

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 0113

Introduced by Representatives JUAN MIGUEL MACAPAGAL ARROYO

AN ACT PRESCRIBING STANDARDS FOR RESPONSIBLE MINING

EXPLANATORY NOTE

The Duterte Administration is committed to promoting a robust and dynamic economy, with every sector contributing to its growth. The Administration supports each and every venture that contributes to the health of the economy but it is clear that for whatever venture we go into, it should be in a responsible manner.

The Duterte Administration is not anti-mining. The Administration views the mining industry as a key player in the Philippine economy. Responsible mining plays a key role in the Philippines. The key word here is 'responsible.' You have to do it right. If you cannot do it right, then get out of mining. The Duterte Administration wants the standards of responsible mining in developed countries like Canada and Australia applied in the Philippines to ensure the protection of the environment.

On April 5, 2016, the Initiative for Responsible Mining Assurance based in Canada released a draft standard for responsible mining. This measure is based on that draft standard.

In view of the foregoing, the immediate approval of this bill is earnestly sought.

A large, handwritten signature in black ink, appearing to read "Juan Miguel Macapagal Arroyo".

JUAN MIGUEL MACAPAGAL ARROYO
2nd District, Pampanga

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

CHAPTER 1

TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* — This Act shall be known as the Mining Responsibility Act of 2016. It shall hereinafter be referred to as the Act.

SECTION 2. *Declaration of Policy.* — It is hereby declared the policy of the State that mining should:

- Respect the human rights and aspirations of affected communities;
- Provide safe, healthy and respectful workplaces;
- Avoid or minimize harm to the environment; and
- Leave positive legacies.

SECTION 3. *Scope.* — This Act shall prescribe standards of responsible mining, including business integrity, social responsibility, environmental responsibility, reclamation and closure, and management systems.

SECTION 4. *Definition of Terms.* —

- (a) "Biological diversity" - or "biodiversity" refers to the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems;
- (b) "Conflict-affected areas" refer to areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of serious and widespread harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars. High-risk areas" are those where there is a high risk of conflict or of widespread or serious abuses;

- (c) "Consultation" involves an exchange of information between stakeholders, which provides an opportunity for stakeholders to raise concerns and comment on the impacts and merits of a proposal or activity before a decision is made. In principle the company should take into account the concerns and views expressed by stakeholders in the final decision;
- (d) "Cultural heritage" is the legacy of physical structures, landscapes and artifacts, as well as intangible attributes of a group or society, such as activities or knowledge that has cultural, scientific, spiritual or religious value;
- (e) "Cyanide" is an industrial chemical used in the processing of gold and silver at many mine sites and as a minor processing reagent at some base metal mines;
- (f) "Free, Prior and Informed Consent" refers to consent based on: engagement that is free from external manipulation, coercion and intimidation; notification, sufficiently in advance of commencement of any activities, that consent will be sought; full disclosure of information regarding all aspects of a proposed project or activity in a manner that is accessible and understandable to the people whose consent is being sought; acknowledgment that the people whose consent is being sought can approve or reject a project or activity, and that the entities seeking consent will abide by the decision;
- (g) "Grievance Mechanism" refers to any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuses can be raised and remedy can be sought;
- (h) "Indigenous Peoples" refers to peoples who: identify themselves and are recognized and accepted by their community as indigenous; demonstrate historical continuity with pre-colonial and/or pre-settler societies; have strong links to territories and surrounding natural resources; have distinct social, economic or political systems; maintain distinct languages, cultures and beliefs; form non-dominant groups of society; and resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities. In some regions, there may be a preference to use other terms such as: tribes, first peoples/nations, aboriginals, ethnic groups, adivasi and janajati. All such terms fall within this modern understanding of "indigenous";
- (i) "Mercury" metal is a byproduct of some mining operations, due to the presence of mercury minerals in ore bodies such as gold, silver, copper and zinc deposits;
- (j) "Monitoring" is an iterative and cyclical process that leads to a re-assessment of relevant environmental, social and health management plans, as part of an adaptive project management process;
- (k) "Mining Project" refers to any set of activities undertaken for the purposes of extracting mineral resources. Mining projects may include exploration, mine construction, mining, mine closure and related activities either as separately or in combination;
- (l) "Occupational health impacts" related to the mining industry may include physical injuries; musculoskeletal disorders; noise-induced hearing loss; hand-arm vibration syndrome; skin cancer; dermatitis; heat exhaustion; hypothermia; eye disorders related to radiation exposure; asphyxiation; pneumonia; respiratory disorders; damage to internal organs and other effects related to chemical/metal exposures; decreased mental health and wellbeing; and others;
- (m) "Operating Company" refers to the legal entity that is responsible for the implementation of a mining project;

- (n) "Protected Area" refers to a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values;
- (o) "Reclamation" refers to the process of reconverting disturbed land to its former or other productive uses. "Closure" refers to the activities which are required to maintain compliance with environmental regulations during and following completion of reclamation;
- (p) "Resettlement" refers to voluntary resettlement or involuntary resettlement. Voluntary resettlement refers to voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail). Involuntary resettlement refers to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) as a result of project-related land acquisition and/or restrictions on land use. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of lawful expropriation or temporary or permanent restrictions on land use and negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail;
- (q) "Shall" indicates a requirement of a standard;
- (r) "Shall Not" indicates a prohibition;
- (s) "Stakeholder" refers to any individual who may affect or be affected by an organization's activities.

CHAPTER 2

BUSINESS INTEGRITY

SECTION 5. *Legal Compliance.* — All mining operating companies in the Philippines shall comply with all laws of the Republic applicable to mining.

SECTION 6. *Revenue and Payments Transparency.* — All mining companies shall provide communities and the general public with the information they need to understand and assess the fairness of financial arrangements, such as revenue and payments, related to mining operations.

CHAPTER 3

SOCIAL RESPONSIBILITY

SECTION 7. *Fair Labor and Working Conditions.* — Mining companies shall protect the basic rights of workers they employ directly and those that are employed by their contractors and suppliers.

SECTION 8. *Occupational Health and Safety.* — Any mining company operating in the Philippines shall provide a safe and healthy environment that protects and promotes workers' health and their working capacity. This shall be accomplished through consultation and cooperation with workers and/or their representatives to identify workplace hazards and risks, implement measures to eliminate or minimize

workplace hazards and risks, and develop and provide information and training programs to promote workplace safety and health.

SECTION 9. Emergency Preparedness and Response. — Mining companies shall identify, plan for and are prepared to respond effectively to potential emergency situations, in close cooperation with workers, trade unions, local communities, local authorities, environmental organizations and other stakeholders, thereby reducing the likelihood of accidents and emergencies and minimizing loss of life, injuries and damage to property, environment, health and social well-being if they occur.

SECTION 10. Human Rights Due Diligence and Compliance. — Companies involved in mining projects shall fulfill their responsibilities to respect human rights.

SECTION 11. Mining and Conflict-Affected or High-Risk Areas. — Mining companies in conflict-affected or high-risk areas shall ensure that they do not intentionally or unintentionally cause, contribute to, or benefit from human rights abuses or armed conflict.

SECTION 12. Security and Human Rights. — Security for mining projects shall be managed in a manner that respects, protects and promotes human rights and fundamental freedoms.

SECTION 13. HIV/AIDS, Tuberculosis and Malaria. — Mining projects shall ensure that effective measures are taken to mitigate the spread and the impacts of HIV/AIDS, tuberculosis and malaria.

SECTION 15. Community and Stakeholder Engagement. — Mining projects shall carry out effective stakeholder engagement that enables communities to play a meaningful role in mining-related decisions that affect their health, wellbeing, safety, livelihoods and futures, in order to achieve broad community support.

SECTION 16. Obtaining Community Support and Delivering Benefits. — Companies engaging in mining shall demonstrate that they have broad community support, and are able to provide tangible benefits that meet the needs of communities.

SECTION 17. Free, Prior and Informed Consent. — In complying with Philippine laws on free, prior and informed consent of indigenous peoples in cases where development projects may affect them, mining companies shall respect the rights, dignity, aspirations, culture and livelihoods of indigenous peoples.

SECTION 18. Cultural Heritage. — Wherever and whenever mining development occurs, it shall proceed in a manner that respects and protects the cultural heritage of communities.

SECTION 19. Resettlement. — If resettlement associated with a mining project is unavoidable, the mining company involved shall ensure that affected people are: meaningfully involved in resettlement decisions; compensated equitably; and have the opportunity to improve their living standards and income-earning capacity over pre-resettlement levels.

CHAPTER 4

ENVIRONMENTAL RESPONSIBILITY

SECTION 20. Water Quality. — Mining projects shall minimize the pollution of ground and surface water, and achieve the quality specifications listed in criteria prescribed by international environmental coalitions for fresh and ground water.

SECTION 21. Water Quantity. — Mining projects minimize their consumptive use of water and the impacts caused by their dewatering operations. *Provided*. That the amount and timing of project water use shall ensure that the detrimental impact of dewatering on the environmental flows of affected streams and springs is minimized.

SECTION 22. Mine Waste Management. - Mine waste (tailings, waste rock, and overburden) and mine facilities (waste rock piles, tailings impoundments, open pits, underground workings, etc.) shall be managed in a manner that eliminates offsite contamination, and leaves remaining mine features in a condition that brings about the least environmental and financial risk, and the most potentially useful land use, to future users.

SECTION 23. Air Quality. – Pre-mine air quality conditions shall be protected and maintained through the reduction and control of physical and chemical emissions into the air.

SECTION 24. Noise. - Pre-mine aural conditions shall be protected and maintained through the reduction and control of noise pollution.

SECTION 25. Greenhouse Gas Emissions.- Energy efficiency in the mining sector shall be promoted and maintained and the sector's impacts on climate change shall be reduced through the increase of energy efficiency, reduction of energy consumption, and reduction of mines' emissions of greenhouse gases.

SECTION 26. Protected Areas. - In protected areas where even if all technically and economically feasible steps to reduce adverse impacts on the objectives for which the areas have been designated for protection were to be implemented, mining would jeopardize those values, mining should not take place. *Provided*, That if in cases where responsible exploration and mining development in or adjacent to such protected areas may be compatible with the objectives for which the areas have been designated for protection, mining and related activities shall respect, support and strengthen the effectiveness of such legally designated protected areas in the country.

SECTION 27. Biodiversity Outside Officially Protected Areas. – Even outside officially protected areas, mining and related activities shall not contribute to the global loss of biodiversity. *Provided*, That biodiversity losses shall be minimized but that, where they occur, they shall be compensated for by verified gains in other locations and through long-term requirements for restoration where possible.

SECTION 28. Cyanide. - Human health and the environment shall be protected by the responsible management of cyanide, consistent with the International Cyanide Management Code for all mines that store bulk quantities of cyanide, or that use cyanide in a mill process.

SECTION 29. Mercury Management. -Human health and the environment and the environment shall be protected by encouraging the responsible management of mercury. *Provided*, That scientific understanding of the issues and the technology to monitor and control mercury emissions shall be improved.

CHAPTER 5

RECLAMATION AND CLOSURE

SECTION 30. Reclamation and Closure. - Consideration of the long-term environmental and social potential of a mine site after mining operations have ceased shall be integrated into mining project management throughout the mine life cycle, from its beginning to its end. *Provided*, That the full costs of site reclamation and closure shall borne by the mine's financial beneficiaries, and shall not be passed on to the public.

CHAPTER 6

MANAGEMENT SYSTEMS

SECTION 31. *Environmental and Social Impact Assessment.* - Environmental and social impacts of any mining project shall be evaluated in a comprehensive and integrated manner; *Provided*, That the concerns of stakeholders and affected communities shall be explicitly identified, addressed and incorporated into planning and decisions-making in order to anticipate, avoid, and when that is not possible, minimize and compensate for impacts on affected communities, workers and the environment.

SECTION 32. *Environmental and Social Impact Monitoring.* - The environmental and social impacts of a mining project shall be effectively monitored over time, in a comprehensive and integrated manner; *Provided*, that the monitoring program shall address the concerns of stakeholders and affected communities; *Provided*, further, That systems shall be in place to respond to and where possible address adverse impacts that are identified in an effective and timely manner.

SECTION 33. *Grievance Mechanism and Access to Other Remedies.* - Affected communities and individuals shall have access to an effective mechanism for raising concerns and grievances related to operating company activities, without limiting individuals' ability to seek remedy for the same complaints through other non-judicial or judicial mechanisms.

CHAPTER 7

FINAL PROVISIONS

SECTION 34. *Implementing Rules and Regulations.* – The Department of Environment and Natural Resources shall, in consultation with relevant government agencies, the mining industry participants, non-government organizations and stakeholders, promulgate the Implementing Rules and Regulations, including penal provisions, of the Act within six (6) months from the effectivity of this Act, subject to the approval by the President of the Philippines.

SECTION 35. *Separability Clause.* — Any provision of this Act declared unconstitutional shall not affect the validity of the other provisions thereof.

SECTION 37. *Repealing Clause.* — All orders, rules, regulations and other issuances, or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

Approved,