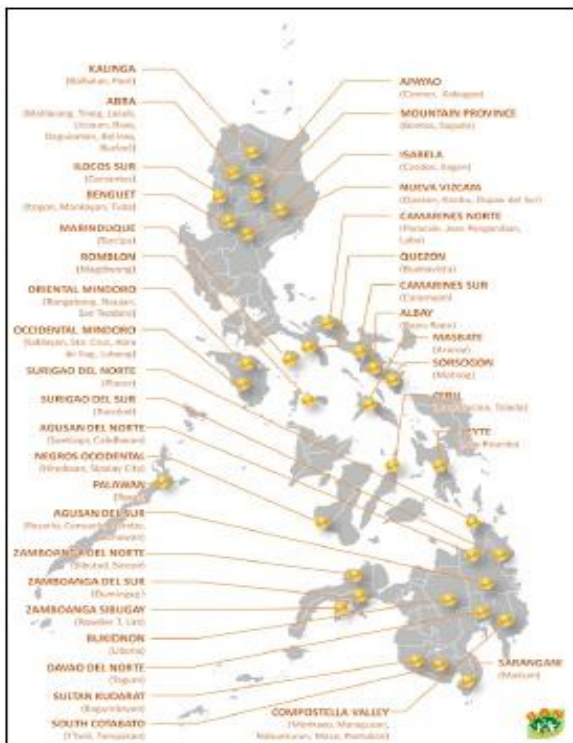


Figure 14. Map showing areas of SSMM operations, as reported by Ban Toxics and adopted by DENR-EMB

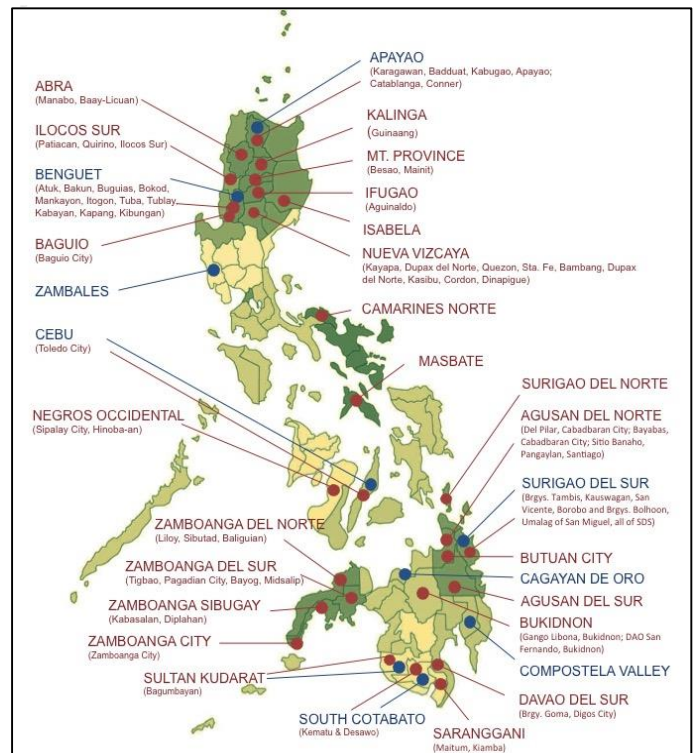


Figure 15. Map showing areas of SSM operations, as reported by LGUs and MGB ROs

D. Reforms in Small-Scale Mining

In 2012, the President introduced reforms to improve and address issues on small-scale mining, through the following measures (Sec. 11, EO 79):

- a) Small-scale mining activities shall comply with RA NO. 7076, or the People's Small-Scale Mining Act of 1991, and the Environmental Impact Statement System requirements under Presidential Decree No. 1586;
- b) Pursuant to RA No. 7076, small-scale mining operations shall be undertaken only within the declared People's Small-Scale Mining Areas or *Minahang Bayan*;
- c) Pursuant to Section 24 of RA No. 7076, P/CMRBs in provinces and cities where they have not been constituted shall be operationalized within three (3) months from the effectivity of EO 79;
- d) Small-scale mining shall not be applicable for metallic minerals except gold, silver, and chromite, as provided for in RA No. 7076;
- e) The use of mercury in small-scale mining shall be strictly prohibited; and
- f) Training and capacity building measures in the form of technical assistance for small-scale mining cooperatives and associations shall be conducted by the concerned government agencies

EO 79 emphasizes the need for declaration of Minahang Bayan under RA 7076 and mandated that all small-scale mining activities can only be undertaken in declared Minahang Bayans. Pursuant to these reforms DENR revised the implementing rules for RA 7076. The revised implementing rules provided for (a) the strict adherence to EO 79; (b) an increase in fees of P5 to P1,000 as license fee and from P30/hectare to P20,000 as SSMC application fee, and other licensing and contracting requirements; (c) a limited maximum term for an SSMC and its renewal for 6 years only; (d) additional environmental requirements including an Environmental Compliance Certificate for the entire Minahang Bayan to be secured within 12 months; (e) a longer process for the declaration of a Minahang Bayan including an initial review by the DENR Secretary through the MGB Director and for final clearance by the DENR Secretary, and (f) reinstates local chief executives as members only from being Co-Chairperson, among others. (See Annex C, Matrix of for the significant changes between the old and new implementing rules of RA 7076)

Despite the issuance of EO 79 in 2012, illegal small-scale mining operations appear to operate on a business as usual scenario, except in areas where there is intervention, support and assistance from LGUs and NGOs as in the case of the Province of South Cotabato. In fact, with the additional requirements and safeguards imposed by the revised regulations, instead of introducing reforms to promote compliance, the new regulations may perpetuate even more the situation of small-scale mining as an informal sector.

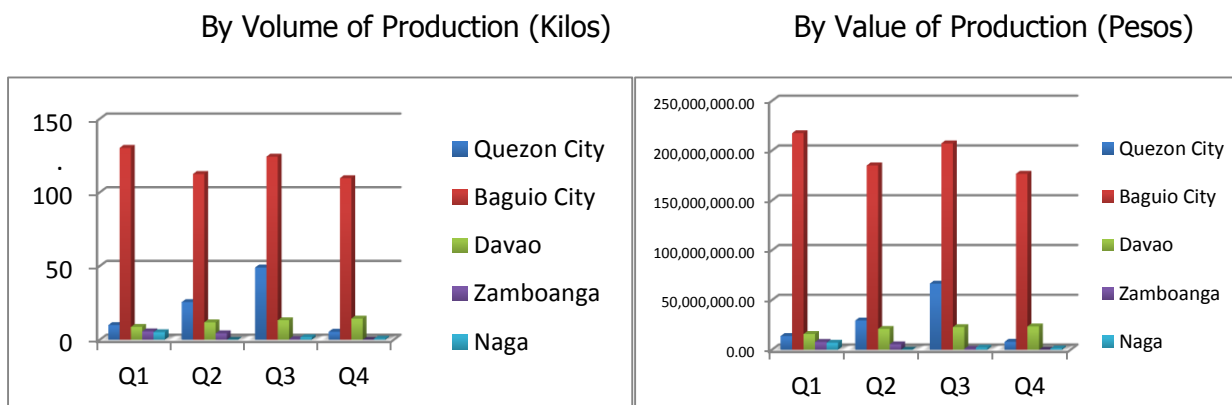
In South Cotabato, the provincial government initiated a Minahang Bayanihan Program, somewhat akin to the People's Small-Scale Mining Program under RA 7076, to address issues and concerns on small-scale mining by integrating convergence and good

governance and with active stakeholder participation. (Provincial Governor’s E.O. No. 37, s. 2013) This program mandates an identification (ID) system for all contractors, associations, processors, permit holders, operators, workers and individuals engaged in small-scale mining and quarrying. Small-scale mine workers are issued ID cards and as a pre-requisite, are required to undergo the scheduled orientation and trainings on mining safety or basic first aid and safety, disaster risk reduction/climate change adaptation, environmental management including solid waste management, health and sanitation conducted by the provincial government together with its partners from government and civil society. The identification system that has covered about 1,700 workers and continues to work with the remaining 1,300 other workers has addressed in part the problem of child labor in mining operations. The program involves upgrading of the small-scale mining permitting system via a computerized system to improve permitting and monitoring and strengthening compliance monitoring and enforcement of small-scale mining regulations. Some of the initiatives of the provincial government is the installation of cameras in strategic mining exit points to ensure 24-hour surveillance and monitoring, monitoring mechanisms from the barangay to the municipal and the provincial levels such as regular checkpoints, prescribed schedule for transport of ores and regular monitoring and enforcement raids of the Multi-Partite Monitoring Team created by the PMRB. The program was recognized this year with a Galing Pook Award, a national annual recognition conferred to 10 LGUs with outstanding local governance programs.

E. Sale of Gold to BSP

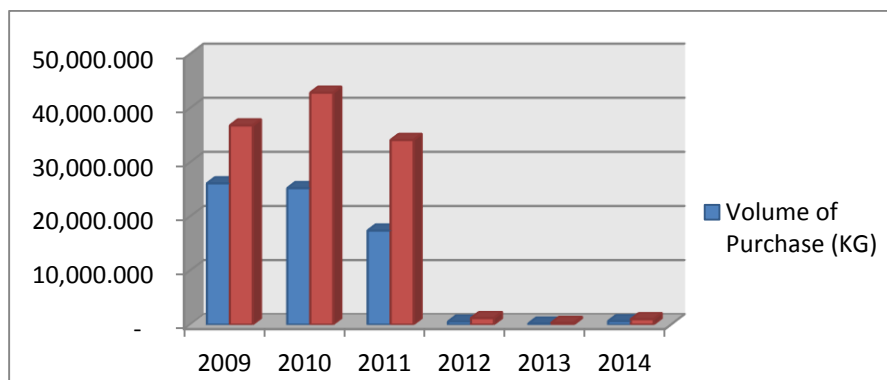
All gold produced by small-scale miners in any mineral area must be sold to the central bank or the Bangko Sentral ng Pilipinas (BSP) at the prevailing international gold-buying prices, regardless of volume or weight. (Sec. 17, RA 7076) BSP may buy the gold through their BSP Mint and Refinery Operations Department in Quezon City or in their Gold Buying Stations in the BSP Regional Offices located in Baguio City, Naga City, Zamboanga City or Davao City. BSP makes an initial payment equivalent to 99% of the value of the delivery, subject to a final assay, via the seller’s registered bank deposit within the 2nd or 3rd business day from the sale. BSP has established guidelines on its purchase of the sale of gold that includes, among others, (a) documentary requirements to signify compliance with BSP’s standards and (b) physical requirements of the gold that should be in a bar or disc and must not contain mercury or amalgam comply with specific dimension in the form of a bar or disc and maximum weight requirements of 5 kilos for bar or disc and of 10 kilos per lot.

Figure 16. BSP purchase of gold and silver by buying station for 2014, as reported by MGB per BSP



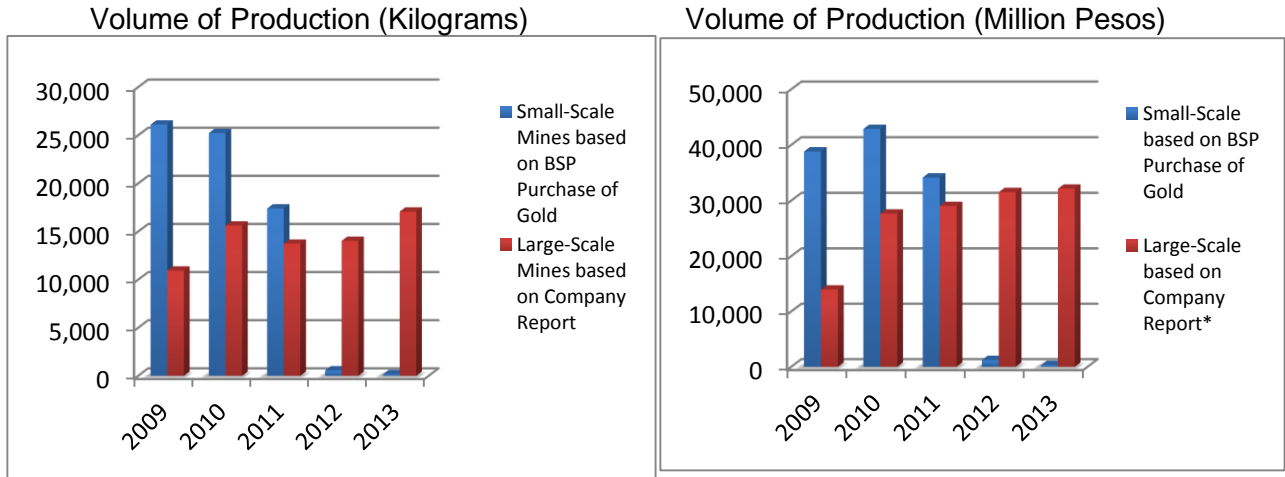
In practice, most small-scale miners sell their gold to traders or the black market for the convenience and the immediate payment of the value of their production. (FGD) This was even aggravated starting April 2012, when the Bureau of Internal Revenue (BIR) implemented the collection of the 2% excise tax on the sale of gold and tax on income on the sale of gold, pursuant to the 1997 National Internal Revenue Code (NIRC) (BIR Revenue Regulation 07-2008, BIR Revenue Regulation 06-2012; Section 151(a)(3)(a)(b), Sec. 24.A, 27.A NIRC.) and authorized BSP as a withholding/collection agent. From a total gold purchase by BSP of 68,733.00 kilograms from 2009 to 2011, this dropped to a total of 1,383.855 kilograms from 2012 to 2014, or a decrease of about 98% within three years. This is shown by the figures below, based on the MGB, as declared by BSP.

Figure 17. Gold sale to BSP for 2009-2014, based on the MGB as declared by BSP



Since small-scale miners are required by law to sell their gold to BSP, MGB uses the BSP's records on the purchase of gold to represent gold production from small-scale mines. MGB is constrained to use this basis as small-scale miners rarely submit production reports to the P/CMRB. It is possible though that the gold sold to BSP may come from any other sources as BSP does not verify if the gold sold to it comes from small-scale mining. Unlike small-scale miners, large-scale mining corporations are not required by law to sell the gold they extract to BSP. Prior to 2012, BSP's purchase of gold was comparatively higher than the gold reportedly produced by large-scale mining corporations. The BSP's reported purchase ranged from 56% to 70% compared to the percentage of gold reported by large-scale mining corporations that ranged only from 30% to 44%. After the BIR imposed taxes on the sale of gold to BSP, the figures changed, with more gold now being reported by large-scale mining operations at a percentage of 96% to 98% compared to the BSP's purchase of 4% to 2%.

Figure 18. A comparative graph of gold production (a) based on reported sale of gold to BSP used to represent small-scale mining production due to the small-scale miners’ obligation to sell their gold to BSP and their poor reporting compliance to P/CMRB (b) as reported by large-scale mining companies to MGB



F. Payments from Small-Scale Mining

1. Payments to Government

Under PD 1899, the SSMP holders are exempted from payment of other taxes, exempt income tax. (Sec. 4) The exempted duties and taxes of the permittees in the course of their operation includes, special import tax, compensating tax, tariff duties, royalties, sales tax, real estate tax, occupation fees/rentals, among others. (Sec. 19, IRR-PD 1899) However, this exemption does not extend to regulatory fees that may be imposed by the national government, its agencies or local government units. Under RA 7076, SSMC holders are obliged to pay national and local taxes, royalties or government production share as provided by law. (Sec. 13).

2. Payments to Third Parties

The payments to third parties include: (a) royalty payment to claimowners of existing mining rights (Sec. 14, RA 7076, Sec. 8.c, 14 Revised IRR-RA 7076); (b) royalty payment to private landowners (Sec. 15, RA 7076, Sec. 8, Revised IRR-RA 7076); and (c) royalty payment to indigenous peoples or indigenous cultural communities (Sec. 17, RA 7942, Sec. 16, IRR)

A summary of the payments from small-scale mining is shown below:

Table 15. Payments from small-scale mining

Payments to National Government: Taxes, Fees and Charges under RA 7076		
Nature of Payment	Amount/Rate	Collecting Agency
License Application Fee for SSMC Applicants	1,000	MGB RO* (*as Revised by DAO 2015-03)
Application Fee for SSMC	20,000	MGB RO*
National Taxes under NIRC		BIR
Excise Tax on Production Output**	2% of the Production Output	BIR
Income Tax Payment, including 5% Creditable Withholding Tax on Income	Graduated Schedule based on Taxable Income	BIR
Royalty Fee in Mineral Reservations	5% of Production Output	MGB RO/BIR
Government Production Share**	Unspecified, may pertain to Excise Tax by Analogy to Large-Scale Mining	Unspecified
Occupation Fee	100/ha	Municipal Treasurer
Payments to Local Government in General: Taxes, Fees and Charges		
Nature of Payment	Range Amount/Rate	Collecting Agency
Mineral Tax or Sales Tax on Metallic Minerals	1,000/m.t. - 10% Sales Taxes at 2% of Gross Receipts*	Provincial Treasurer
Small-Scale Mining Permit Fee	3,000 – 15,520	Provincial Treasurer
Filing Fee	10 - 20/ha – 500	Provincial Treasurer
Processing Fee	20 - 25/ha - 150	Provincial Treasurer
Verification Fees	500 - 3,600/ha	
Business Permit Fee	P150-P2,500	Municipal Treasurer
Tax on Mining Operations	2% of Gross Receipts of Preceding Year - Graduated Schedule based on Gross Receipts	Municipal Treasurer
Payments to Third Parties: Royalties		
Nature of Payment	Amount/Rate	Collecting Agency
Royalty Payment to Claimowners	agreed amount or 1 and ½% of the gross value of output	Claimowner
Royalty Payment to Private Landowners	not more than 1% of the gross value of minerals recovered & actual damages as determined by the P/CMRB	Private Landowner
Royalty Payment to IPs/ICC	agreed amount but must not be less than 1 % of the gross value of output	IP/ICC

3. Payments to Local Government based on Local Ordinances

In keeping with their local autonomy and power to generate revenues, LGUs impose taxes and fees on small-scale mining. (Constitution, RA 7160) Before they can assess and collect these revenues, LGUs must enact ordinances authorizing such payments to them. (See Annex D for some of the revenue streams from LGUs)

4. Collection of Payments

While there are local tax impositions, the revenues from small-scale mining is minimal as mostly, the sector remains an informal one. For purposes of illustration, we look

at the collection of the Province of South Cotabato that have the highest number of registered operations in Mindanao with an institutionalized small-scale mining program in place and the Province of Benguet that have hosted small-scale mining operations almost throughout the entire province and where mining is the second largest economic activity in the province. In the Province of South Cotabato, the total collection for 2013 and 2014 are P760,000.00 and P1,065,685.00, respectively. As aforementioned, the Province has already the largest number of registered operations on small-scale metallic mining in the country, at 104 operations, as of September 2015. These revenues are broken down as follows:

Table 16. South Cotabato's total collection from small-scale metallic mining in 2013 and 2014

South Cotabato's Total Collection from Small-Scale Metallic Mining in 2013 and 2014		
Types of Payments	2013 Collection (PhP)	2014 Collection (PhP)
Mineral Tax	624,480.00	612,885.00
Permit Fee	110,000.00	118,000.00
Verification Fee	25,520.00	334,800.00
TOTAL	760,000.00	1,065,685.00

This income from mineral taxes is subject to a 30%-30%-40% sharing scheme among the province, municipality and barangay, respectively in accordance with the Local Government Code and the South Cotabato Revenue Code. Moving forward with the planned EITI country reporting, the Province of South Cotabato says it may not be worth reporting, as in fact the income they get from quarry or small-scale non-metallic mining is significantly higher at more than P10 Million annually.

The Municipality of T'boli that hosts the small-scale metallic mining operations in South Cotabato collected P954,459.00 for 2013 and P860,200 for 2014 as total revenues from small-scale metallic mining and other related-operations. These are from owner/operators of (a) ball mill, (b) processing plant, both of whom are considered as contractors; (c) persons engaged in gold buying, who are considered as dealers and (d) on the extraction of minerals from tunnel.

Table 17. Municipality of T'boli 2013 and 2014 collection from small-scale metallic mining

Municipality of T'boli 2013 and 2014 Collection from Small-Scale Metallic Mining		
Taxes and Fees	2013 Collection (PhP)	2014 Collection (PhP)
Mayor's Permit Fees	157,432.00	145,740.00
Tax on Mining Operations	704,156.79	710,411.67
Delinquency	90,201.63	1,877.44
Surcharges	20,089.19	1,897.44
Interest	2,668.59	273.52
Total Collection	954,459.01	860,200.07

In Benguet, they only collected the total amounts of P80,000.00 and 153,435.00, respectively, for the same period, even when the highest sale of gold among the buying

stations in the country is highest in the BSP Regional Office in Baguio City that covers Benguet. According to Benguet, the number of registered small-scale mining operations is only 11, while the rest of the operations that the province estimates to be more than 60 operations is unregistered or illegal. According to a profiling done by the Benguet Federation of Small-Scale Miner, Inc., there are recorded 2029 small-scale mining adits with a total 31,845 individuals as work force involved and an estimated production of gold of 8,395 kilograms and 10,000 kilograms for 2013 and 2014. The Municipality of Itogon that hosts the largest number of small-scale mining in Benguet collected a total of P58,984 and P24,025 for 2013 and 2014 only. The Municipal Treasurer's Office is currently focused on collecting business taxes and regulatory fees from the 22 small-scale mining contractors of Benguet Corporation in its Acupan Gold Project. For the years 2011-2014, the total business tax and regulatory fees, including surcharges and penalties, that are collectible from them is P14,386,301.98 based on total gross receipts of P1,359,499,993.28, as reported by the corporation to the Municipality in June 2015. For the same years, the BIR Regional District Office in Benguet reports income tax payment from small-scale metallic mining in the total amount of P3,750.59 and P21,123.95 for the entire district, which were paid by taxpayers all coming from Itogon.

Prior to March 2015, fees pertaining to SSMC applications such as filing fees, permit fees, verification fees, among others, are imposed and collected by the LGUs. DENR-MGB Regional Offices do not assess nor collect fees. Both DENR MGB Regional Offices of Region XII that hosts South Cotabato and CAR that hosts Benguet have no income from small-scale mining in 2013 and 2014. The Revised IRR of RA 7076 now directs that the license fees and application fees for an SSMC must be paid to the MGB Regional Offices. To effect these changes, the regulation has to be clarified by the MGB Regional Office and the LGUs with each other to avoid confusion and conflict in the imposition and collection of fees that were previously carried out by the LGUs.

3. Creation of a People's Small-Scale Mining Protection Fund

RA 7076 also creates a People's Small-Scale Mining Protection Fund equivalent to fifteen percent (15%) of the national government's share of the internal revenue tax or production share due the government. The fund is for information dissemination and training of small-scale miners on safety, health, and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like. The fund is also meant to address the needs of the small-scale miners brought about by accidents and/or fortuitous events. The law provides that the fund shall be administered by the P/CMRB. (Sec. 20, RA 7076) The implementing rules, however, is silent on how this shall implemented; neither has this been operationalized, to date.

G. Environmental, Health, Safety and Social Regulations and Safeguards

1. Environmental Requirements under RA 7076 and PD 1586

PD 1899 and IRR-PD 1899 do not specifically provide for health, environmental and

safety standards for small-scale mining. RA 7076 includes in the definition of small-scale mining the non-use of any explosives (Sec. 3.a), imposes as part of the terms and conditions of the SSMC the obligation of the contract to comply with the pertinent rules on environmental protection and conservation particularly those on tree-cutting, mineral processing and pollution control (Sec. 13.e) and provides for the reversion of the Minahang Bayan when safety, health and environmental conditions warrant (Sec. 22). The implementing rules of RA 7076 provide more details on the protection of the environment by requiring the submission of an Environmental Compliance Certificate (ECC) issued by the concerned DENR Regional Executive Director as one of the requirements for an SSMC (Sec. 11) and a Mining Plan duly approved by the P/CMRB (Sec. 13.1), which mining plan includes a schedule of tailings and waste management and mine site rehabilitation.

In 2012, EO 79 was issued to implement mining reforms for environmental protection and for responsible mining. It mandates the full enforcement of environmental standards in mining and directed the government in general, and DENR in particular in coordination with concerned LGUs, to ensure that environmental standards in mining, as prescribed by the various mining and environmental laws, rules, and regulations, shall be fully and strictly enforced, and appropriate sanctions meted out against violators. It further provides that only those who are able to strictly comply with all the pertinent requirements shall be eligible for the grant of mining rights under RA 7942. (Sec. 2). Specific to small-scale mining operations, EO 79 strictly prohibits the use of mercury (Sec.11.e) and the IRR-EO 79 expands the prohibition to include hydraulicking (water jetting) and compressor mining in small-scale mining operations due to serious safety, health and environmental impacts. Violation of the prohibition shall cause the cancellation of the SSMC/SSMP. (Sec. 14.c) The implementing rules further directs the compliance with the Environmental Impact Statement System requirements under PD 1586 and required the following documents prior to the issuance of an SSMC: (a) ECC for the entire Minahang Bayan secured through an Environmental Impact Statement from the EMB; (b) Potential Environmental Impact Management Plan (PEIMP), which is a simplified Environmental Protection and Enhancement Program, and a Final Mine Rehabilitation/Decommissioning Plan; and (c) Community Development and Management Program (CDMP), a simplified Social Development Management Program, all approved by the MGB Regional Office. (Sec. 14.b) The IRR-EO 79 also ordered the DENR-EMB to study the use and implementation of the Programmatic Environmental Impact Assessment for small-scale mining operations. (Sec. 20) Resultantly, the Revised IRR-RA 7076 provides for and adopted these more stringent requirements to protect the environment.

2. Mine Safety and Health Requirements

Similar to the environmental safeguards, the health and safety requirements are detailed in the implementing rules of RA 7076 and PD 1899. Memorandum Circular No. MRD-2, s. 1985, that was subsequently replaced by DENR Administrative Order No. 97-30, September 11, 1997 (DAO 97-30 SSM Safety Rules), provides for the mine safety rules and regulations.

Pursuant to EO 79 and its implementing rules, the Revised IRR-RA 7076 also provides for more stringent requirements for worker safety and health including the requirement of an Annual Safety and Health Program (Sec. 4.a, 10.1), the ban on hydraulicking and compressor mining and ban on the use of mercury in any stage of mining, where previously it was merely regulated. (DENR DAO 97-38, a Chemical Control Order (CCO), Republic Act No. 6969 or The Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990) Despite this regulation, primary virgin metal production, mainly claimed to be from small-scale mining of gold and silver, contribute the highest mercury emission at 32% or 74,769 kilograms of mercury per year. (BanToxics, DENR-EMB 2008 Assessment) In 2011, the Philippines, through the DENR-EMB, developed and adopted a National Strategic Action Plan for the Phase-Out of Mercury. Hydraulicking and compressor mining are both banned due serious safety, health and environmental impacts. (EO 79) Hydraulicking is mining with the use of pressurized stream of water while compressor mining refers to underwater small-scale mining with the workers/miners using compressed/pressurized air for breathing. (Sec. 4.j and s, Revised IRR-RA 7076). A September 2015 study on Camarines Norte showed that compressor mining, especially by child workers, continues. (HR Watch Report)

Table 18. Provinces with reported use of mercury in small-scale mining for gold (DENR-EMB)

Provinces with Reported Use of Mercury in Small-Scale Mining for Gold		
Benguet	Agusan del Sur	Compostela Valley
Camarines Norte	Surigao del Norte	Isabela
Negros Occidental	Davao del Norte	Nueva Vizcaya
Zamboanga del Norte	Abra	South Cotabato
Zamboanga del Sur	Kalinga	Romblon
Bukidnon	Apayao	Quezon
Agusan del Norte	Oriental Mindoro	Southern Leyte

3. Safeguards for Indigenous Cultural Communities/Peoples

3.1 Priority Rights of IPs/ICCs in Ancestral Domains/Lands and FPIC

Even prior to Republic Act No. 8371 or the Indigenous People's Rights Act of 1997 was enacted laying down the specific rights of indigenous peoples (IPs) and indigenous cultural communities (ICC) over their ancestral lands and domains, mining laws already respected these rights. Consistent with the 1987 Constitution, no ancestral lands shall be opened for mining operations without the prior consent of the IPs and ICCs (Sec. 7, RA 7076; Sec.16, RA 7942) The Revised IRR-7076 expressly requires A Certificate of Non-Overlap or a Compliance Certificate from the NCIP prior to the declaration of a Minahang Bayan is also specifically required. (Sec. 9, Revised IRR-RA 7076) The process of obtaining a free and prior informed consent specific for small-scale extractive operations, different from that of large-scale operations, is laid down by regulations. (RA 8371, NCIP Administrative Order No. 03-12 dated April 13, 2012) These requirements are not fully complied with in the small-scale mining sector. According to NCIP CAR, 86% of CAR is "native title" area and all of Benguet is ancestral domain. The NCIP further shares the following data with respect to small-

scale mining in ancestral domains/I lands:

Table 19. Operations of small-scale mining in ancestral domain/ancestral lands

Region	No. of SSM Operations	Host Province of SSM	Host City/Municipality	Ancestral Domain/Ancestral Land
1	Unknown, by IPs	Isabela	Quirino	Kankanaey
2	FPIC in process	Isabela	Dinapigue	Agta/Dumagat
9	3 by non-IPs with no FPIC or CP	Zamboanga Del Sur	Midsalip Tigbao Pagadian City	Subanon
		Zamboanga Sibugay	Diplahan	
		Zamboanga del Norte	Pres. Roxas Sindangan	
11	2,000, more or less	2 out of 5: Compostella Valley	Pantukan	Mansaka Mandaya
12		1 out of 4: South Cotabato	T'boli	T'boli CADT
13	19	2 out of 4:	2 cities	Rosario (CADT 078) Cabadbaran (CADT 092)
CAR	Unknown	6 out of 6 Provinces and 2 Cities		

H. Institutional Arrangements for Small-Scale Metallic Mining

1. P/CMRBs

Small-scale metallic mining activities are regulated by the DENR-MGB Regional Offices and the Provinces or independent or highly urbanized Cities, through the Provincial or City Mining Regulatory Boards, under the supervision of the DENR Secretary, through the MGB Director. These P/CMRBs also regulate other small-scale mining such as quarry of sand and gravel and other non-metallic minerals. RA 7076 mandates the organization of P/CMRBs. (Sec. 24) EO 79 directed that P/CMRBs in provinces and cities where they have not been constituted shall be operationalized within three (3) months from the EO’s effectivity in July 2015. (Sec. 11.c) To date, there are 49 PMRBs all over the country out of the total 81 provinces and 144 independent cities. While not all of these LGUs may have metallic mineral reserves of gold, silver or chromite, most of of the LGUs have quarry operations within their jurisdiction that requires the constitution of a PMRB for the grant of privileges. (See Annex E: P/CMRBs in the Country)

Subject to the review of the DENR Secretary, the powers and functions of the P/CMRB are the following: (a) declaration and segregation of existing gold rush areas for small-scale mining; (b) reserving future gold and other mining areas for small-scale mining; (c) awarding contracts to small-scale miners; (d) formulating rules and regulations; and (e) settling disputes and conflicts within a Minahang Bayan, among others. (Sec. 24, RA 7076) P/CMRBs are headed by the MGB Regional Director, with members composed of the representative of the Governor or the Mayor, of the small-scale miners, of the large-scale miners and of an environmental non-government organization. Past regulation made the Governor or the Mayor to serve as Co-Chairperson, presumably in deference to their political

stature within the provinces or cities. Presently, they are now relegated as members. (Sec. 21, Revised IRR, Sec. 25, RA 7076)

In addition to the P/CMRBs, some regions and provinces created monitoring teams that assist the PMRBs. DENR provides the staff support to the P/CMRB by law. In practice, the LGUs, that usually have more staff complement than the DENR-MGB Regional Offices, usually provide the secretariat support to the boards and the MGB staff providing the technical support. This arrangement provided by the LGUs may change as more responsibilities are given to the MGB and less to the LGUs under the revised regulations.

2. Multi-Partite Monitoring Teams under the Philippine Environmental Impact Statement System

Under Presidential Decree No. 1586 or the Philippine Environmental Impact Statement System, project proponents that have been issued Environmental Compliance Certificates (ECCs) are responsible for monitoring their projects. Multi-Partite Monitoring Teams (MMTs) are also organized to encourage public participation, to promote greater stakeholder vigilance and to provide appropriate check and balance mechanisms in the monitoring of project implementation. (Sec. 2.3 (19), EMB Memorandum Circular No. 2007-002, August 2007, Revised Procedural Manual for DAO 2003-30) For small-scale mining projects, however the organization of MMTs is optional on the part of the DENR Environmental Management Bureau (EMB) Regional Office. There is no MMT organized specifically to monitor small-scale mining in the different regions.

3. Mandates of Government Agencies with respect to Small-Scale Metallic Mining

Apart from the DENR that is mandated to implement the People’s Small-Scale Mining Program and retains responsibility over small-scale mining areas in mineral reservations and the LGUs that have the devolved function over small-scale mining, except in mineral reservations, several agencies are also involved in promoting, developing and regulating small-scale mining. These are as follows:

Table 20. Summary of mandates of government agencies in relation to small-scale mining

Agency	Mandate/Responsibility	Legal Basis
DENR	Implementation of People’s Small-Scale Mining Program Power of Review over People’s Small-Scale Mining	RA 7076, League of Provinces v. DENR Secretary
LGUs	Small-Scale Mining outside of Mineral Reservations Local Revenue Generation and Collection	RA 7076, RA 7160
DENR-MGB	Small-Scale Mining in Mineral Reservations Technical Assistance to Small-Scale Mining Mine Safety Collection of Licensing and Application Fees	PD 1899, RA 7076, RA 7942 DAO 97-30, Revised IRR-7076
DENR-EMB	Environmental Impact Assessment & Monitoring of ECC Regulation and Monitoring of Mercury Anti-Pollution Control of Air and Water	PD 1586 RA 6969, CCO 97-38 RA 9275, RA 8749
NCIP	Monitoring FPIC Processes, Issuance of Certificate of Non-Overlap or Certificate of Pre-Condition, Technical Assistance to IPs/ICCs	RA 8371
BSP	Purchase of Gold	RA 7076
DOF-BIR	Assessment and Collection of National Government Revenues: Excise	RA 8424

	Taxes, Income Taxes and Royalties	
DOF-BTr/ DBM	Custody of Collected Taxes/Budget Preparation and Release of Funds/Share to LGUs and for the People's Small-Scale Mining Fund	EO 449, EO 25, RA 7076
PNP	Enforcement of Laws for Protection of Life and Property	RA 6975

4. *Small-Scale Metallic Mining Associations and Federations*

Even while most small-scale mining is carried out informally, in some parts of the country, individual miners are usually part of a small-scale mining association, and at times, the associations form a federation. In Benguet, there are 69 associations composed of a total of 31,229 individual members. These associations form part of the Benguet Federation of Small-Scale Miner, Inc., organized on April 2, 2006. The federation provides support to its member association through representation in government, environmental, technical and safety training in small-scale metallic mining, health and accident support as well as organizational support to the associations. (Survey Response, KII) The small-scale miners associations in Benguet, most of which are also registered with the Securities and Exchange Commission, also provide similar support to their members, including organizing them and issuing worker's identification cards to the individual miners. Among the objectives of these associations are to work for the welfare of the members and residents, foster their peaceful co-existence, to protect the environment, to defend the land as a source of livelihood for the small-scale miners, preserve the unique traditional small-scale mining practices of the community, among others.

The Municipality of Itogon additionally requires these associations to get accreditation from the Sanggunian. (SB Ordinance No. 32, s. of 2006, KII) In South Cotabato, almost all the miners, except the transients from other areas, are part of one of the 9 small-scale mining associations. They also have an active federation, the Small-Scale Association of South Cotabato. The provinces of Ilocos Sur, Apayao, Agusan del Norte, Agusan del Sur, Surigao del Sur, and cities of Cagayan de Oro and Butuan also have organized associations of small-scale mining operators and workers.

I. Jurisprudence on Small-Scale Metallic Mining

Apart from the statutes and regulations, Supreme Court decisions interpreting the law also forms part of the law that governs small-scale mining. As already discussed, the Supreme Court ruled that PD 1899 and RA 7076 co-exist with each other. This was resolved in *SR Metals, Inc., San R Mining and Construction Corp. and Galeo Equipment and Mining Company, Inc. vs. the DENR Secretary*, G.R. No. 179669, June 4, 2014. The Supreme Court further recognized that as the agency mandated to protect the environment and the country's natural resources, DENR is authoritative on interpreting the 50,000-MT limit that it applies to both to both SSMPs issued under PD 1899 and SSMCs under RA 7076. The issue raised on the violation of the equal protection clause is thus moot.

In the *League of Provinces of the Philippines vs. DENR Secretary*, G.R. No. 175368, April 11, 2013, the Supreme Court held that the DENR Secretary can set aside SMMP issued

by Governor in the exercise of his quasi-judicial functions in settling conflicts. The Supreme Court has clarified that the constitutional guarantee of local autonomy in the Constitution Art. X, Sec. 2 refers to the administrative autonomy of local government units or, cast in more technical language, the decentralization of government authority. It does not make local governments sovereign within the State. Administrative autonomy may involve devolution of powers, but subject to limitations like following national policies or standards, and those provided by the Local Government Code. Hence, the decision of the DENR Secretary, declaring that the Application for Exploration Permit was valid and may be given due course, and canceling the Small-Scale Mining Permits issued by the Provincial Governor, emanated from the power of review granted to the DENR Secretary under R.A. No. 7076 and its Implementing Rules and Regulations.

The Supreme Court also ruled that an application for SSMC must be processed and obtained from the PMRB, and not with the Governor. Otherwise, such permit is null and void. This was the ruling *Leonora P. Calanza, et al. vs. Paper Industries Corporation of the Philippines et al.*, G.R. No. 146622, April 24, 2009. Pursuant to Republic Act No. 7076, which took effect on 18 July 1991, approval of the applications for mining permits and for mining contracts is vested in the Provincial/City Mining Regulatory Board. Instead of processing and obtaining their permits from the Provincial Mining Regulatory Board, petitioners were able to get the same from the governor of Davao del Norte. The court ruled that considering that the governor is without legal authority to issue said mining permits, the same permits are null and void.

In September 2015, five months after the DAO 2015-03 or the Revised Implementing Rules of RA 7076 was issued, an action was filed in court to question the validity of some of its provisions for being allegedly inconsistent and not germane to the purpose of RA 7076. In particular, these are on the application for an SSMC, the terms and conditions of the SSMC, the application for a Mineral Processing License, and the composition of the P/CMRB. (Sec. 10, 13, 16, 21d and 21e) This is docketed as the *Benguet Federation of Small-Scale Miners, Inc. vs. DENR Secretary*, Civil Case No. 15-CV-3129 before the Regional Trial Court of La Trinidad, Benguet. Since there is no injunction or order stopping the DENR from implementing its rules, then this does not affect the implementation of the new rules at this time.

J. Existing Data and Gaps to be Addressed to Comply with EITI Requirements

Based on the foregoing, the Philippines EITI Multi-Stakeholder Group (MSG) will need to take into account the status of existing data and gaps that need to be addressed, should it decide to include revenues and other data on small-scale metallic mining in the Philippine EITI Country Report. The key consideration is the prevalence of unregistered small-scale metallic mining that is bereft of any records or reporting of revenues. The other considerations are the minimal revenues currently collected from registered operations, the lack of any organized database that consolidates and centralizes data from each province and region, and the data collection at the level of individual miners and mining cooperatives

that any proposed EITI reporting will entail.

1. *Prevalence of Unregistered Small-Scale Metallic Mining*

As shown above, the bulk of small-scale metallic mining operates outside the law, and is left unreported and unmonitored by government agencies. The question then begs itself, how can the unreported be reported? While a few LGUs and MGB Regional Offices are aware or even monitor unregistered small-scale metallic mining, they are wont to collect payments from these operations. Imposing and collecting taxes and fees from the unregistered small-scale miners may signify the LGU's official tolerance, if not acceptance and legitimization, of such mining in violation of the law.

2. *Minimal Collection of Government Share in Revenues from SSM at Current Levels*

- a. **LGU Collection.** As shown above, the revenues received from small-scale metallic mining is minimal and almost insignificant. On one hand, this is mainly because most operations are unregistered and thus without any collection of revenues. On the other and, payments collected from registered small-scale miners are limited to business permits, filing and processing fees. These only range from P24,000 to a little over P1 Million, in the case of the Municipality of Itogon, which has the highest number of small-scale mining in the Province of Benguet and in the case of the Province of South Cotabato, which has the highest number of registered small-scale mining operations in the country. Compared to revenues from quarrying of sand and gravel, the revenues from small-scale metallic mining is very low, according to South Cotabato. With the Revised IRR of RA 7076, the collection of LGUs will still go down, as licensing fees and application fees are now payable to the MGB Regional Offices.
- b. **BIR Collection, based on reported volume of production to P/CMRB.** Payments received by national government from small-scale mining are also minimal. Again, this is largely because most small-scale metallic mining are unregistered, and therefore, do not report any income and do not pay the corresponding taxes and fees. For the registered small-scale mining, the tax payments to the BIR may also be insignificant as seen in the example of the BIR Revenue District Office in Benguet. Apart from the small value of collection, the determination of the tax payments due will need to be deduced based on the P/CMRB reported volume of production by small-scale metallic miners as well as LGU records of collection. As already mentioned, compliance with the reporting requirement is still very low. Thus, if no reports are submitted to the P/CMRB, there is no basis for BIR to assess and collect taxes, in case of there is no voluntary payment of taxes.
- c. **Revenue Collection and Reporting Via BSP as Buyer of Gold.** Revenue collection may be coursed through BSP as it purchases gold from small-scale miners. In turn, the sale of gold to BSP has dropped to 98% after BSP was constituted as a collection agent of the BIR. This not only reduces the revenue collection of national government, but also raises the important issue of where the gold extracted in the country are now sold and distributed.

3. Inadequate Database on Small-Scale Mining and Uncoordinated Record-Keeping/Sharing of Information between MGB-Central Office and Regional Office and Regional Office and LGU and its Offices

With respect to the registered small-scale metallic mining, the MGB's database regarding the regulation of their operations in the country is inadequate. Small-scale mining contracts are issued by the PMRBs in the different provinces headed by the MGB Regional Director. Thus, data are disparate across provinces and regions, within LGUs and within MGB Central and Regional Offices. There is also no uniformity on the record keeping of small-scale mining data, and is usually dependent on who provides secretariat support to the P/CMRB, which could either be the MGB Regional Office or the LGU. There is likewise no institutional mechanisms in place for data-access and data sharing among the LGU, DENR-MGB Central or Regional Offices, unless specifically requested by any of them. Under the Revised IRR of RA 7076, the MGB Regional Offices are now directed to perform most of the work. However, it may still take time for the record-handling and record-keeping to be put in place in the MGB Regional Offices, especially if there is no increase in staffing and budget allocation for small-scale metallic-related work by the regional offices.

With respect to the unregistered small-scale mining, the MGB and the LGUs alike have very limited data on them. Except for a few inventories on them mostly made in compliance with a directive of the MGB Director in 2014, government agencies do not keep track or keep records on this operations, and most data are estimates or anecdotal. Given the reality that most small-scale mining in the country operate outside of the law, MGB and the LGUs must still endeavor to collect information on them for baseline purposes in order to inform policy- and decision-making and to evaluate effectiveness of regulations and programs, among others.

Also, the study showed that there are still some government agencies who do not provide information, contrary to the Constitutional provision on access to information, the policy on transparency and accountability and the laws requiring government response within a 15-day period from request.

4. Data Collection at the Level of Individuals and Cooperatives

Given the nature of small-scale metallic mining carried out either by individual miners or cooperatives, data collection and reconciliation for any planned EITI reporting would have to be done at the level of the individual miner or cooperative for each province. This may entail a large number of sources of data and varied and distant locations for data collection and reconciliation, ranging from 7-100 individual miners and cooperatives for each province, at an estimated of 30-40 provinces. All these data collection and reconciliation efforts may not be justified, especially in light of the minimal revenues currently received from small-scale metallic mining.

K. Recommendations for Compliance with EITI Reporting Requirements

To address these data gaps for the proposed EITI reporting of small-scale mining revenues, the MSG may consider using its mandate in promoting transparency and accountability in the extractive industries to go back to the basic implementation of small-scale mining laws. This is to bridge the implementation of the law to achieve its objectives, including the equitable distribution of national wealth and the consequent increase in revenue collection of the national government. In turn, this would enable the MSG to include material revenue streams in the country's future report to EITI.

1. Improving Compliance with the Laws Prior to Inclusion of Revenues Streams in EITI Reporting.

Pursuant to EITI's objective of promoting transparency and accountability in the extractive industries, the MSG may wield its authority and influence to ensure that small-scale mining laws are implemented in accordance with its stated policies and objectives. Some of the specific actions that needs to be done are as follows: (a) clarifying the levels and types of mining ventures allowed in the country via Congressional action, particularly small-scale mining for commercial purposes under PD 1899 and people's small-scale mining for subsistence that carves out access in non-active mining areas covered by existing and valid mining claims under RA 7076; (b) fully implementing the People's Small-Scale Mining Program to carry out the policies of RA 7076 of generating more employment opportunities and providing an equitable sharing of the national wealth, with the corresponding Congressional appropriation for its implementation and the prioritization by the DENR as a major program; and only then, should DENR and the LGUs police the ranks of small-scale miners to encourage growth and productivity and to collect the appropriate government share and revenues from small-scale mining; (c) revisiting some of the requirements and procedures under the Revised Implementing Rules of RA 7076, to align them with the policies and to ensure simplified and responsive process so compliance is facilitated and not hindered, or to provide mechanisms for its implementation such as the requirement of an ECC for the entire Minahang Bayan within 12 months considering the interest and liability of the proponent, the cost, the sufficiency of the period given, and compliance expected of all SSMC operators but chargeable to the proponent; (d) promoting the full implementation of RA 7076 by all concerned agencies based on clear mandates and roles, including the coordination and delineation of functions between the MGB Regional Offices and the LGUs and addressing the compliance challenges such as the permitting/contracting requirements, direct access to credit in lieu of financiers, safe and environment-friendly mining technologies, collection of fees, among others.

2. Inclusion of SSM Contextual Data to Provide a Comprehensive Picture on the Mining Industry.

Nonetheless, even now, the MSG may already consider including in the Philippine EITI Country Report the contextual information on small-scale mining, considering that the Philippines have rich reserves of gold and other metallic minerals. Even if small-

scale mining largely belongs to the informal sector, the MSG that has already initiated this scoping study on the sector may choose to include the contextual information on small-scale mining to provide a more comprehensive picture of the mining industry in the country. This is particularly so considering that the gold extraction and production based on the BSP sale of gold presumed to come from their operations is higher than that reported by large-scale mining companies prior to the collection of excise and creditable withholding taxes at the BSP level starting in 2012. Its inclusion in the EITI reporting will also provide the impetus for both the government and private sectors to focus their attention on the industry and address the challenges they face head-on. Otherwise, small-scale mining that still mainly forms part of the informal sector will continue to be swept under the rug and without empirical data to guide the needed reforms for the sector.

3. Strengthening the P/CMRB and the Federations and Associations to Facilitate Subsequent EITI Reporting.

In preparation for the planned reporting of revenue streams from small-scale mining, the MSG may consider strengthening and building the capacities of P/CMRBs. As the multi-stakeholder body in charge of the regulating small-scale mining in the different provinces, they play a critical role in ensuring the promotion, development and regulation of small-scale mining to generate more employment opportunities and provide for an equitable sharing of wealth. Likewise, as they regulate small-scale mining operations from the licensing to the award to the monitoring, they can serve as the official local repositories of small-scale mining data in the provinces and cities. The MSG can facilitate the development of a knowledge-management system that may be utilized by P/CMRBs across the country, to include record-keeping, data access and data-sharing mechanisms between and among MGB Regional Offices, Central Offices and the LGUS. This will facilitate later on the collection of information on the revenues from small-scale mining. Alongside the strengthening of P/CMRBs, the MSG may also encourage the formation of associations and federations and/or strengthen existing ones to support of small-scale mining carried out in accordance with the law and its policies. These associations and federations can in turn serve as conduits or clearing houses for the reconciliation of data from individual small-scale miners and cooperatives in the future.

As government reforms the small-scale mining sector and successfully places them within the ambit of the laws and regulations that they recognize and accept as needed and beneficial, the extraction and production may now be monitored and the correct taxes and fees may be collected. The MSG, after facilitating the basic implementation of the law, may then consider including the revenues that may potentially be higher and will already be recorded for EITI reporting. Until the reforms are in place and the data gaps addressed, that Philippine EITI can help catalyze in the next 1-3 years, it does not yet make sense to include SSM revenues in the EITI reporting, as these would be very minimal.

In the meantime, since the sector remains largely informal, with very minimal revenue collection, the MSG may consider including a contextual information only and subsequent updates on small-scale mining for EITI reporting in the immediate years. After the reforms and the formalization of the sector are achieved, that will bring about increase in revenue

collection, with Philippines EITI serving as a catalyst, only then may the MSG consider reporting the revenues from the sector

CHAPTER 7: Large-Scale Non-Metallic Mining in the Philippines: A Scoping Study

Large-Scale Non-Metallic Mining in the Philippines: A Scoping Study*

A. Introduction

In pursuit of its commitment to the Extractive Industries Transparency Initiative (EITI), the Philippines submitted its first EITI country report in December 2014. The value of the report to local stakeholders has been evident from the forums and consultation meetings that ensued following the publication of the report. One important concern that has been raised, however, is the need to include non-metallic mining in future EITI reports in order to provide a complete picture of the mining industry. It is observed, especially by some members of local communities, that a large percentage of non-metallic miners remain unregulated, thereby making it difficult for local government units to track the volume of production and payments made by this sector to the government.

To respond to this issue, the Philippines EITI Multi-Stakeholder Group (PH-EITI MSG) has agreed to include information on non-metallic mining in future EITI reports.

This study aims to provide contextual information on large-scale non-metallic mining with the objective of including this information in the 2015 EITI country report. Specifically, this provides the following information:

1. Legal and regulatory framework for large-scale non-metallic mining, including applicable laws and administrative issuances; as well as government agencies and other bodies mandated to regulate large-scale non-metallic mining and their specific roles.
2. Revenue streams and financial arrangements in the sector, including payment, collection, distribution, and expenditure.
3. List of all areas and companies in the country with large-scale non-metallic mining operations.
4. A discussion of three (3) areas hosting large-scale non-metallic mining operations, focusing on their respective situation (citing relevant local ordinances and contracts of selected companies), the problems and challenges in regulating operations, including problems in regulating compliance with ENR laws, monitoring environmental performance, and dynamics relating to socio-political issues, as well as recommendations to address the same.

* Prepared by Atty. Brenda Jay Angeles Mendoza for the Multi-Stakeholder Group, Extractive Industries Transparency Initiative (EITI) Philippines, December 2015.

B. Legal and Regulatory Framework

Applicable Laws and Regulations

Premised on the same provisions of the 1987 Constitution of the Republic of the Philippines,²⁵ the laws and regulations governing large-scale metallic mining also apply to large-scale non-metallic mining and quarrying. These laws and regulations are as follows:

1. *Republic Act (RA) No. 7942 (1995)*, otherwise known as the Philippine Mining Act of 1995, and its implementing rules and regulations
 - a. *Department of Environment and Natural Resources (DENR) Administrative Order (DAO) No. 2010-21*, or the Revised Implementing Rules and Regulations of RA 7942
2. *Executive Order (EO) No. 79 (2012)*, entitled “Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources”
 - a. *DAO 2012-07* on the implementing rules and regulations of EO 79
 - b. *DAO 2013-10* on increasing fees for mining applications
 - c. *DAO 2013-11* on the procedural guidelines in the filing and processing of applications for exploration permit pursuant to EO 79
3. *Executive Order No. 192 (1987)*, which provides for the reorganization of the Department of Environment, Energy, and Natural Resources, renaming it as the DENR
 - a. *DAO 2015-06*, providing for the revised organizational structure and functions of the Mines and Geosciences Bureau (MGB) pursuant to its approved rationalization plan
 - b. *DAO 2015-02* on the harmonization of the implementation of the Philippine Environmental Impact Statement (EIS) system and the Philippine Mining Act of 1995 in relation to mining projects
4. *Republic Act No. 7160*, otherwise known as the Local Government Code of 1991, which provides for the role of the local government units with respect to quarry and mineral resources.

²⁵CONST. Art. XII, Sections 2 and 3.

Considering that the legal framework for the mining industry has been extensively discussed in the 2014 EITI country report, this study will focus on the major distinctive features of the laws and regulations that are uniquely applicable to the large-scale non-metallic mining sector. However, in some instances, comparisons are inevitably made between the large-scale metallic and non-metallic mining sectors in order to highlight such distinctions.

Section 3 of RA 7942 distinguishes quarry resources from non-metallic minerals. A *quarry resource* refers to “any common rock or other mineral substances” declared as such by the MGB Director and which “do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities.” Examples of a quarry resource include andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clay, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic glass.

On the other hand, *non-metallic minerals* are those declared by the MGB Director to be “of economically workable quantities,” such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semi-precious stones, and other non-metallic minerals that may later be discovered and declared to be so.

For purposes of this study, *quarry resources* and *non-metallic minerals* are regarded as a single sector (separate only from the large-scale metallic mining industry and small-scale mining), unless a distinction needs to be made. It is so considered because available data, particularly from the DENR-MGB, do not disaggregate these resources; at the same time, the commodities being explored or developed by some companies involve both quarry resources and non-metallic minerals.

In allowing the exploration, development, and use of natural resources, including of quarry and non-metallic mineral resources, two constitutional rights are considered:

1. *Article XII, Section 5* on the protection of the rights of indigenous cultural communities to their ancestral lands to ensure their economic and social being; and
2. *Article II, Sections 16 and 15* on the protection and advancement of the people’s right to a healthful and balanced ecology and the promotion of the people’s right to health.

RA 7942 and DAO 2010-21 provide the allowable modes of exploration, development, utilization, transport, sale, and processing of large-scale non-metallic mining and quarry resources in the country. These are allowed through the issuance of an exploration permit, mineral agreement, special mines permit, foreign or technical assistance agreement, industrial sand and gravel permit, mineral processing permit, and ore transport permit.

1. *Exploration Permit.* This permit gives the right to explore minerals in specified areas.²⁶ The term of an exploration permit is two years, renewable for the same periods. However, the total period must not exceed a stipulated term. In the case of metallic minerals, the total term set by law is 6 years; while a total of 4 years is specified for non-metallic minerals. During this period, the permittee must be able to show, by filing a declaration of mining project feasibility, if mineral deposits economically and technically feasible for mining operations are present in the area. Otherwise, a further renewal of two years may be granted for the limited purpose of preparing or completing the feasibility studies, and filing the declaration of mining project feasibility and the pertinent mineral agreement application.

The law does not make a distinction with respect to the maximum areas for exploring metallic and non-metallic minerals.

2. *Mineral Agreement for Non-Metallic Minerals.* This grants to the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area.²⁷ This may be in the form of a mineral production-sharing agreement (MPSA), joint venture agreement, or co-production sharing agreement. Given for a term not exceeding 25 years, renewable for another 25 years, the maximum areas for non-metallic minerals are as follows:

	Individual	Corporation
Onshore, in any province	810 ha.	2,000 ha. per final mining area ²⁸
Onshore, in entire country	1,620 ha.	5,000 ha. per final mining area
Offshore, in entire country, beyond the 500 meters from the mean low tide level	4,050 ha.	40,500 ha. (if within the exclusive economic zone, larger area to be determined by the DENR Secretary)

A relatively larger maximum area of 5,000 ha. per final mining area is allowed for metallic minerals under this agreement when onshore mining is undertaken by a corporation in any province. In all other cases, the maximum areas for extracting metallic and non-metallic minerals under this agreement are the same.

The standard terms and conditions of a mineral agreement covering metallic or non-metallic minerals are also similar, except on two points:

²⁶ RA 7942, Chapter IV.

²⁷ RA 7942, Chapter V.

²⁸ Under RA 7942 and its implementing rules and regulations, a *final mining area* means the contract area or portion(s) thereof properly delineated and surveyed by the mining applicant/contractor for development and actual quarrying/mining operation, including sites for support/ancillary facilities.

First, on the full exploration period. A typical mineral agreement provides an exploration period of up to 2 years from date of issuance, renewable for similar periods. However, this should not exceed a total term of 6 years for non-metallic minerals or 8 years for metallic minerals exploration. Such renewal is also subject to the annual review and approval of the MGB Director. The exploration period may be further renewed by the MGB when it is verified that the contractor has substantially implemented its exploration and environmental work programs.

Second, on the relinquishment area. The agreement requires a stipulation that each mining area after relinquishment shall not be more than 5,000 ha. for metallic minerals and 2,000 ha. for non-metallic minerals. In both cases, the MGB Director, with the Secretary's approval may allow the contractor to hold a larger mining area depending upon the nature of the deposit and the contractor's technical or financial capability.

3. *Mineral Agreement for Large-Scale Quarry Operations.* This agreement may be entered into by the government and a qualified person for large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates.²⁹ The law explains that large-scale quarry operation, including sand and gravel operation, during the development, construction or operating period, involves a mechanized operation and a final mining area not exceeding the following for specific commodities:

	Individual	Corporation
Sand and gravel, including lahar	40 ha.	100 ha.
Marble, granite, construction aggregates	200 ha.	500 ha.
Cement raw materials (e.g., limestone, shale, and silica)	1,000 ha.	2,000 ha.

The law allows the filing of more than one final mining area in its applied area, but the aggregate of all final mining areas for all mineral agreements shall not exceed the maximum limits set by law for such agreements. For sand and gravel, specifically, each additional final mining area requires the approval by any two of the *Sanggunian* through a resolution. Further, the mineral agreements for sand and gravel/lahar deposits shall exclude the exploration period, in which case, the contractor shall immediately proceed to the development and operation periods.

However, the foregoing must be distinguished from the provisions allowing for the issuance of a quarry permit, which is issued by the provincial governor or city mayor for extracting quarry resources covering a smaller area of not more than 5 hectares,

²⁹ RA 7942, Sec. 43; DAO 2010-21, Chap. VIII.

with an annual production rate of not more than 50,000 tons, and/or project cost of not more than PHP10 million.³⁰

Large-scale quarry operations requiring a mineral agreement thus contemplate areas exceeding 5 hectares. And existing quarry permits at the effectivity of DAO 99-57 having a production rate of more than 50,000 tons every year and/or whose project cost is more than PHP10 million shall no longer be renewed. Instead, these will be given preferential right to apply for a mineral agreement.

In addition, the term for quarry permits is limited to just 5 years, which may be renewed for like period but not to exceed a total term of 25 years; whereas mineral agreements for large-scale quarrying cover a maximum term of 25 years, renewable for another 25 years.

The law finally provides that quarry permits are not allowed to be granted on areas covered by a mineral agreement, except only when the contractor has given its written consent.³¹

4. *Special Mines Permit.* This permit is given to a Mineral Agreement applicant which has been given an area status and clearance, a National Commission on Indigenous Peoples (NCIP) precondition certification, an endorsement from the concerned *Sanggunian*, and has no pending mining dispute or conflict before the Panel of Arbitrators or Mines Adjudication Board of the MGB.³² The permit is given for a period of one year, renewable once. Yet, it may be further renewed upon the approval of the DENR Secretary who takes into consideration the following: (a) nature of the deposit; (b) propriety of the mining operation; (c) environmental and community relations track record of the applicant; (d) faithful compliance with the terms and conditions of the permit; and (e) diligence of the applicant in pursuing the mineral agreement application.
5. *Financial or Technical Assistance Agreement (FTAA).* In general, an FTAA may be entered into for the exploration, development, and utilization of gold, copper, nickel, chromite, lead, zinc, and other minerals.

However, the law explicitly prohibits the granting of FTAA's with respect to cement raw materials, marble, granite, sand and gravel, and construction aggregates.³³

As the prohibition enumerates specific materials or commodities, it may be stated that other non-metallic minerals and quarry resources that are outside the purview of the prohibition may be the subject of an FTAA.

³⁰ RA 7942, Sec. 43; DAO 2010-21, Sec. 71.

³¹ *Id.*

³² DAO 2010-21, Sec. 48.

³³ *Id.* Sec. 50.

6. *Industrial Sand and Gravel Permit.* This pertains to the extraction, removal, and disposition of sand and gravel and other loose and unconsolidated materials that (a) necessitates the use of mechanical processing; and (b) covers more than 5 ha. but not exceeding 20 ha. at any one time.³⁴ The permit, issued by the MGB, has a term of 5 years, renewable for like periods but not to exceed a total term of 25 years.

Hence, if the area is not more than 5 ha., the application is no longer submitted to the MGB, but to the provincial governor or city mayor through the Provincial/City Mining Regulatory Board (PC/MRB).

7. *Mineral Processing Permit and Work Program for Contractors and Industrial Sand and Gravel Permit Holders.* In general, any person who intends to engage in processing minerals is required to obtain a mineral processing permit. Such permit lasts for a term of 5 years, renewable for like periods but not to exceed a total term of 25 years.

By way of exception, contractors and Industrial Sand and Gravel Permit holders with an approved Work Plan for the production period are no longer required to secure the processing permit. The law regards the approved Work Plan as a sufficient requirement for them to process their minerals in lieu of a processing permit.³⁵

The DENR Secretary has the overall authority to issue this permit. However, this authority may be delegated at the first instance depending on the project cost. The Secretary approves an application if the project cost is more than PHP500 million. If the project cost is within the range of PHP 200 million and PHP 500 million, the Secretary approves it through the MGB Director; and through the concerned regional director when the project cost is less than PHP200 million.³⁶

8. *Ore Transport Permit.* This permit is issued by the MGB regional director or his authorized representatives to all permit holders, contractors, accredited traders, retailers, processors and other mining rights holders for the transport of all minerals, mineral products, and by-products.³⁷

The transport of sand and gravel is required to be covered by a Delivery Receipt.

For MPSA and FTAA contractors, the ore transport permits are already issued under the pertinent agreement. The law merely requires that a written notice prior to shipment or transport of ores is given to the relevant MGB regional office. The purpose of such notice is to enable the government to monitor mining activities in the contract area.

³⁴ RA 7942, Sec. 47 and DAO 2010-21, Sec. 72b.

³⁵ DAO 2010-21, Sec. 109.

³⁶ Id. Sec. 111.

³⁷ Id. Sec. 116.

It bears to note that Exec. Order No. 79 (2012) has imposed a moratorium on the grant of new mineral agreements pending the passage of a legislation rationalizing mining revenue sharing schemes and mechanisms.³⁸ The moratorium, however, does not include expansion of existing contract areas that do not exceed the maximum area per province as set forth under RA 7942, as well as the grant and issuance of exploration permits and other forms of mining permit.³⁹

Finally, within the context of the provisions of the law on exclusive sand and gravel permit,⁴⁰ a mineral agreement or FTAA contractor has the right to extract and remove sand and gravel and other loose and unconsolidated materials without need of this permit within the area covered by its agreement. The extraction referred to in this case, however, is meant for the exclusive use of the materials in the mining operations and not for commercial disposition. Such right is also coterminous with the expiration of the mineral agreement or FTAA.⁴¹

Government and other bodies mandated to regulate large-scale non-metallic mining & quarry resources

The Department of Environment and Natural Resources (DENR) is the primary government agency that is mandated to conserve, manage, develop, and use the country's natural resources.⁴² At the same time, it is also in charge with the licensing and regulation of natural resources exploration, development, and utilization. The DENR Secretary promulgates relevant rules, regulations, and other issuances to carry out its mandate.⁴³

Among the various bureaus and offices of the DENR, the Mines and Geosciences Bureau (MGB) is tasked with the administration and disposition of mineral lands and mineral resources, including of non-metallic minerals and quarry resources. In 1995, with the passage of the Mining Act, MGB became a line bureau, effectively having the power to directly implement mining-related programs of the DENR. The MGB Director now exercises direct supervision and control over all its units, including its regional offices, establishes policies and standards for its operations, and promulgates rules and regulations needed to perform its functions.⁴⁴

³⁸ EO 79 (2012), Sec. 4.

³⁹ DAO 2012-07, Sec. 7.

⁴⁰ RA 7942, Sec. 48 and DAO 2010-21, Sec. 71 (c). An exclusive sand and gravel permit is issued by the provincial government when the extraction is for the permittee's own use only and not for commercial disposition.

⁴¹ Id.

⁴² EO 192 (1987).

⁴³ Id. Sec. 4 and Sec. 7 (c).

⁴⁴ Id. Also, Rep. Act No, 7942 (1995).

DENR Secretary	MGB Director	MGB Regional Office/Director
Enter into mineral agreements on behalf of the government	Recommend approval of mineral agreements to the Secretary	Receive all proposed mineral agreements, filed with its office
Promulgate rules and regulations to implement RA 7942	Monitor compliance of contractor of terms and conditions of mineral agreement	
Delegate such authority to the MGB Director	Deputize, when necessary, any member of the Philippine National Police, NGOs, to police mining activities	
Charge reasonable filing fees and other charges		
Ensure that environmental standards in mining are enforced		

Within the DENR lies another bureau, the Environmental Management Bureau (EMB), which administers all activities related to preventing or controlling pollution as well as managing the environment, including of the Philippine Environmental Impact Statement (EIS) System.⁴⁵ Large-scale mining, metallic or otherwise, is considered an environmentally critical project and thus covered by the Philippine EIS system.

In order to clarify the authority of the MGB and EMB in regulating large-scale metallic and non-metallic mining, particularly concerning the environmental aspects of its activities, DAO 2012-07 and DAO 2015-02 were issued. In essence, the following regulatory tasks were delineated:⁴⁶

⁴⁵ PD 1586 (1978), which establishes the Philippine EIS system (PEISS), requires proponents of environmentally critical projects and projects within critical areas to secure an environmental compliance certificate (ECC) from the DENR.

⁴⁶ DAO 2012-07 and DAO 2015-02.

MGB Director/Regional Office	EMB Director/Order
<ul style="list-style-type: none"> Require contractors to undertake remediation for affected areas, including communities involved 	<ul style="list-style-type: none"> Enforce in mining projects different environmental laws, rules and regulations, esp. the PEISS as provided under PD 1586, RA 6969, RA 9275, and RA 8749⁴⁷
<ul style="list-style-type: none"> Issue suspension order for a mining operation, in cases of illegal mining, exploration, and transport of minerals, imminent danger to life/property due to mine accidents and incidents 	<ul style="list-style-type: none"> Issue notices of violations (NOV) and cease-and-desist orders (CDO), and impose fines and penalties upon proponent’s violation of its ECC, PD 1586, DAO 2003-30, and other environmental laws.⁴⁸

Similar to the metallic mining industry, the large-scale non-metallic mining sector is also regulated by other government agencies. These agencies, along with their respective mandate and roles, are described in the following table:

Agency	Mandate	Role	Basis
DENR-MGB	Promulgate rules and regulations pertaining to mineral resources exploration, development, and utilization.	<p>Collect payment of royalty in mineral reservations⁴⁹</p> <p>Allocate 10% share of all royalties and revenues derived from the development and utilization of the mineral resources within mineral reservations to special projects and administrative expenses related to the exploration and development of other mineral reservations.</p> <p>Collect annual occupation fees from contractor or permit holder on</p>	Exec. Order No. 192 (1987); Rep. Act No. 7942 (1995); DAO 2010-21

⁴⁷ RA 6969 or the Toxic Substances and Hazardous Wastes Act; RA 9275 or the Clean Water Act; and RA 8749 or the Clean Air Act.

⁴⁸ This refers to the Philippine EIS system and its implementing rules and regulations.

⁴⁹ “Mineral reservations” are areas established and proclaimed as such by the President of the Philippines upon the recommendation of the MGB Director through the DENR Secretary, including all submerged lands within the contiguous zone and Exclusive Economic Zone. [Sec. 5 (bg), DAO 2010-21]

		public or private lands.	
DOF	Manage the financial resources of the government	<p>Institutionalize and administer fiscal policies in coordination with other government agencies.</p> <p>Generate and manage the financial resources of the government.</p> <p>Supervise the revenue operations of all LGUs.</p> <p>The DOF Secretary, in consultation with the DBM Secretary: promulgate the necessary rules and regulations for a simplified disbursement scheme for the speedy and effective enforcement of the internal revenue allotment provisions of the Code.</p>	<p>Exec. Order No. 292 (1987)</p> <p>Rep. Act No. 7160 (1991), Section 288</p>
DOF-BIR	Assess and collect all national internal revenue taxes, fees, and charges; enforce all related forfeitures, penalties, and fines, including execution of judgments in cases decided in its favor by the Court of Tax Appeals and ordinary courts.	<p>Obtain information from any person or entity other than the person whose tax liability is subject to audit or investigation, summon any person, examine any data relevant to the inquiry, and take testimony of persons in ascertaining the correctness of any return, or in making a return, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance.</p> <p>Make assessments of correct amount of tax due and prescribe additional requirements for tax</p>	<p>National Internal Revenue Code of 1997, Sections 5, 6, 19, 20</p>

		<p>administration and enforcement.</p> <p>Conduct inventory of goods to determine tax liability and place business under surveillance if with reason to believe that income, sale, or receipt is not correctly declared for tax purposes.</p> <p>Prepare an annual report containing detailed statement of the collection of the BIR and specifying sources of revenue by type of tax, manner of payment, by revenue region and by industry group and its disbursement by classes of expenditures.</p> <p>Notwithstanding Section 270 of the Code (on confidentiality of tax information), upon request of Congress and in aid of legislation, furnish the appropriate Committee pertinent industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns. Provided that, if the return information can be associated with or identify a particular taxpayer, the information shall be furnished only to the Committee when sitting in an executive session, unless taxpayer otherwise consents in writing in such disclosure.</p>	
DOF-BOC	Collect customs duties, taxes, and corresponding fees, charges, and penalties, account for all customs	<i>Its Collection Districts</i> are tasked to:	Exec. Order No. 127 (1987), Sections 33,

	<p>revenues collected, exercise police authority for the enforcement of tariff and customs laws, prevent and suppress smuggling, pilferage and all other economic frauds within all ports of entry, supervise and control exports, imports, foreign mails and clearance of vessels and aircrafts in all ports of entry administering all appropriate legal requirements, prevent and prosecute smuggling and other illegal activities in ports under its jurisdiction, exercise supervision and control over its constituent units.</p>	<p>Collect duties, taxes, fees, charges, penalties and fines accruing to the Government under the Tariff and Customs Code and related laws.</p> <p>Exercise police powers conferred by the Code which include enforcement of penalties and fines.</p> <p>Examine goods, assess duties, fees, charges, penalties, and fines accruing to the Government under the Code.</p> <p>Its <i>Customs Revenue Collection Monitoring Group</i> is tasked to:</p> <p>Maintain an updated accounting of all Customs revenues collected;</p> <p>Provide the Commissioner with accurate and timely information and analysis of collection statistics.</p>	<p>36, 37</p>
<p>DOTC-PPA⁵⁰</p>	<p>Establish, develop, regulate, manage, and operate a rationalized national port system in support of trade and national development.</p>	<p>Collect all dues, fees, and rates collectible under Title VII but excluding Part VII of the Tariff and Customs Code, as amended, regardless of the port or place of call of the vessel, whether government or private port.⁵¹</p>	<p>Exec. Order No. 513 (1978), which amended Pres. Decree No. 857 (1975), Sections 8 and 9.</p>

⁵⁰ Department of Transportation and Communications – Philippine Ports Authority.

⁵¹ Title VII, Parts I-VI of the Code deals with harbor fees, wharfage due, berthing charge, storage charge, arrastre charge, and tonnage due. This modified and amended the provisions of the Tariff and Customs Code to the extent that all the powers, duties, and jurisdiction of the Bureau of Customs concerning these matters were transferred to and vested with the PPA.

		<p>Supervise, control and regulate all matters and affairs pertaining to the operation of and issuance of permits or licenses to construct ports, port facilities, warehouses, and other facilities within port districts.</p> <p>Exercise all powers pertaining to all matters concerning port facilities, port operations or port works.</p> <p>Exact reasonable administrative fines in specific amounts for specific violations arising out of the use of the port.</p> <p><i>Note:</i> all revenues of the PPA generated from the administration of its port or port-oriented services and from whatever sources shall be used exclusively for the operations of the PPA, as well as for the maintenance, improvement, and development of its port facilities, upon approval of the PPA Board of Directors of its budget requirements, as exemption to PD 1234 and the budgetary processes in PD 1177, as amended.</p>	<p>Exec. Order No. 159, as amended (1987)</p>
<p>DTI-BOI⁵²</p>	<p>Regulate and promote investments in the country</p>	<p>Prepare investments priority plan (IPP), promulgate rules and regulations to implement law, approve applications for registration (including refund and limit of incentives), inspect books</p>	<p>Exec. Order No. 226 (1987), Chap. III</p>

⁵² Department of Trade and Industry – Board of Investments.

		and compliance, cancel or suspend enjoyment of incentives, regulate investment/doing of business by foreigners/business organizations owned in whole or in part by foreigners	
NCIP	Formulate and implement policies, plans, and programs to promote and protect the rights and well-being of the indigenous peoples and indigenous cultural communities (IPs/ICCs), including recognition of their ancestral domain as and rights thereto.	<p>Through its Ancestral Domains Office, issue, upon the free and prior informed consent (FPIC) of the ICCs/IPs concerned, appropriate certification prior to any grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs.⁵³</p> <p>Promulgate rules and regulations to implement the provisions of the law.</p> <p>Register the indigenous people’s organization that will be authorized to receive and manage the royalties.</p> <p>Give its concurrence to the release of royalties to the IP organization or its trustee bank to check on the use of the funds.</p> <p>Direct financial and management audits of IP organizations managing its royalties and other benefits, or exercise visitorial</p>	<p>Rep. Act No. 8371 (1997), Sections 44, 46</p> <p>NCIP Admin. Order No. 3 (2012), Part VIII</p>

⁵³ The phrase *free and prior informed consent* is defined under the Act as the “consensus of all members of the ICCs/IPs, to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.”

		powers as provided for by law.	
LGUs	<p>Exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the Local Government Code, consistent with the basic policy of local autonomy.</p> <p>Exercise its right to receive a just share in the national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, and to share the same with their inhabitants by way of direct benefits.</p>	<p>Through an appropriate ordinance, impose tax, fee, or charge or generate revenue under the Local Government Code.</p> <p>Collect local taxes, fees, and charges (to be done by its city, municipal, or barangay treasurer, or their duly authorized deputies)⁵⁴</p> <p>Observe process for the approval of local tax ordinances and revenue measures, and conduct public hearings prior to its enactment.</p> <p>Publish all local tax ordinances or revenue measures in full for 3 consecutive days in a newspaper of local circulation, or if no such local newspaper, post the same in at least two conspicuous and publicly accessible places.</p> <p>Furnish all tax ordinances and revenue measures to their respective local treasurers for public dissemination.</p> <p><i>Note:</i> Revenue collected shall inure solely to the benefit of, and subject to the disposition by, the LGU levying the tax, fee, charge or other imposition, unless otherwise</p>	<p>Rep. Act No. 7160 (1991), Sections 129, 130, 132, 170, 186, 188, 189; Sections 3, 18</p> <p>Rep. Act No. 7160, Title III, Chapters I-II,</p>

⁵⁴ Sections 133 – 141 of the Local Government Code of 1991 provides the scope of and limitations to the local taxing authority of the LGUs.

		specifically provided. Receive their share in the national internal revenue taxes (IRA) and in the proceeds from the development and utilization of national wealth, and share the same with the local inhabitants by way of direct benefits.	
--	--	--	--

C. Revenue Streams and Financial Arrangements

Context for the Large-Scale Non-Metallic Mining Sector (Focus on the Cement Industry)

While the applicable laws and regulations for the metallic mining sector are similar to those that govern the large-scale non-metallic sector, it is observed that the latter, the cement industry in particular, has effectively distanced itself from the former. This observation can be gleaned from the annual industry reports of the cement industry and the country's investment priorities plan.⁵⁵

The Cement Manufacturers' Association of the Philippines (CeMAP) has successfully urged the government to see its industry in a different light. According to its 2012 annual report, the industry's exemption from the general provisions of EO 79, which imposed a moratorium on new mining agreements until a new mining revenue legislation is passed, was attributed to its ability "to identify the difference between metallic and non-metallic mining, as well as the strategic importance of cement for the government's critical infrastructure programs."⁵⁶ It has also claimed success in identifying strategic industries that were qualified to receive Board of Investments (BOI) incentives in 2013, with cement qualifying as a strategic industry.⁵⁷ The association finally noted its success in convincing the government to exempt non-metallic mining (including cement) from proposed tax increases.⁵⁸

The Investments Priority Plan (IPP) 2014-2016 regards the cement industry as "an industry with strong backward (mining and quarrying) and forward linkages (construction sector)."⁵⁹ It is viewed to be a promising industry, given that the increase in infrastructure improvements necessarily triggers an increase in the demand for cement, even beyond

⁵⁵ See, for example, the Investment Priorities Plan (IPP) (2014-2016) and the Cement Manufacturers Association of the Philippines (CeMAP) Annual Industry Reports (2012 and 2013).

⁵⁶ CeMAP Annual Industry Report (2012).

⁵⁷ Id.

⁵⁸ CeMAP Annual Industry Report (2013).

⁵⁹ IPP, 2014-2016.

2016. Cement plants around the country are also widely considered as a major source of livelihood and employment in communities.⁶⁰

It is within this context that the existing revenue and financial schemes equally applicable to the metallic and non-metallic mining industry should be explained. It is also within this context that the policy changes being proposed by the large-scale non-metallic mining sector (including cement) should be understood.

Payments to the National Government

Large-scale non-metallic mining companies are required to make the following payments to the national government:

1. *Income Tax.* This is paid by domestic corporations at the rate of 30% upon taxable income derived during each taxable year from all sources within and outside the Philippines; foreign corporations pay the same rate upon taxable income derived from all sources within the country.⁶¹

Based on the Mining Act, these taxes are paid after the lapse of the income tax holiday (ITH) as provided for in the Omnibus Investments Code.⁶² However, the ITH granted to mining companies has been suspended by the BOI in 2012.⁶³

In the 2013 IPP, the incentives for the exploration and development of mineral resources, mining or quarrying, and the processing of metallic and non-metallic minerals did not include ITH and were limited to the zero-duty on import of capital equipment, spare parts & accessories by BOI-registered enterprises.⁶⁴ Similarly, in the 2014-2016 IPP, mining or quarrying and mineral processing projects were given capital equipment incentives only.⁶⁵

The position of the non-metallic mining industry (cement) to be granted the ITH is premised on the following parameters used by the BOI in granting incentives and priority to projects that bring substantial benefits to the economy: (a) project's net value added; (b) job generation; (c) multiplier effect; and (d) measured capacity.⁶⁶

⁶⁰ Id.

⁶¹ Beginning in 2000, the President upon the recommendation of the Finance Secretary may allow corporations the option to be taxed at 15% of gross income after satisfaction of certain conditions. Rep. Act No. 9337 (2005); Rep. Act No. 8424 (1997), Secs. 27 and 28, as amended by Rep. Act No. 9337 (2005).

⁶² Rep. Act No. 7942, (1995), Sec. 83; DENR Admin. Order No. 2010-21, Sec. 217.

⁶³ K. Manlupig, *Mining income tax holiday suspended – BOI Chief*. Rappler. Sept. 17, 2012. <http://www.rappler.com/business/special-report/whymining/whymining-latest-stories/12579-mining-income-tax-holiday-suspended-boi-chief> Accessed: 5 November 2015.

⁶⁴ 2013 Investment Priorities Plan.

⁶⁵ 2014-2016 Investment Priorities Plan.

⁶⁶ Id.

2. *Excise Tax.* This refers to the tax on goods manufactured or produced in the country for domestic sale or consumption or for any other disposition.⁶⁷ Specifically for mineral products involving non-metallic minerals and quarry resources, the tax is 2% based on:
 - a. actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or
 - b. value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation.⁶⁸

The same tax rate is imposed on metallic minerals. The only difference is that the law provides a separate schedule for importing copper and other metallic minerals, and for gold & chromite.⁶⁹

Mining companies are obliged to file a return and pay such excise tax within 15 days after the end of the calendar quarter when such products were removed, subject to conditions that may be prescribed by the Secretary of Finance, upon the recommendation of the BIR Commissioner.⁷⁰

It should be noted that the excise tax on mineral products is already the government share under an MPSA.⁷¹

3. *Mine Wastes and Tailings Fees.* This is paid semi-annually to the MGB based on the amount of mine waste and mill tailings that companies generate for the period. At present, this is pegged at PHP0.05/MT of mine waste produced and PHP0.10/MT of mill tailings generated.⁷² These fees may be increased by the DENR, upon the recommendation of the MGB Director, when public interest so requires.⁷³

The law, however, makes certain exceptions that may be relevant to the large-scale non-metallic mining sector. These are:

- a. when the mine waste and mill tailings are used, under certain conditions, as filling materials for underground or surface mine openings, engineered tailings, dams, roads, and housing areas; for concreting and manufacture of concrete products; or, are impounded for future use;

⁶⁷ RA 7942 (1995), Sec. 84; DAO 2010-21, Sec. 217 (b).

⁶⁸ RA 7229, amending Sec. 151 (e) of the National Internal Revenue Code.

⁶⁹ Id.

⁷⁰ RA 8424 (1997), Sec. 130.

⁷¹ RA 7942 (1995), Sec. 84; DAO 2010-21, Sec. 217 (b).

⁷² Id. Sec. 85; also, DAO 2010-21, Sec. 189-191.

⁷³ Id.

- b. when the mine waste and tailings disposal systems use zero-discharge of materials or effluent and/or with wastewater treatment plants consistent with DENR standards.⁷⁴

The fees collected accrues to a reserve fund and deposited in a government depository bank for the exclusive purpose of paying compensation for damages caused by the operations of the mine.⁷⁵The implementing rules, however, added that the reserve fund can also be used for duly approved research projects that are needed to further the objectives of the fees.⁷⁶

4. *Customs Duties and Fees.* These are paid on imported articles, upon each importation, even though previously exported from the country. For large-scale non-metallic mining companies, relevant customs duties on imported capital equipment vary depending on the article, such as whether these are chemicals, explosives, mechanical and electrical equipment, vehicles, aircraft or vessels.⁷⁷
5. *Value-Added Tax (VAT).* This tax is paid on every sale, barter or exchange of goods or properties, on the sale of services, and on the importation of goods in the country. The standard VAT rate is 12% of the gross selling price or gross receipts.⁷⁸
6. *Documentary Stamp Tax.* This is paid upon any document subject to tax under the Tax Code. Its rate also varies depending on the type of document.⁷⁹
7. *Capital Gains Tax.* A tax rate of 6% is paid by domestic corporations on gains presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in its business and are treated as capital assets, based on the real property's gross selling price or fair market value, whichever is higher.⁸⁰

All corporations also pay this tax upon the net capital gains realized from the sale, barter or exchange of shares of stock in a domestic corporation not traded through the local stock exchange. The rate is 5% if the net capital gains are not over PHP 100,000 and 10% on any amount in excess of PHP 100,000.⁸¹

⁷⁴Id., Sec. 190.

⁷⁵Id. Sec. 85. These damages refer to those that cause damage to personal lives and safety; lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and infrastructure and the re-vegetation and rehabilitation of silted farms and other areas devoted to agriculture and fishing caused by mining pollution.

⁷⁶DAO 2010-21 (2010), Sec. 189-190.

⁷⁷RA 1937, as amended.

⁷⁸RA 8424, as amended (1997), Sec. 106-108.

⁷⁹Id., Sec. 200 and Title VII.

⁸⁰Id., Sec. 27.

⁸¹Id., Sec. 27, Sec. 28 (7).

A return on capital gains tax from sale of shares of stock not traded in the local stock exchange must be filed within 30 days after each transaction and a final consolidated return of all transactions during the taxable year on or before the 15th day of the fourth month following the close of the taxable year.⁸²

8. *Harbor Fees, Wharfage Dues, Berthing Charge, Storage Charge, Arrastre Charge, Tonnage Dues.* These are paid on vessels and cargoes, regardless of the port or place of call of the vessel, whether on government or private port.⁸³
9. *Filing Fees and Other Charges.* The DENR Secretary is authorized by law to prescribe reasonable filing fees and other charges, which the implementing rules qualify as fees and charges for services rendered by the MGB and/or its Regional Offices.⁸⁴

In 2013, the DENR has increased the filing fees for the following applications:⁸⁵

Type of Permit/Agreement	Filing Fees
Exploration Permit	PHP300/ha but not less than PHP200,000/application
Mineral Agreement	PHP300/ha but not less than PHP300,000/application
FTAA	PHP300/ha but not less than PHP500,00/application

The DENR has also imposed the payment of clearance fees if the proposed contract area is open for mining applications; and processing fees for the issuance of a Certificate of Environmental Management and Community Relations Record (CEMCRR).⁸⁶

In addition, the DENR charges administrative fees on documents relating to applications for mineral agreements, FTAA's, and exploration permits, among others. These are required to be paid before any such documents can be registered.⁸⁷

The DENR also charges fees for the performance or accomplishment of the following work or service by the MGB and/or its regional offices for interested parties:⁸⁸

- a. Surveys of mining claims and other mineral lands, etc.
- b. Office and field investigations of conflicting mining locations

⁸²Id., Sec. 52.

⁸³Tariff and Customs Code, Sec. 2800-3202.

⁸⁴ RA 7942 (1995), Sec. 89; DAO 2010-21 (2010), Sec. 221.

⁸⁵ DAO 2013-10. Prior to this, the filing fees for an exploration permit and mineral agreement is PHP 60/ha. or PHP50,000 per application; for FTAA, the fee is PHP 60/ha or PHP 100,000 for every application.

⁸⁶ DAO 2010-21 (2010), Secs. 37,167-A.

⁸⁷ Id. Sec. 263.

⁸⁸ Id. Sec. 252-260.

- c. Geological, geophysical and geochemical surveys
- d. Investigate mineral discoveries and locations, exploration & development work
- e. Drafting or projection work
- f. Blue/white prints of survey/sketch plans
- g. Other work and services to interested parties as may be requested and within the scope of the functions of the MGB

The payments collected from the foregoing accrue to a Mines Survey & Investigation and Monitoring Fund.⁸⁹

Payments made by large-scale non-metallic mining companies to the national government are summarized below:

Type of Payment	Collecting Agency	Rate
Corporate income tax	BIR	30% of taxable income
Excise tax	BIR	2% on actual market value of gross output at time of removal
Mine wastes and tailings fee	MGB	P0.05/MT of mine wastes and P0.10/MT of mine tailings generated from mining operations
Customs duties and fees	BOC	Rate depends on type of article
Value-added tax	BIR	12% of gross selling price or gross receipts
Documentary stamp tax	BIR	Rate depends on type of transaction
Capital gains tax	BIR	6% of gross selling price or fair market value of real property, whichever is higher (domestic corporations) 5-10% of value of shares (all corporations)
Harbor fees, wharfage dues, berthing charge, storage charge, arrastre charge, tonnage dues	PPA	Rate varies
Filing fees and other charges	DENR-MGB	Rate varies

⁸⁹ Id. Sec. 253.

Payments to the Local Government Units

Apart from the payments made to the national government, large-scale non-metallic mining companies also need to consider the payments required under the Local Government Code of 1991 and those that may be imposed by the concerned LGU in the exercise of its revenue-raising power.

1. *Local Business Tax.* This tax is paid to the municipal government for the conduct of one's business either as manufacturers, processors, wholesalers, distributors, dealers, exporters, millers, producers, or retailers of any article of commerce of whatever kind or nature. The tax amount is based on a schedule that pegs the rate on the gross sales or receipts for the preceding calendar year.⁹⁰

However, a lower tax amount not exceeding ½ of the rates generally prescribed is imposed on exporters, manufacturers, millers, producers, wholesalers, distributors, dealers, or retailers of *essential commodities*.⁹¹

Under the law, cement is considered an essential commodity along with rice and corn; most agricultural, marine and freshwater products; cooking oil and cooking gas; laundry soap, detergents, and medicine; agricultural implements, equipment and post-harvest facilities, fertilizers, insecticides, herbicides, and their farm inputs; poultry feeds and other animal feeds; and school supplies.⁹²

2. *Real Property Tax.* This is an annual ad valorem tax paid on real property (land, building, machinery, and other improvements), which should not exceed 1% and 2% of the assessed value of the property in case of a province and of a city or municipality, respectively.⁹³

It should be noted that the law provides for certain exemptions from the payment of real property tax.⁹⁴ One exemption that may be relevant to large-scale non-metallic mining is when the real property is owned by a duly registered cooperative provided under RA 6938, otherwise known as the Cooperative Code of the Philippines.⁹⁵

3. *Occupation Fees.* This tax is paid on public or private land. The amount of fees to be paid yearly depends on the type of agreement or contract and whether the land is within or outside mineral reservations.⁹⁶ The amount may be increased by the DENR

⁹⁰ RA 7160 (1991), Sec. 143.

⁹¹ Id.

⁹² Id.

⁹³ Id., Sec. 232-233.

⁹⁴ Id.

⁹⁵ Id. This is cited based on a consideration of the current profile or list of companies engaged in large-scale non-metallic mining and quarrying.

⁹⁶ For areas outside mineral reservation, the occupation fee for an exploration permit is PHP10 per hectare or a fraction thereof per year; for mineral agreements and FTAA, PHP50 per hectare or a fraction thereof per year. In areas inside mineral reservation, regardless of the type of mineral agreement, the amount of the occupation fee is PHP100 per hectare or a fraction thereof per annum. (DAO 2010-21, Sec. 218)

Secretary, upon the recommendation of the MGB Director, when national interest and public welfare so require.

The fees are paid on the date that the mining agreement has been registered and on the same date every year after to the municipal or city treasurer where the onshore mining areas are located, or to the MGB director for offshore mining areas. Should the fees remain unpaid on the specified date, the amount of occupation fees shall be increased by 25%.⁹⁷

The law mandates that the proceeds from the collection of occupation fees accrue to the concerned LGUs. Of the total occupation fees collected from contractors in onshore mining areas, 30% must be allocated to the province, and 70% to the municipality in which the mining areas is located. In a chartered city, the full amount accrues to the city concerned.⁹⁸

4. *Community Tax.* This tax is paid regardless of the nature of the organization and manner of its organization in the place where its principal office is located. This consists of an annual community tax of PHP500 and an annual additional tax set forth in a schedule.⁹⁹
5. *Toll fees or Charges.* These fees or charges are paid when the concerned LGU prescribes the terms and conditions for the use of any public road, pier, or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the LGU.¹⁰⁰
6. *Other Local Taxes.* These are paid to the concerned LGU when it exercises its power to impose a tax, fee, or charge or to generate revenue through a local ordinance, including fees and charges for services rendered.¹⁰¹ The extent of the LGUs' local taxing powers is however limited by *Section 133* of the Code.¹⁰²

Expenditures

Large-scale non-metallic mining companies are required by law to allocate funds to be spent for specific purposes, such as for local community development or environmental management. These expenditures do not directly go to the coffers of the national or local government, but are reported to it to ensure that companies allocate these for the benefit of those that may be affected by their operations.

⁹⁷ RA 7942 (1995), Secs. 86-87.

⁹⁸Id., Sec. 88.

⁹⁹ RA 7160 (1991), Sec. 158.

¹⁰⁰ Id., Sec. 155.

¹⁰¹ Id., Secs. 132, 147, and 153.

¹⁰² The local tax authority of LGUs does not extend to the levy of certain taxes, e.g., income tax, documentary stamp tax, estate and inheritance tax, customs duties, taxes, fees or charges on goods carried into or passing through territorial jurisdiction of LGUs in the guise of toll fees or charges for wharfage dues, taxes on certified pioneer or non-pioneer business enterprises, excise taxes, VAT, etc.

1. *Expenditures for the Development of Mining Communities, Mining Technology, and Geosciences.* These expenditures are meant to develop mining communities, promote the general welfare of its inhabitants, and to develop science and mining technology.¹⁰³

Operating mines are required to allot every year a minimum of 1.50% of the operating costs needed to implement their respective *Social Development and Management Program (SDMP)*.¹⁰⁴ Of this amount, 1.125% (75% of 1.50%) shall be allocated for the development of host and neighboring communities; 0.150% (10% of 1.50%) for the development of mining technology and geosciences; and 0.225% (15% of 1.50%) for the implementation of information, education, and communication (IEC) programs.¹⁰⁵

For new mining operations, the initial SDMP shall be based on the operating cost estimates found in the approved mining project feasibility study.¹⁰⁶

On the other hand, holders of an exploration permit, or mineral agreement or FTAA in the exploration stage, are not required to set up an SDMP. Instead, the permit holder or contractor is required to develop and implement a Community Development Program (CDP), which is supported by funds equivalent to a minimum of 10% of the budget of the approved Exploration Work Program. The CDP is also developed in consultation and in partnership with the host communities within the area subject of active exploration and may include the foregoing activities.¹⁰⁷

It should be emphasized that these expenditures should not be credited to the royalty payment for IP/ICCs.¹⁰⁸

¹⁰³ RA 7942 (1995) Sec. 57.

¹⁰⁴ SDMP is defined in the implementing rules as “a comprehensive 5-year plan towards the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects and activities in a manner consistent with the principle of people empowerment.

¹⁰⁵ DAO 2010-21 (2010), Sec. 134. “Operating cost” under this provision refers to the “specific costs of producing a saleable product on a commercial scale incurred in the calculation of the net income before tax, as confirmed by the Bureau/Regional Office. This shall include costs and expenditures related to mining/extraction and treatment/processing (inclusive of depreciation, depletion, and amortization), exploration activities during operation stage, power, maintenance, administration, excise tax, royalties, transport and marketing, and annual progressive/environmental management.”

¹⁰⁶ Id., Sec. 134.

¹⁰⁷ Id., Sec. 136-A.

¹⁰⁸ Id.

2. *Expenditures for the Protection, Management, and Rehabilitation of the Environment.*¹⁰⁹

- a. *Environmental Protection and Enhancement Program/Annual Environmental Protection and Enhancement Program (EPEP/AEPEP).* This expenditure enables the mining contractor to undertake an environmental protection and enhancement program during the period of the mineral agreement of permit. The EPEP is part of the environmental work program (EWP) that is submitted to the DENR as part of a company's application for a mineral agreement or permit.

For a company's initial environment-related capital expenditures, the contractor is required to allocate an approximate amount of 10% of the total capital/project cost or such other amount depending on the environmental orgeological condition, nature and scale of operations, and technology employed.¹¹⁰

For its annual environment-related expense, a percentage based on the AEPEP is allocated which may approximate a minimum of 3-5% of its direct mining and milling costs depending on the environment/geologic condition, nature and scale of operations and technology employed.¹¹¹

Direct milling costs generally refer to "expenditures and expenses directly incurred in the mechanical and physical processing and/or chemical separation of the ore from the waste to produce marketable mineral products."¹¹² However, for *cement plant operations*, the implementing rules qualify that these are limited only to "expenditures and expenses directly incurred from raw materials crushing and grinding up to ground raw meal homogenizing, prior to clinker manufacturing."¹¹³

- b. *Environmental Work Program (EWP) during exploration.* This is required for exploration permits as well as mineral agreements and FTAAs that will go through exploration activities. The EWP details the environmental impact control and rehabilitation activities proposed during exploratory period, including the costs needed to enable sufficient financial resources to be allocated to meet the environmental and rehabilitation commitments.¹¹⁴

¹⁰⁹ RA 7942, Chapter XI.

¹¹⁰ DAO 2010-21 (2010), Sec. 169. Initial environment-related capital expenditures may include environmental studies and design cost, waste area preparation, tailings/slime containment/disposal system, mine waste disposal system, wastewater/acid mine drainage treatment plants, dust control equipment, air pollution control facilities, drainage system and other environment-related mitigating measures and capital expenditures.

¹¹¹ *Id.*, Sec. 171.

¹¹² *Id.*, Sec. 5(u).

¹¹³ *Id.*

¹¹⁴ DAO 2010-21 (2010), Sec. 168; MGB Form No. 16-1 or 16-1A.

- c. *Contingent Liability and Rehabilitation Fund (CLRF)*. The law requires mining companies to technically and biologically rehabilitate excavated, mined-out, tailings covered, and disturbed areas to the condition of environmental safety. For this purpose, contractors are obligated to create this fund to implement physical and social rehabilitation of areas and communities affected by mining activities; and (b) to research on the social, technical and preventive aspects of rehabilitation.

The CLRF, a collective term for all environmental guarantee fund (EGF) mechanisms allocated for this purpose, is based on the contractor's approved work program and is deposited as a trust fund in a government depository. It takes the following forms:¹¹⁵

- (1) *Mine Rehabilitation Fund (MRF)*. This is in the form of a *Monitoring Trust Fund (MTF)* that is used exclusively to implement a monitoring program approved by the MRF Committee; and *Rehabilitation Cash Fund (RCF)* which is used to ensure compliance with the approved rehabilitation activities.¹¹⁶

The amount of the MTF is determined by the MRF Committee, which shall not be less than the amount of PHP 150,000. The RCF, on the other hand, is equivalent to 10% of the total amount needed to implement the EPEP or PHP5 million, whichever is lower.

- (2) *Final Mine Rehabilitation and Decommissioning Fund (FMRDF)*. This fund ensures that the full cost of the approved Final Mine Rehabilitation and Decommissioning Plan (FMRDP) or mine closure plan is accrued before the end of the operating life of the mine. This is estimated based on the costs of having such rehabilitation and decommissioning work done by third party contractors, on an annual basis.¹¹⁷
- (3) *Expenditures for the Socio-Economic Well-Being of Indigenous Peoples/Indigenous Cultural Communities (IP/ICC)*. Also known as *royalty payments to the IP/ICC*, these are provided to the concerned IP/ICC when they have agreed, through the FPIC process, that their ancestral land may be opened for mining operations.¹¹⁸ The royalty, made upon the use of the minerals within ancestral lands, is construed as a trust fund for the socio-economic well-being of the IP/ICC community.

¹¹⁵ Id., Chapter XVIII.

¹¹⁶ Id., Sec. 181.

¹¹⁷ DAO 2010-21 (2010) Secs. 187, 187-B.

¹¹⁸ The National Commission on Indigenous Peoples (NCIP) regards the "royalties" not as an economic benefit due to the IP/ICC, but as a social justice measure. (NCIP Admin. Circular No. 3, series of 2012, Sec. 58)

The concerned IP/ICC is expected to manage and use the royalty payment.¹¹⁹

While subject to negotiations and consequent agreement between the concerned parties, the implementing rules state that such royalty payment must not be less than 1% of the gross output.¹²⁰ Expenses for community development may also be credited or charged against the said royalty.

Collection

The total share of the government in a Mineral Production Sharing Agreement (MPSA) is the excise tax on mineral products.¹²¹ With respect to other mineral agreements, the government's share is negotiated by the government and the contractor based on the following considerations: (a) project's capital investment; (b) risks involved; (c) its contribution to the economy; and (d) other factors that will provide for a fair and equitable sharing between the parties.¹²² The government further collects taxes, duties, and fees provided under existing laws.¹²³

In the case of FTAA, the government's share is also negotiated by the parties. In addition to the factors considered in other mineral agreements, the parties also take into account the technical complexity of the project in their negotiations. At the minimum, the government's share in FTAA consists of the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders, arising from dividend or interest payments to said foreign stockholders, in case of a foreign national, and such other taxes, duties, and fees provided under existing laws.¹²⁴

However, the collection of the government's share in FTAA commences after the contractor has fully recovered its pre-operating, exploration, and development expenses, inclusive. The recovery period, counted from the date of commencement of commercial operation, shall not exceed 5 years or at a date when the aggregate of the net cash flows from the operations is equal to the aggregate of its pre-operating expenses, whichever comes earlier. This period may be extended upon negotiation with the FTAA negotiation panel and subject to approval by the DENR Secretary in case of projects determined by the MGB as incurring huge investments with high production rate and extensive mine life. After the recovery period, additional government share shall be paid by the contractor pursuant to separate guidelines on the matter.¹²⁵

¹¹⁹ RA 7942 (1995), Secs. 16-17.

¹²⁰ DAO 2010-21 (2010), Sec. 16.

¹²¹ RA7942 (1995), Sec. 80, DAO 2010-21 (2010), Sec. 212; Rep. Act No. 7729, amending Sec. 151 (a) of the Tax Code.

¹²² Id. RA 7942, Sec. 81; DAO 2010-21 (2010), Sec. 213.

¹²³ Id.

¹²⁴ Id. RA 7942, Sec. 81, DAO 2010-21 (2010), Secs. 213 and 214.

¹²⁵ RA7942 (1995) sec, 81, DAO 2010-21 (2010) Sec. 214.

Notwithstanding the grant of incentives by other government agencies to mining contractors, the payment of the government share is expressly guaranteed.¹²⁶

In almost all the foregoing cases, the government share is paid to the nearest BIR office where the mining/contract area is located and in accordance with BIR rules and regulations.¹²⁷ The following table is a summary of the types of payments and the corresponding collecting agencies:

Type of Payment	Collecting Agency
Corporate Income Tax	BIR
Excise Tax	BIR
Mine Wastes and Tailings Fee	MGB
Customs Duties and Fees	BOC
Value-Added Tax	BIR
Documentary Stamp Tax	BIR
Capital Gains Tax	BIR
Harbor Fees, Wharfage Dues, Berthing Charges, Storage Charges, Tonnage Dues	PPA
Filing Fees and Other Charges	MGB

Distribution

The Local Government Code of 1991 provides the manner by which the government's share from the use and development of mineral resources is distributed. The Code ensures that such proceeds are equitably shared by the local government units (LGUs) within their respective areas. This also contemplates sharing the proceeds with their inhabitants by way of direct benefits.¹²⁸

The Code further provides that, LGUs have a 40% share of the gross collection by the national government from the preceding fiscal year from mining taxes, royalties, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the use and development of the national wealth within their territorial jurisdiction.

This 40% share is distributed as follows:¹²⁹

Location of natural resources	Province	City or Municipality	Barangay	Remarks
In the province	20%	45%	35%	

¹²⁶ DAO 2010-21 (2010), Secs. 38 and 52.

¹²⁷ Id., Sec. 216.

¹²⁸ RA 7942 (1995), Sec. 82; DAO 2010-21 (2010), Sec. 216; RA 7160, (1991) Sec. 289.

¹²⁹ Rep. Act No. 7160 (1991), Secs. 290 and 292.

In 2 or more provinces, or in 2 or more component cities or municipalities, or in 2 or more barangays				Shares computed according to population (70%) and land area (30%)
In highly urbanized or independent component city		65%	35%	
In 2 or more cities				Same formula as above

The Code further provides that this share shall be automatically released to each LGU, without need of any further action, directly to the provincial, city, municipal, or barangay treasurer, as the case may be, on a quarterly basis within 5 days after the end of each quarter. The national government is not allowed to subject such share to any lien or holdback.¹³⁰ A more detailed set of guidelines and procedures governing the release of LGU shares from collections derived by the national government from mining taxes was issued in 2009.¹³¹

Out of its share of the government’s proceeds from such national wealth use and development, LGUs are then directed to finance local development and livelihood projects.¹³²

Occupation fees, on the other hand, are distributed in the following manner: 30% of all such collections from mining rights holders in onshore mining area accrue to the province, while 70% to the municipality where the mining area is located. In a chartered city, the full amount of occupation fees accrues to the concerned city.¹³³

D. Areas and Companies with Large-Scale Non-Metallic Mining Operations

Profile of Areas and Companies with Large-Scale Non-Metallic Mining Operations

As of 30 June 2013, the government has issued 339 MPSA contracts covering over 602,000 ha. of both large-scale metallic and non-metallic mining/quarrying in the country.¹³⁴ Using the definitions for non-metallic minerals and quarry resources, the data was disaggregated to extract information on large-scale non-metallic mining operations.

¹³⁰ Id., Secs. 286 and 293.

¹³¹DOF-DBM-DILG-DENR Joint Circular No. 2009-1 (2009).

¹³² Id.,Sec. 294.

¹³³ RA 7160 (1991) Sec. 88.

¹³⁴ DENR-MGB, Mining Tenements Management Division, *Complete List of Existing Mineral Production Sharing Agreement (MPSA) as of June 30, 2013*.

Out of the total number of MPSAs in the country, 148 MPSAs covering approximately 130,000 ha. involve large-scale non-metallic mining/quarrying which are at different stages of mining development. Specifically:

Number of MPSA	Stage
75	Exploration
5	Development
53	Commercial operation
5	Exploration and commercial operation
1	Development and commercial operation
1	Partial development/commercial operation and partial exploration
5	For registration/not yet released or signed
3	Cancelled (but with pending Motion for Reconsideration or Appeal)
148 (Total)	

The commodities being explored or developed are mostly limestone and shale (including marble), clay, sand and gravel, aggregates, and dolomite.

With respect to the distribution of MPSAs across the country, Luzon has the largest number and size of MPSAs, with 84 MPSAs covering approximately 71,000 ha. of land. This is followed by Visayas (46 MPSAs with 42,000 ha.) and Mindanao (18 MPSA with 17,000 ha.), respectively.

Within Luzon, concentrations of large-scale non-metallic mining/quarrying areas in exploration, development, and commercial operations stages are found in Regions 1 (Ilocos Region), 3 (Central Luzon), and 4-A (CALABARZON), specifically in Pangasinan, Bulacan, and Riza provinces.

In the Visayas region, Region 7 (Central Visayas) hosts the most number of MPSAs, with the province Cebu as a dominant host. Cebu alone has 30 MPSAs that covers a little over 20,000 ha. Region 8 (Eastern Visayas), Northern Samar and Leyte in particular, follows in the list with 8 MPSAs covering approximately 16,000 ha.

While the number of operating large-scale non-metallic mines in Mindanao is relatively small (18 MPSAs with only 3,400 ha. in operation), a huge tract of land (97,000 ha.) is currently being explored.

In terms of entities that hold MPSAs for large-scale non-metallic mining/quarrying, this is predominantly held by corporate entities. However, it is noted that several individuals or groups of individuals (heirs of certain families) and a cooperative show as MPSA contractors.

Among the companies in the list, Holcim Philippines holds the most number of MPSAs throughout the country. It has a total of 17 MPSAs at varied stages of development: 5 in the Ilocos region, 3 in Central Luzon, 3 in Northern Mindanao, and 6 in Davao region. Other significant players in terms of number of MPSAs held include: Rapid City Realty and Development Corporation (9 MPSAs in Region 4-A); Apo Land and Quarry Corporation (8 MPSA in Region 7); Solid Earth Development Corporation (6 MPSAs in Region 7); and Teresa Marbles and Lafarge (3 MPSAs each in Region 4-A).

It is also important to provide a profile of the major cement plants in the country. As of February 2015, there are 16 cement plants nationwide: 9 in Luzon, 3 in the Visayas, and 4 in Mindanao. These are Holcim Philippines (La Union, Bulacan, Misamis Oriental, and Davao), Northern Cement Corporation (Pangasinan), Eagle Cement Corporation (Bulacan), Solid Cement Corporation (Rizal) (CEMEX Group), Apo Cement Corporation (Cebu) (CEMEX Group), Lafarge Republic, Inc. (Bulacan, Rizal, Batangas, Cebu, Iligan), Taiheyo Cement Philippines (Cebu), Goodfound Cement Corporation, Philippines (Albay), and Pacific Cement Philippines (Surigao del Norte).¹³⁵

Except for Eagle Cement and Goodfound Cement corporations, all the cement plant companies are members of the Cement Manufacturers' Association of the Philippines (CEMAP).¹³⁶ CEMAP is an association of cement manufacturers in the country which promotes the interests of its members in the aspects of producing high quality cement, developing products and cement-based products for consumers, ensuring a level playing field for manufacturers, leading in the implementation of sustainable development initiatives, providing source of data for its association members, government and non-government stakeholders, and in relating to the public in general.¹³⁷ CEMAP is currently led by its President, Dr. Ernesto Ordonez.

Based on available information, the non-metallic mining industry has a similar association to represent its interests – the Federation of Non-Metallic Association of the Philippines – which is headed by Mr. Rolando T. Angeles.

Efforts have been made to meet with and solicit information and feedback from the leadership of both CEMAP and the federation on the country's commitment to the EITI standards and its implications on the large-scale non-metallic mining industry. However, this has not yet materialized as of date of this report. Hence, it is strongly recommended that the PH-EITI-MSG directly communicate with and secure the commitment of the sector in order to provide more substantive and analytical content about this sector in future EITI country reports.

¹³⁵ MGB. Location Map of Cement Plants in the Philippines. February 2015.

¹³⁶ <http://cemap.org.ph/>. Website of the Cement Manufacturers' Association of the Philippines (CEMAP)

¹³⁷ Id.

ANNEXES

Annexes

Annex A: Detailed Tabulation of the EIS Review Result

EIA Report Requirements	AAM-PHIL Natural Resources Exploratio & Dev't. Corp.	Apex Minin g Co., Inc.	Bengue t Nickel Mines, Inc.	Beron g Nickel Corp.	Cagdiana o Mining Corp.	Carrasca l Nickel Corp	Citinicke l Mines & Dev't. Corp.	CTP Constructio n and Mining Corp. - Adlay	CTP Constructio n and Mining Corp. - Dahican	Eramen Minerals , Inc.	Filminera Resource s Corp.	Greenston e Resources Corp.	Hinatua n Mining Corp.	Leyte Ironsan d Corp.	LnL Archipelag o Minerals, Inc.
Executive Summary	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Description of EIA Process	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Project Description															
Location	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Project size and projected mine life	/	-	/	/	/	/	/	/	/	/	/	/	/	/	/
Rationale	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Alternatives	/	-	/	/	/	/	/	/	-	-	-	/	/	/	/
Project components	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Resource requirements	/	/	/	/	/	/	/	/	-	/	-	/	/	/	/
Project phases	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Estimate of waste generation from the most critical project activities and pollution control measures	/	/	/	-	/	/	/	/	-	-	-	/	/	/	/
Manpower complement	/	/	/	/	/	/	/	/	/	-	-	/	/	/	-
Project cost	/	/	/	/	/	/	/	-	/	/	-	/	/	/	/

Annexes

Baseline Environmental Description																
A. Land	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
B. Water	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
C. Air	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
D. People	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
															/	
Environmental Impact Assessment																
A. Land					/						/					
1. Exploration	/	-	-	/		/	/	/	/	-		/	/	-	/	
2. Construction/Development	/	/	/	/		/	/	/	/	/		/	/	/	/	
3. Operation	/	/	/	/		/	/	/	/	/		/	/	/	/	
4. Mine Closure	/	/	-	-		/	-	/	/	-		/	/	/	/	
B. Water					/						/					
1. Exploration	/	/	-	/		/	/	/	/	-		/	/	-	/	
2. Construction/Development	/	/	-	/		/	/	/	/	/		/	/	/	/	
3. Operation	/	/	/	/		/	/	/	/	/		/	/	/	/	
4. Mine Closure	/	-	-	/		/	-	/	/	-		/	/	/	/	
C. Air					/						/					
1. Exploration	/	-	-	/		/	/	/	/	-		-	-	-	/	
2. Construction/Development	/	/	-	/		/	/	/	/	/		/	/	/	/	
3. Operation	/	/	/	/		/	/	/	/	/		/	/	/	/	
4. Mine Closure	-	-	-	/		-	-	/	/	-		/	/	-	/	
D. People					/						/					
1. Exploration	/	-	-	/		/	-	/	/	-		/	/	/	/	

Annexes

2.	Construction/Development	/	/	-	/	/	-	/	/	-	/	/	/	/	
3.	Operation	/	/	/	/	/	-	/	/	/	/	/	/	/	
4.	Mine Closure	/	/	-	/	/	-	/	-	-	/	/	/	/	
Environmental Management Plan															
A. Impacts mitigation plan															
1.	Land				/	/									
a.	Exploration	/	-	-	/	/		/	/	-	-	/	/	-	/
b.	Construction/Development	/	/	/	/	/		/	/	/	/	/	/	/	
c.	Operation	/	/	/	/	/		/	/	/	/	/	/	/	
d.	Mine Closure	/	/	-	-	/		/	/	-	/	/	/	/	
2.	Water				/	/									
a.	Exploration	/	/	-	/	/		/	/	-	/	/	/	-	/
b.	Construction/Development	/	/	-	/	/		/	/	/	/	/	/	/	
c.	Operation	/	/	/	/	/		/	/	/	/	/	/	/	
d.	Mine Closure	-	-	-	/	-		/	/	-	-	/	-	/	
3.	Air				/	/	/				/				
a.	Exploration	/	-	-	/			/	-	-		-	-	-	/
b.	Construction/Development	/	/	-	/			/	/	/		/	-	/	/
c.	Operation	/	/	/	/			/	/	/		/	/	/	/
d.	Mine Closure		-	-	/			/	/	-		/	-	-	/
4.	People				/	/					/				
a.	Exploration	/	-	-	/	/		/	/	-		/	/	/	/
b.	Construction/Development	/	/	-	/	/		/	/	-		/	/	/	/

Annexes

c. Operation	/	/	/	/		/		/	/	/		/	/	/	/
d. Mine Closure	/	/	-	/		-		/	-	-		/	/	/	/
B. Information, education and communication framework	/	/	/	/	/	/	-	-	/	/	Not applicable	/	/	/	/
C. Social development plan	/	/	/	/	/	/	/	/	/	/	Not applicable	/	/	/	/
D. Environmental monitoring plan	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
E. Institutional requirements	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
F. Financial arrangements	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Environmental risk assessment	/	/	-	/	/	/	/	/	/	/	-	/	/	-	/
Emergency preparedness and response policy	/	/	/	/	/	/	-	/	Not applicable	/	/	/	/	/	/
Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines	/	/	/	/	/	/	/	/	Not applicable	/	/	/	/	/	/

Annexes

EIA Report Requirements	Marcventures Mining and Dev't. Corp.	Norweah Metals and Minerals Co., Inc.	Oceana Gold Phils., Inc	Ore Asia Mining & Dev't. Corp.	Oriental Synergy Mining Corp.	Philsaga Mining Corp.	Platinum Group Metals Corp.	Rio Tuba Nickel Mining Corp.	Shenzhou Mining Group Corp.	Sinosteel Phils. HY Mining Corp.	Strong Built (Mining) Dev't. Corp.	Taganito Mining Corp.	TVI Resource Dev't. Phils., Inc.	Wellex Mining Corp.	Zambales Diversified Metals Corp.
Executive Summary	/	/	/	/	/	/	/	/	/	/	/	-	/	/	/
Description of EIA Process	/	/	/	/	/	/	/	/	/	/	/	Not applicable	/	/	/
Project Description															
Location	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Project size and projected mine life	/	/	-	/	/	project size only	/	/	/	/	/	-	/	/	/
Rationale	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Alternatives	/	/	/	/	/	/	/	/	/	-	/	-	-	/	/
Project components	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Resource requirements	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Project phases	/	/	/	/	/	/	/	/	/	/	/	-	/	/	/
Estimate of waste generation from the most critical project activities and pollution control measures	/	/	/	/	/	/	/	-	/	/	/	-	/	/	/
Manpower complement	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Project cost	/	/	/	/	/	/	/	/	/	/	/	-	/	/	/
Baseline Environmental Description															

Annexes

A. Land	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
B. Water	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
C. Air	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
D. People	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Environmental Impact Assessment															
A. Land							/								
1. Exploration	/	/	-	-	/	-		-	-	/	-	-	/	/	-
2. Construction/Development	/	/	/	/	/	/		-	/	/	/	-	/	/	/
3. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/
4. Mine Closure	-	/	/	-	-	/		/	/	/	-	-	/	/	-
B. Water							/								
1. Exploration	/	/	-	-	/	-		-	-	/	-	-	/	-	-
2. Construction/Development	/	/	/	-	/	/		-	/	/	/	-	/	/	/
3. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/
4. Mine Closure	-	/	/	-	-	/		/	-	-	-	-	/	-	-
C. Air							/								
1. Exploration	/	/	-	-	/	-		-	-	/	-	-	/	-	-
2. Construction/Development	/	/	/	-	/	/		-	/	/	/	-	/	/	/
3. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/
4. Mine Closure	-	/	/	-	-	/		/	-	-	-	-	/	-	-
D. People							/								
1. Exploration	/	/	-	-	/	/		-	/	/	-	-	/	/	-
2. Construction/Development	/	/	/	-	/	/		-	/	/	/	-	-	/	/

Annexes

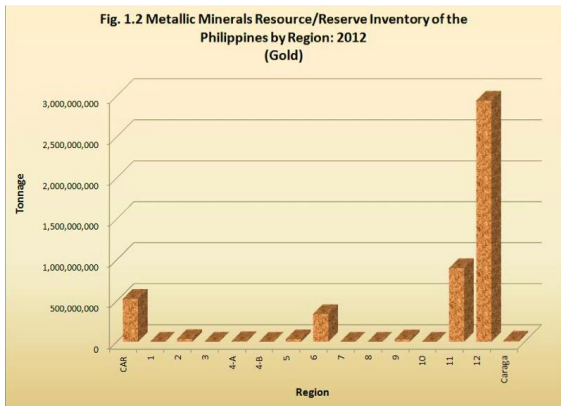
3. Operation	/	/	/	/	/	/	/	/	/	/	/	/	/	-	/	/
4. Mine Closure	/	/	-	-	-	/	/	/	/	/	-	-	/	/	/	-
Environmental Management Plan																
A. Impacts mitigation plan																
1. Land							/									
a. Exploration	/	/	/	-	/	-		-	-	/	-	-	/	/	-	
b. Construction/Development	/	/	/	/	/	/		-	/	/	/	-	/	/	/	
c. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/	
d. Mine Closure	/	/	/	-	/	/		/	/	/	-	-	-	/	-	
2. Water							/									
a. Exploration	-	/	-	-	/	-		-	-	/	-	-	/	-	-	
b. Construction/Development	/	/	/	-	/	/		-	/	/	/	-	/	/	/	
c. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/	
d. Mine Closure	-	/	-	-	-	/		-	-	-	-	-	-	-	-	
3. Air							/									
a. Exploration	/	/	/	-	/	-		-	-	/	-	-	/	-	-	
b. Construction/Development	/	/	/	-	/	/		-	/	/	/	-	/	/	/	
c. Operation	/	/	/	/	/	/		/	/	/	/	/	/	/	/	
d. Mine Closure	/	/	-	-	-	/		-	-	-	-	-	-	-	-	
4. People							/									
a. Exploration	/	/	/	-	/	/		-	/	/	-	-	/	/	-	
b. Construction/Development	/	/	/	-	-	/		-	/	/	/	-	-	/	/	
c. Operation	/	/	/	/	-	/		/	/	/	/	/	-	/	/	

Annexes

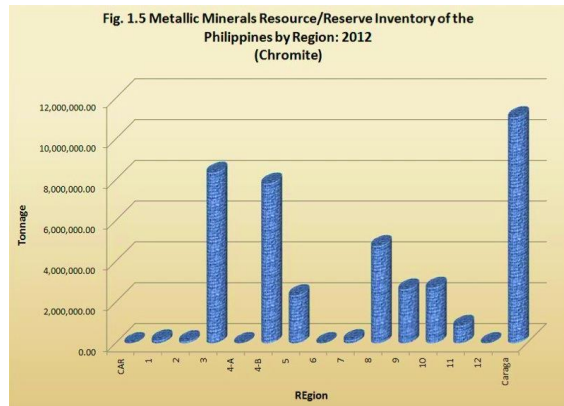
d. Mine Closure	/	/	-	-	/	/		/	/	/	-	-	/	/	-
B. Information, education and communication framework	/	/	/	/	/	/	/	/	/	/	/	Not applicable	/	/	/
C. Social development plan	/	/	/	/	/	/	/	/	/	/	/	Not applicable	/	/	/
D. Environmental monitoring plan	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
E. Institutional requirements	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
F. Financial arrangements	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Environmental risk assessment	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Emergency preparedness and response policy	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Abandonment/Decommissioning Rehabilitation and Generic Policies and Generic Guidelines	/	/	-	/	/	/	/	/	/	/	/	/	/	/	/

Annex B: Gold and Chromite Reserves of the Philippines

The Philippines is a highly mineralized country. DENR-MGB Central Office reports the following reserves for gold and chromite by Region:



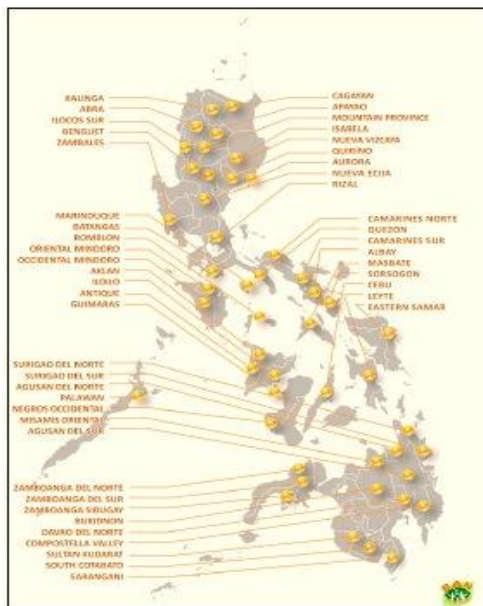
Gold Reserves Inventory¹³⁸



Chromite Reserve Inventory¹³⁹

DENR-EMB, citing data from environmental non-government organization Ban Toxics, reports that there are gold deposits in about 40 provinces as follows:¹⁴⁰

Map of Provinces with Small Scale Mining in the Philippines



¹³⁸<http://denr.gov.ph/images/stories/DENR/RSD/2013/mgb/Fig%201.2%20Metallic%20Minerals%20Resource%20Reserve%20Inventory%20of%20the%20Philippines%20by%20Region%202012%20Gold.JPG>

¹³⁹<http://denr.gov.ph/images/stories/DENR/RSD/2013/mgb/Fig%201.5%20Metallic%20Minerals%20Resource%20Reserve%20Inventory%20of%20the%20Philippines%20by%20Region%202012%20Chromite.JPG>

¹⁴⁰ p. 12 and Annex 2. Available at <http://bantoxics.org/download/National%20Strategic%20Plan%20for%20the%20Phaseout%20of%20Mercury%20in%20the%20Philippines.pdf>. Visited 17 November 2015.

Annex C: Significant Changes from Original 1992 IRR and 2015 Revised IRR of RA 7076

Features	1992 Original IRR (DAO 34-92)	2015 Revised IRR (DAO 2015-03)
Policy		In consonance with EO 79; Small scale mining activities shall only be allowed in declared Minahang Bayan (MB); prohibition on activities not covered by a SSMC and registration with PMRB
Traditional Mining	Areas occupied by a community of traditional small-scale miners subject to the approval of the said community. Where they refuse to allow their areas to be declared a People's Small-scale Mining Area, their customary rights under their mining traditions shall be recognized and protected; ^(Sec. 6.6) In all of the above cases, the laws, rules and regulations protecting the Filipino cultural heritage shall be strictly complied with. (Sec. 6.6)	The concept of traditional small-scale mining no longer appeared in the new IRR. Customary rights are no longer explicitly recognized, as any form of mining outside a declared MB is prohibited.
Licensing and Registration of Small-Scale Miners, Fees and Requirements	Licensing with MGB/PENRO or CENRO of Filipino citizens as small-scale miners and processors. Fee of P5.00 and P20.00, respectively and Barangay Certificate of Residency that applicant is bona fide resident for at least 6 months. License in the form of an ID Card valid for 2 years. (Sec. 5) Registration with PMRB of all persons who shall undertake small-scale mining. No fee and License and Barangay Certificate of Residency (Sec. 9)	Registration with PMRB of all undertaking or intending to undertake small-scale mining. No fee and Government-issued ID card and proof of Filipino citizenship. A registry to be maintained. (Sec. 6) Licensing of applicants for a Small-Scale Mining Contract. Fee of P1,000.00 payable to MGB RO and proof of registration with the SEC, DTI or CDA and proof of 100% Filipino ownership. License valid for the duration of the SSMC. (Sec. 7)
Application for SSMC - Fees	P30.00 per hectare or fraction thereof	P20,000.00 for metallic (gold, silver, chromite)
Application for SSMC – Mandatory Requirements	Survey plan; Mining plan; Information on the geographical coordinates	Location map showing geographical coordinates; sketch plan of the area; application for survey order; proposed 2-year work program; sworn declaration by the applicant of the total area covered by SSMC in the entire country
Application for SSMC and requirements for health and safety and environmental safeguards	Environmental Compliance Certificate (ECC) for Mined Area Mining Plan duly approved by the P/CMRB that includes a schedule of tailings and waste management and mine site rehabilitation Undertaking as included in the SSMC's terms and conditions to comply with the pertinent rules on environmental protection and conservation, particularly those on tree-cutting, mineral processing and pollution control, control and proper disposal of all wastes produced as a result of mining operations and water quality, water course diversion, excess siltation and undue interference with legitimate land and water usage and for reversion of the Minahang Bayan when small-scale mining operations cause significant destruction to the environment	Environmental Compliance Certificate (ECC) for Entire Minahang Bayan prior to Declaration of Minahang Bayan Two-Year Work Program Potential Environment Impact Management Plan (PEIMP); Certificate of Environmental Management and Community Relations Record (CEMCCR); Community Development and Management Program (CDMP); Annual Safety and Health Program (ASHP) Undertaking as included in the SSMC's terms and conditions to conduct mining activities in accordance with the Two-Year Work Program, PEIMP, CDMP and the ECC, among others; undertake the extraction and/or breakage of materials without the use of explosives, blasting accessories, explosives ingredients and/or sophisticated and/or heavy equipment; not use mercury in any phase of the mining; and not

Annexes

		resort to hydraulicking or compressor mining at any stage of the mining within the contract area and comply with pertinent rules and regulations on environmental protection and conservation
Award of SSM Contract	PMRB through Provincial Governor (as amended by DAO 11-2000, DAO 21-2010)	PMRB through MGB Regional Director as Chairperson
Term of Contract	2 years, renewable for like period	2 years, renewable for like period but not to exceed 6 years
Establishment of Minahang Bayan (MB)	<p>Petition filed with P/CMRB Evaluation by MGB RO Issuance & Publication of Notices by P/CMRB Segregation of area by P/CMRB Submission of results to DENR Secretary for review Review by the DENR Secretary Declaration by the PMRB of MB</p> <p>A 30-day review period by the DENR Secretary.</p>	<p>Petition with P/CMRB. Evaluation by MGB RO Submission of Result to Secretary, thru MGB Director for initial review Results of initial review to MGB RO Results to PMRB for consideration, including denial of petition if area falls within area closed to mining. Issuance and Publication of Notices by PMRB, including notices to NCIP and the Sanggunian. Submission of Results to DENR Secretary Clearance from Secretary Declaration of MB by PMRB of MB</p> <p>Petitioner must submit ECC for the entire MB.</p> <p>PMRB declares MB within 1 year from clearance by the Secretary.</p>
Composition of PMRB	<p>Representative from RO is Chairperson with the Provincial Governor or City Mayor as Co-Chairperson (based on the amendment by DAO 2010-21, IRR of Philippine Mining Act of 1995 and IRR-EO 79)</p> <p>(Governor and Mayor as Member previously under DAO 34, s. 1992)</p>	<p>RD or his authorized representative is Chairperson.</p> <p>Governor and Mayor are members (reinstated provision of DAO 34, s. 1992)</p>
Worker Health and Safety	Use of mercury, cyanide and other poisonous substance must be handled based on the direction of the MGB Regional Director	<p>Express prohibition on the use of mercury, explosives, blasting accessories and explosive ingredients</p> <p>Also bans hydraulicking or compressor mining</p>

Annex D: Revenue Streams from Local Ordinances: Examples

LGU & Legal Basis	Nature of Payment	Amount/Rate
Province of South Cotabato (South Cotabato Revenue Code of 2011)	Mineral Tax	1,000.00/m.t.
	A. Small-Scale Mining Permit	
	Mining Permit Fee	3,000.00; valid for 2 years
	Filing Fee	20.00/ha
	Processing Fee	20.00/ha
	Verification Fee	3,600.00
	Project Fee	100.00
	B. Processors Permit	
	Processors Permit Fee	6,000.00
	Filing Fee	3,600.00
	PD 1856 Fee	20.00
	C. Ore Transport Permit	
	Ore Transport Permit Fee	500.00; valid for 15 days
	Filing Fee	5,000.00
	Delivery Receipt	75.00/stub
Surcharge on Late Payment	25% of the Amount Due	

Annexes

	Interest on Unpaid Tax	2%/month not to exceed 72% of tax due or 36 months interest
Municipality of T'boli under South Cotabato (Revenue Code of 2003)	Tax on Mining Operations	2% of Gross Receipts of Preceding Year
	Mayor's Permit Fee as:	Graduated Rate based on Asset Size or Number of Workers of Business
	<i>Contractor: Ball Mill & Processing Plant</i>	range of P150-P1,500 P150-cottage; P500-small; P1000-medium; P1,500-large
	<i>Dealer: Gold Buying</i>	Range of P200-P1000 P200-cottage; P400-small; P800-medium; P1000-large
	<i>Producer: Tunnel</i>	Range of P150-P2,500 P150-P250-cottage; P750-small; P1,500-medium; P2,500-large
Province of Benguet (Revenue Code of 2005)	Forms	20.00
	Application Fee	30.00/hectare
	Filing Fee	10.00
	Processing Fee	25.00
	Verification Fee	500.00
	Annual Individual SSM Registration	500.00
Municipality of Itogon under Benguet (Revised Revenue Code of 2011)	Annual Group Registration	5,000.00
	Mayor's Permit or Business Registration	P400-P3000 depending on asset size or number of workers, whichever is higher
	Regulatory Fees	
	Business Tax (Applied to Small-Scale Contractors of a Large-Scale Mining Company)	Graduated Schedule based on Gross Receipts (from P30.25 for GR of less than P5,000 up to 55% of 1% of GR for GR of P2Million and More
	Tax on Mining Operations	2% of Gross Receipts
Province of Isabela	Small-Scale Mining Permit (SSMP) Application Fee	Php. 15, 520.00/year
	Imposition of 10% Sales Tax	0.02
	Extraction Fee per cu.m	Php. 10.00/cu. m
	Environmental Guarantee Fund for SSMP	Php. 350,000.00(per permit basis)
	Ore Transport Permit Metallic Minerals	Php. 5,000.00 per Application
Province of Apayao (Provincial Ord. No. 14, Series of 2010)	Extraction Fee	
	Provincial Permit Fee	5000
	Add'l Fee per bandmill	2000
	Appication Fee	100.00/ha
	Governor's Dev't Fee	500
	Registration Fee	500
	Verification Fee	500
	Processing Fee	150
	Forms	150
	Filing Fee	100
Secretary's Fee	100	

Annexes

Annex E: P/CMRBs in the Country

Region	Provinces/Cities	Year Created FR-For Reconstitution	Status		Frequency of Meeting M-Monthly Q-Quarterly A-Annually	Source of Information
			✓-Operational	Non-Operational		
1	Ilocos Norte	1999	✓		M	MGB
	Ilocos Sur	1999	✓		M	
	La Union	1999	✓		Q	
	Pangasinan	1999	✓		M	
2	Cagayan	1999	✓		Q	MGB
	Isabela	1999	✓		Q	
	Nueva Vizcaya	1999	✓		Q	
	Quirino	1999	✓		As needed	
3	Aurora	2004	✓		Q	MGB
	Bulacan	2003	✓		Q	
	Pampanga	2010	✓		M	
	Tarlac	2009	✓		Q	
	Zambales	2007	✓		Q	
6	Iloilo	1995	✓		M	MGB
	Negros Occidental	1995	✓		M	
	Guimaras	1996	✓		As needed	
	Aklan	1996	✓		As needed	
	Antique	1999	✓		As needed	
	Bacolod	1999	✓		As needed	
9	Zamboanga City	FR		Non-operational	Q	MGB
	Zamboanga del Norte	FR	✓		Q	
	Zamboanga del Sur	2009	✓		Semi-Annually	
	Zamboanga Sibugay	FR		Non-operational	Q	
10	Iligan City		✓		Q	MGB
	Cagayan de Oro		✓		M	
	Misamis Oriental		✓		Q	
	Misamis Occidental		✓		A	
	Bukidnon		✓		As needed	
	Camiguin		✓		A	
	Lanao del Norte		✓		As needed	
11	Davao					Davao Roadshow
12	North Cotabato		✓		Q	MGB
	South Cotabato		✓		Q	
	Sultan Kudarat		✓		Q	
	Gen. Santos		✓		Q	
	Saranggani			Non-operational	No Schedule	
13	Agusan del Norte		✓		M	
	Agusan del Sur		✓		M	
	Surigao del Norte		✓		M	
	Surigao del Sur		✓		M	
	Province of Dinagat Islands		✓		M	
	Butuan City		✓		M	
CAR	Baguio		✓		As needed	MGB
	Benguet		✓			
	Ifugao		✓			
	Abra		✓			
	Apayao		✓			
	Kalinga		✓			
	Mt. Province		✓			