

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 113

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 30 JUN 2013

TIME: 2:30 pm

BY: J. Gony Jr.

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by REP. TEDDY BRAWNER BAGUILAT
and REP. LAWRENCE H. FORTUN

EXPLANATORY NOTE

The Philippines is endowed with vast natural resources, including minerals, which form part of our nation's wealth and patrimony. Such wealth should serve the national economy for the benefit of the people and be shared equitably. The regulated and rational use, development and exploitation of minerals are consistent with sustainable development principles and geared towards genuine industrialization and development of agriculture.

The country's mining industry was supposed to have significantly contributed to national development. Instead, it created a massive social divide and detrimental environmental impacts.

The present mining law (Republic Act 7942) has clearly failed to address such impacts and even failed to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities. The industry under the present framework of the law is essentially extractive which has resulted to the continuing depletion of the country's nonrenewable resources, without giving back an equitable share of benefits.

In the last four years alone, at least four major disasters related to mining occurred irreparably damaged various ecosystems.

In June 2012, fish kill in Lake Bito, a rich fishing ground in Leyte, was traced to mine wastes from Nicua Mining Corp. which was then operating in another village in MacArthur, Leyte. The bureau suspended Nicua operations following the fish kill.

On August 1, 2012 Philex Gold and Copper Mine in Padcal, Benguet leaked spilling waste into the nearby Balog creek, which flows into the Agno River and the San Roque dam. On November 25, 2012, Citinickel Mines and Development

Corporation was issued a notice of violation by the Department of Environment and Natural Resources after silt-laden water spilled from its silt pond No. 2 at its Toronto Mining Area in Barangay San Isidro, Narra, in Palawan. On February 13, 2013, Semirara Coal Mine's section of a wall in Panian, Caluya, Antique collapsed killing a number of people while others are missing. This is not to count the previous major mining disasters starting with the notorious Marcopper tragedy that left the government still begging for remunerations.

Mining sites likewise continue to invite conflict, violence and human rights violations: families massacred, objecting community leaders killed or intimidated, sacred grounds bulldozed, process of Free Prior and Informed Consent (FPIC) of indigenous peoples undermined or vitiated, houses illegally demolished, communities forcibly resettled.

Timuay Lucenio Manda of Bayog, Zamboanga del Sur survived an ambush that killed his son in September 2012.

In October 2012, Juvy Capion and her children Jordan and John were killed when their hut was strafed with gunfire while they slept in their hut in Kiblawan, Davao del Sur. Another daughter, 4-year old Vicky, was wounded and managed to escape. This killing happened during a military manhunt for Daguil Capion, Juvy's husband and one of the B'laan leaders who resisted the encroachment of a mining company into their ancestral domains.

On December 7, 2012 Cheryl Ananayo, a member of the Didipio Earthsavers' Multipurpose Association (DESAMA), and her cousin-in-law Randy Nababay, were shot and killed while headed to Didipio town. On the same day, Rolando Quijano, a farmer and active member of the Alliance of Farmers Union in Zamboanga Del Sur (AFUZS) was shot to death at around 12:00 noon at Purok 4, Oapan, San Miguel in the province of Zamboanga Del Sur.

On January 29, 2013 Kitari Capion, the brother of Daguil, was also killed, along with two companions, at Barangay Bong Mal in Davao del Sur. The killing was allegedly led by a Captain of the Philippine Army.

All these are either key leaders or are related to leaders organizing the opposition against mining projects adversely affecting their communities.

The mining industry also failed to contribute significantly to the Philippine economy. According to the Mines and Geosciences Bureau in 2012, mining contributed a measly 0.7% to our Gross Domestic Product (GDP) and employed an insignificant 0.7% of the total labor force. In the first quarter of 2013, when the Philippine GDP recorded an impressive 7.8% growth, the mining industry contracted.

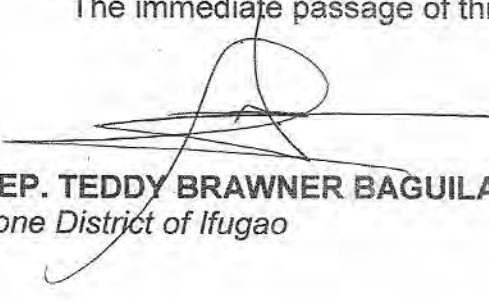
Indeed the industry and its governing law failed to ensure the constitutionally guaranteed rights of the people to a balanced and healthful ecology, to social justice in all phases of national development, to a self-reliant and independent economy effectively controlled by Filipinos, and other important rights.

If mining is to be pursued, the current mining policy framework should be overhauled in such a way that social and environmental safeguards are clearly established to meet the needs of our people now and in the future. Priorities should be towards sustainable development and food security, where the benefits from mining are clearly established even before considering exposing our land and our people to the risks and hazards of mineral extraction.

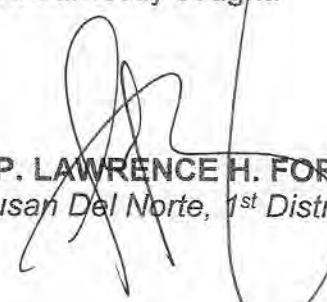
This bill is therefore proposed to take the place of the current mining law. It is the product of years of consultation with mining-affected indigenous peoples, communities and stakeholders, as well as experts, whose invaluable thoughts need to be considered in crafting a law that is truly responsive to the aspirations and welfare of the Filipino people. The bill posits that it is impossible and unwise to separate mining from issues of resource use, water, food security, environment, human rights, indigenous people's rights and rights-based economic development.

This bill seeks to guarantee that the exploration, development and utilization of mineral resources will primarily benefit the Filipino people; prioritizes sustainable livelihood choices for communities; gives utmost importance to food security and livable conditions for the people; ensures that the gains from the mining industry would be maximized while preventing or mitigating its adverse effects; recognizes that the issue of environment and sustainable development is local and thus prioritizes local participation in decisions surrounding mining; ensures the protection of human rights of communities and individuals; and imposes harsh penalties for the violation of its provisions.

The immediate passage of this bill is therefore earnestly sought.



REP. TEDDY BRAWNER BAGUILAT
Lone District of Ifugao



REP. LAWRENCE H. FORTUN
Agusan Del Norte, 1st District

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 113

Introduced by Reps. TEDDY BRAWNER BAGUILAT and LAWRENCE H. FORTUN

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

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

1 CHAPTER I
2 DECLARATION OF POLICIES
3
4

5 **Section 1. Short Title.** This Act shall be known as the "Philippine Mineral Resources
6 Act of 2016".
7

8 **Section 2. Declaration of Policy.** It is hereby declared the policy of the State to:
9

- 10 a) Maintain peace and order, protect life, liberty and property and promote the
11 general welfare;
- 12 b) Advance the medium- and long-term needs of the Philippines;
- 13 c) Encourage the advancement of the industry's technology with emphasis on
14 existing indigenous knowledge, research and development;
- 15 d) Protect and advance the right of the people to a balanced and healthful ecology
16 in accord with the rhythm and harmony of nature;
17
18
19
20

- e) Value the dignity of every human person and guarantees full respect for human rights;
- f) Promote social justice in all phases of national development;
- g) Recognize and promote the rights of indigenous cultural communities within the framework of national unity and development and protect the right to self-determination of the indigenous and Moro peoples;
- h) Protect and promote the right to health of the people and instill health consciousness among them;
- i) Pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination;
- j) Develop a self-reliant and independent national economy effectively controlled by Filipinos;
- k) Ensure the autonomy of local governments;
- l) Give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good;
- m) Encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation; and
- n) Adopt and accept the generally accepted principles as embodied in the International Covenant on Civil and Political Rights, International Covenant on Economic, Social, Cultural Rights, UN Declaration on the Rights of Indigenous Peoples, UN Convention on Biodiversity and other international accords on human rights, labor rights, the rights of women and children, and the protection and preservation of the environment, of which the State is a party.

Section 3. The State shall formulate a National Industrialization Program pursuant to the principles of agricultural modernization, development of industrial and manufacturing industries, and rational, sustainable, and equitable development of the national economy.

Pursuant to the foregoing, the State shall implement a Mineral Management Plan that provides the framework for the utilization and management of the country's mineral resources, which will address the needs of the domestic economy and uphold the rights of industry workers, indigenous peoples and local communities.

1
2 **Section 4.** The judicious stewardship of our mineral resources, as well as its
3 exploration, development and utilization shall comply with the following principles:

- 4
- 5 a) The current export-orientation of mining is hereby reversed and a domestic
6 needs-based development of the industry shall be pursued by the State as a step
7 towards achieving genuine economic development;
- 8
- 9 b) The mining industry shall be geared towards national industrialization and shall
10 be built for the production of raw materials such as base metals, basic chemicals
11 and petrochemicals needed by the basic, medium and heavy industries to
12 produce as much consumer, intermediate and capital goods with the country's
13 stock of finite mineral and non-mineral industrial raw materials and in the process
14 provide jobs to the country's vast human resources;
- 15
- 16 c) The community shall actively participate in the stewardship of mineral resources.
17 Community-based initiatives shall be encouraged and supported;
- 18
- 19 d) The State and its members shall develop its human resources and encourage
20 the evolution of its own appropriate technologies. The State shall provide the
21 appropriate support and protection to Filipino corporations to further develop and
22 increase their participation in the industry. All mining industry investments shall
23 be mutually-beneficial and help achieve the specific target and goals of the
24 National Industrialization Program. To come up with the large capital requirement
25 for mining, the State must use local sources such as but not limited to the
26 granting of incentives and financial aid to local private sector investors, re-
27 channeling of government budget allocations for foreign debt payments and
28 military expenditures, and the proceeds from the government shares of the
29 Malampaya Natural Gas Project;
- 30
- 31 e) The State shall allow, in exceptional cases, foreign corporations to invest in the
32 mineral industry. Based on the National Industrialization Program and the
33 country's capability and capacity, the government must identify the mineral areas
34 where foreigners can help and invest subject to rigorous screening and strict
35 regulations as provided in this Act and related laws. The participation of foreign
36 companies in the critical stages of minerals extraction and processing shall be in
37 accordance with a mandatory program or agreement for technology transfer and
38 equity shares that do not exceed 40 percent of the full capital requirements;
- 39

40 *Provided,* That capital accumulation and reinvestment within the country shall be
41 primarily encouraged over profit repatriation by the foreign companies and that
42 foreign mining corporations, their principals, local firms and conduits that have a
43 bad track record in the Philippines are banned from investing in the country;

- 44
- 45 f) In land and water use, the production of sufficient food free from pollution
46 towards food security shall always be the priority;

- 1
- 2 g) Long-term mining development shall be programmed by the State in accordance
- 3 with the country's availability of resources, capability and well being of the
- 4 people, technological capacity and people's acceptability. The right of Muslim
- 5 Filipinos and indigenous peoples to self-determination and ancestral domain
- 6 shall be recognized and their collective property rights are guaranteed by this
- 7 Act;
- 8
- 9 h) Job security, adequate wages, benefits, and safe working conditions for mine
- 10 workers shall be ensured in state and privately owned mining corporations. Their
- 11 right to organize and form their own associations, to collective bargaining and to
- 12 strike shall be upheld. The state will strictly prohibit forced and child labor in the
- 13 industry;
- 14
- 15 i) Small-scale mining operations shall be supported and regulated by the state. The
- 16 state will encourage the formation of cooperatives among small-scale miners and
- 17 provide financial and technical support to develop the labor-intensive and
- 18 upgrade the backward technologies into a more efficient and less
- 19 environmentally destructive mining process. Whenever small- scale mining are
- 20 stopped, alternative and sustainable livelihood shall be provided to the small-
- 21 scale miners.
- 22
- 23 j) Mining operations shall not in any way create or exacerbate conflicts. In no
- 24 instance shall the Armed Forces of the Philippines (AFP), the Philippine National
- 25 Police (PNP) and private security and paramilitary groups be used to coerce or
- 26 force the entry and protection of mining operations;
- 27
- 28 k) Mining industry research and development shall focus on harnessing more
- 29 economically- efficient and less environmentally-destructive methods. The
- 30 advanced technologies from other countries that are proven to be appropriate
- 31 locally shall be adopted in the industry;
- 32
- 33 l) All mining operations shall be strictly regulated to ensure the domestic
- 34 processing of mineral ores up to the secondary and tertiary stages of industrial
- 35 production to develop our own basic and medium industries. Recycling programs
- 36 and substitution in the use of minerals shall be incorporated in the overall plan of
- 37 mining development to reduce mine waste and pollution, and mining
- 38 rehabilitation techniques. Indigenous technologies that are relevant and
- 39 appropriate, particularly with respect to the domestic processing of minerals shall
- 40 be promoted, harnessed, expanded and upgraded;
- 41
- 42 m) The State and its members shall share in the burden of satisfying the need for
- 43 mineral resources primarily through reusing and recycling existing mineral
- 44 products. Ecologically-sound practices at all stages of mining shall be promoted.
- 45 Mining technologies such as open-pit mining and submarine mine tailing disposal
- 46 methods that are banned abroad and/or proven inappropriate in countries like the

Philippines must all be banned. Environmental standards shall be set to ensure the protection and efficient utilization of the country's mineral resource base. Ecological considerations in mining development shall be given due emphasis and attention to substantially eliminate destructive effects that certain mining industrial processes might have on the people's health and the environment. Monitoring mechanisms with strong participation from the local communities will be instituted;

- n) Mining in environmentally-critical areas such as small island ecosystems, primary and secondary forests and watersheds shall be banned. Dumping of mine wastes and tailings to rivers, lakes and seas are prohibited; The integrity of the environment shall not be compromised; and
- o) Areas affected by mining shall be rehabilitated, including abandoned mines. Violators shall be strictly punished and made to pay heavy compensation to the State and the affected communities;

Section 5. The exploration, development and utilization of natural resources must comply with the principles of intergenerational responsibility.

Section 6. For purposes of, or in relation to expropriation, it is hereby declared that mining is not for a public purpose.

Section 7. Mining agreements shall not be considered as vested rights, but, are mere privilege that the State can grant or revoke anytime for a legitimate purpose.

CHAPTER II SCOPE AND GENERAL PRINCIPLES

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

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

Section 9. Ore minerals form part of the country's irreplaceable and non-renewable natural wealth and capital. The conservation of our mineral wealth is a paramount public interest and mineral resources shall be utilized only in a rational manner for national and local development as specified by law and the National Industrialization

1 Program and the Mineral Management Plan. The economic benefits derived from
2 mining shall be equitably distributed by, among others, prioritizing development for local
3 communities and all other stakeholders directly affected by mining operations.

4

5 **Section 10.** The State shall have primary role, responsibility and concern in the
6 management, conservation, utilization, and development of the mining industry and
7 shall ensure the peoples participation in policy making and implementation of the same
8 at all levels of government. The management of mineral resources shall be a shared
9 concern and responsibility among the national government, corporations, all levels of
10 local government, and the communities affected by the exploration, development, and
11 utilization of mineral resources.

12

13 **Section 11.** The State shall accord support to communities dependent on small-scale
14 mining whose operations shall strictly adhere to the provisions of this law.

15

16 **Section 12.** Subject to their right to self-determination, indigenous cultural
17 communities/indigenous peoples (ICCIs/IPs) own and have the responsibility to manage
18 the mineral resources in their respective ancestral domains, free from external
19 manipulation, interference, force threat, intimidation, coercion and other analogous acts.
20 The State shall support indigenous cultural communities in developing capacities to
21 effectively exercise their right and responsibility.

22

23 **Section 13.** Mining shall be limited in scale in accordance with this Act.

24

25 **Section 14.** Mineral resources development, utilization and processing shall be
26 reserved for Filipino citizens and for Filipino corporations. Exploration shall be
27 undertaken directly by the State for the benefit of the nation.

28

29 **Section 15.** Remining and recycling of mineral resources shall be prioritized over the
30 opening of new mines to maximize and recover the remaining minerals resources from
31 the rejects or wastes of previous mines and mining operations.

32

33 **Section 16.** The State shall prioritize the rehabilitation of the abandoned mines in the
34 country. The State shall ensure the fullest compliance of all government and corporate
35 entities in and on the closure of mines, the rehabilitation/restoration of the immediate
36 environs or each mining project/activity in the country as provided by law.

37

38 **Section 17.** The State shall encourage and support Filipino private corporations and
39 mining cooperatives to participate and invest in the mining industry on mutually-
40 beneficial grounds that will push forward the National Industrialization Program in both
41 small-scale and large-scale projects.

42

43 **Section 18.** Mineral resource extraction shall be allowed based on the Philippine
44 Government's National Industrial Plan. The sharing of profits from mining activities,
45 including the anticipated environmental and social costs on the affected local
46 communities of each mining project, should far outweigh ecological and social benefits

1 and costs from other land uses. The anticipated cost of environmental and social
2 impacts on the affected local communities, which shall at all times be prevented and/or
3 mitigated through the allocation of sufficient funds for this purpose. In mining projects
4 with foreign participation, a just return of investment scheme for the foreign entrants into
5 the industry shall be prescribed by law.

6
7 **Section 19.** The State shall prioritize the development of mineral resources needed for
8 national development and the creation of domestic processing capacity for industrial
9 metals, the integration of agricultural modernization and other labor-intensive
10 downstream industries. Mine planning shall be conducted to meet this principle.

11
12 The National Industrial Plan shall support national development based on the principles
13 of sustainable development and modernization of its economic base. This framework
14 will define minerals to be extracted, volume to be extracted and when to be extracted.
15 This shall be matched with the approved mining areas as identified by the Councils.
16 These matched areas are eligible for mining operations.

17
18 **CHAPTER III**
19 **DEFINITION OF TERMS**
20

21
22 **Section 20. Definition of terms.** As used in and for the purposes of this Act, the
23 following terms, whether used in singular or in plural form, shall mean:

- 24
25 a. **Abandonment** – the act of the contractor leaving a mine without rehabilitating
26 the affected areas or completing such rehabilitation despite the legal obligation
27 to do the same;
- 28
29 b. **Acid mine drainage** – the dissolution, mobilization and transportation of toxic
30 metals from rocks resulting from the chemical reaction of the acid-generating
31 minerals in rock and waste materials having high permeability to both air and
32 rainfall and other water inflows when land is opened up for mining and initiates
33 the chemical reaction, resulting to a perpetual machine of acid generation;
- 34
35 c. **Ancestral domains** – all areas generally belonging to indigenous cultural
36 communities/indigenous peoples (ICCs/IPs) comprising lands, inland waters,
37 coastal areas, and natural resources therein, held under a claim of ownership,
38 occupied or possessed by ICCs/IPs, by themselves or through their ancestors,
39 communally or individually since time immemorial, continuously to the present
40 except when interrupted by war, force majeure or displacement by force, deceit,
41 stealth or as a consequence of government projects or any other voluntary
42 dealings entered into by government and private individuals/corporations, and
43 which are necessary to ensure their economic, social and cultural welfare. It
44 shall include ancestral lands, forests, pasture, residential, agricultural, and other
45 lands individually owned whether alienable and disposable or otherwise, hunting
46 grounds, burial grounds, areas of worship , bodies of water, mineral and other

1 natural resources, and lands which may no longer be exclusively occupied by
2 ICCs/IPs but from which they traditionally and historically had access to for their
3 subsistence and traditional activities, particularly the home ranges of ICCs/IPs
4 who are still nomadic and/or shifting cultivators

- 5
- 6 d. **Ancestral lands** – lands occupied, possessed and utilized by individuals,
7 families and clans who are members of the ICCs/IPs by themselves or through
8 their predecessors-in-interest, under claims of individual or traditional group
9 ownership, continuously, to the present except when interrupted by war, force
10 majeure or displacement by force, deceit, stealth, or as a consequence of
11 government development aggression projects and other voluntary dealings
12 entered into by government and private individuals/corporations including, but
13 not limited to, residential lots, rice terraces or paddies, private forests, swidden
14 farms and tree lots;
- 15
- 16 e. **Beneficiation** – a process wherein a large fraction of the waste material is
17 removed from the mineral ore;
- 18
- 19 f. **Buffer Zones** – identified areas outside the boundaries of and immediately
20 adjacent to designated protected areas designated by law that need special
21 development control in order to avoid or minimize harm to the protected area;
- 22
- 23 g. **Bureau** – the Mines and Geosciences Bureau (MGB) under the Department of
24 Environment and Natural Resources (DENR);
- 25
- 26 h. **Carrying capacity** – the capacity of natural and human environments to
27 accommodate and absorb change without experiencing conditions of ecological
28 instability and attendant degradation;
- 29
- 30 i. **Certificate of Ancestral Domains Title (CADT)** – title formally recognizing the
31 rights of possession and ownership of ICCs/IPs over their ancestral domains
32 identified and delineated in accordance with law;
- 33
- 34 j. **Certificate of Ancestral Lands Title (CALT)** – a title formally recognizing the
35 rights of ICCs/IPs over their ancestral lands;
- 36
- 37 k. **Closure of mines** – permanent cessation of operations at a mine or mine
38 processing site after completion of the decommissioning process;
- 39
- 40 l. **Consensus** – the decision communally reached after appropriate participatory
41 consultation and discussion, free from any external manipulation, interference
42 and coercion, and other analogous cases and obtained after fully disclosing the
43 intent and scope, including the positive and negative impacts of the activity, in a
44 language and process understandable to the community or group.
- 45 m. **Consent** – the free, prior and informed assent of the relevant person/s,
46 ICCs/IPs, barangay assemblies, landowner or occupant or possessor, given

- 1 after fully disclosing the intent and scope, including the positive and negative
2 impacts of the activity, in a language and process understandable to said
3 persons or communities or assemblies;
- 4
- 5 n. **Contract area** – the area delineated as specifically provided by a mineral
6 agreement for the development or utilization of mineral resources found therein;
- 7
- 8 o. **Critical watershed** – refers to a drainage area of a river system, lake or water
9 reservoir supporting existing and proposed hydroelectric power, domestic water
10 supply, geothermal power and irrigation works, which needs immediate
11 rehabilitation and protection to minimize soil erosion, improve water yield and
12 prevent possible flooding. The term shall also include areas which are traditional
13 human settlements, land-uses, or sea-uses which are representative of a
14 culture/cultures, or human interaction with the environment especially when it
15 has become vulnerable under the impact of irreversible change;
- 16
- 17 p. **Critical habitats** – place or environment where species or subspecies naturally
18 occur or has naturally established its population that are crucial to the survival of
19 a species and essential for its conservation;
- 20
- 21 q. **Cultural sites** – those that bear a unique or at least exceptional testimony to a
22 cultural tradition or to a civilization which is living or which has disappeared or,
23 directly or tangibly associated with events or living traditions, with ideas, or with
24 beliefs, with artistic and literary works of outstanding universal significance;
- 25
- 26 r. **Customary laws** – body of written and/or unwritten rules, usages, customs and
27 practices traditionally recognized, accepted and observed by respective
28 ICCs/IPs and local communities;
- 29
- 30 s. **Decommissioning** – the activity or process that begins after cessation of
31 prospecting activities or mineral production (including metallurgical plant
32 production). It involves, among others, the removal of unwanted infrastructure,
33 making excavations and waste repositories safe and stable and surface
34 rehabilitation with a view to negate or minimize any adverse environmental
35 impacts remaining after cessation of mineral production. It includes the after-
36 care or maintenance that may be needed;
- 37
- 38 t. **Downstream industries** – are mining activities that cover minerals processing,
39 refining, manufacturing of intermediate and capital goods and marketing of such;
- 40
- 41 u. **Ecological profile or eco-profile** – geographic-based instruments for planners
42 and decision-makers which present an evaluation of the environmental quality
43 and carrying capacity of an area and measures the specific interactions that will
44 be affected by any and all mining operations;
- 45

- 1 v. **Exploration** – covers the methods of searching or prospecting for mineral
2 resources by non-invasive means for the purpose of determining the existence,
3 extent, quantity and quality thereof, which may include but not limited to seismic,
4 gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave and
5 electrogeochemical;
- 6 w. **Extraction** – ore-removal activities that take place at the mine site itself;
- 7
- 8 x. **Free, prior and informed consent (FPIC)** – the consensus of all members of
9 the ICCs/IPs to be determined in accordance with their respective customary
10 laws and practices, free from any external manipulation, interference, coercion,
11 and other analogous acts and obtained after fully disclosing the intent and
12 scope, including the positive and negative impacts, of all the activities, in a
13 language and process understandable and acceptable to the community;
- 14
- 15 y. **Indigenous peoples/Indigenous cultural communities (IP/ICC)** – refer to a
16 group of people or homogenous societies identified by self-ascription and
17 ascription by others, who have continuously lived as organized community on
18 communally bounded and defined territory, and who have, under claims of
19 ownership since time immemorial, occupied, possessed and utilized such
20 territories, sharing common bonds of language, customs, traditions and other
21 distinctive cultural traits, or who have, through resistance to political, social and
22 cultural inroads of colonization, non-indigenous religions and cultures, became
23 historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise
24 include peoples who are regarded as indigenous on account of their descent
25 from the populations which inhabited the country, at the time of conquest or
26 colonization, or at the time of inroads of non-indigenous religions and cultures, or
27 the establishment of present state boundaries, who retain some or all of their
28 own social, economic, cultural and political institutions, but who may have been
29 displaced from their traditional domains or who may have resettled outside their
30 ancestral domains. They are peoples who have a spiritual relationship with the
31 land;
- 32
- 33 z. **Indigenous political structure** – refers to organizational and cultural leadership
34 systems, institutions, relationships, patterns and processes for decision-making
35 and participation, identified by ICCs/IPs such as, but not limited to, Council of
36 Elders, Council of Timuays, Bodong Holders, and any other tribunal or body of
37 similar nature;
- 38
- 39 aa. **Joint venture agreement** – an agreement wherein the government and a
40 qualified person organize a joint-venture company, with both parties having
41 equity shares, to develop and manage mineral resources. Aside from earnings
42 on the equity, the Government shall be entitled to a share in the output
43 computed at a certain percentage mutually agreed upon by and beneficial to
44 both parties.
- 45

- 1 bb. **Key biodiversity areas** – are sites of global biodiversity conservation
2 significance. They are defined by standardized criteria and thresholds to guide
3 conservation interventions such as the establishment of protected areas;
- 4
- 5 cc. **Large-scale mining** – mining in areas with more than twenty (20) hectares,
6 using mechanized tools and equipment, requiring considerable capital and
7 having large-scale environmental, social, cultural and economic impacts with
8 regard to resource use and/or consumption;
- 9
- 10 dd. **Mineral agreement** – a contract entered into by the government, in behalf of the
11 State, and a private Filipino person, granting such person/s the privilege to mine
12 a specific contract area;
- 13
- 14 ee. **Mineral resource** – any concentration of minerals/rocks with potential economic
15 value;
- 16
- 17 ff. **Mineral processing** – the milling, beneficiation or upgrading of ores or minerals
18 and rocks or by similar means to convert the same into marketable products;
- 19
- 20 gg. **Minerals** – all naturally occurring inorganic substance in solid, gas, liquid, or any
21 intermediate state excluding energy materials such as coal, petroleum, natural
22 gas, radioactive materials, and geothermal energy;
- 23
- 24 hh. **Mine development** – preparing the mine site for production by shaft sinking or
25 pit excavation building of access roads, and constructing of surface facilities;
- 26
- 27 ii. **Mine wastes and tailings** –rock materials from surface or underground mining
28 and milling operations with little or no economic value to the generator of the
29 same;
- 30
- 31 jj. **Mining activity** – any or all of the following activities: exploration, extraction,
32 utilization, processing, transportation and other activities conducted for the
33 same;
- 34
- 35 kk. **Mining area** – a portion of the contract area which has been identified by the
36 contractor wherein actual mining operations are conducted;
- 37
- 38 ll. **Mining operations** – either all or any of the mining activities involving
39 exploration, feasibility, development, utilization, and processing;
- 40
- 41 mm. **National industrialization** -- in the mining industry, this shall denote the primacy
42 of mineral production, processing and distribution for the primary benefit of the
43 domestic economy. This includes creating favorable conditions for Filipino
44 entrepreneurs to engage in mining through various state-private agreements that
45 shall ensure that mining shall help spur more domestic investments, increase

- 1 agricultural production and produce both consumer and producer goods and
2 manufactures;
- 3
- 4 nn. **National park** – an area of the public domain essentially natural wilderness,
5 scenic, or historic in character which has been withdrawn from settlement,
6 occupancy, or any form of exploitation except in conformity with an approved
7 management plan and set aside exclusively to conserve the area or preserve the
8 scenery, the natural and historic objects, wild animals, and plants therein mainly
9 for the purpose of biodiversity conservation and/or human enjoyment;
- 10
- 11 oo. **Natural forest** – forests composed of indigenous trees, not planted by man,
12 whose structure, functions, and dynamics have been largely the result of natural
13 succession processes;
- 14
- 15 pp. **Natural parks** – is a relatively large area not materially altered by human activity
16 where extractive resource uses are not allowed. These parks are maintained to
17 protect outstanding natural and scenic areas of national or international
18 significance for scientific, educational and recreational use;
- 19 qq. **Open-pit mining** – Extracting metal ores and minerals that lie near the surface
20 by removing the overlying material and breaking and loading the ore. Also
21 known as open-cast mining and open-cut mining;
- 22
- 23 rr. **Ore** – a material that contains minerals in such quantities that it can be mined
24 and worked commercially to extract that mineral. The mineral is usually
25 contained in chemical combination with some other element in addition to
26 various impurities;
- 27
- 28 ss. **Pollution control and infrastructure devices** – infrastructure, machinery,
29 equipment and/or improvements used for impounding, treating, or neutralizing,
30 precipitating, filtering, conveying and cleansing mine industrial waste and tailings
31 as well as eliminating or reducing hazardous effects of solid particles, chemicals,
32 liquids or other harmful by-products and gases emitted from any facility utilized
33 in mining operations for their disposal;
- 34
- 35 tt. **Private land** – any land belonging to any private person which includes
36 alienable and disposable land being claimed by a holder, claimant, or occupant
37 who has already acquired a vested right thereto under the law, although the
38 corresponding certificate or evidence of title or patent has not been actually
39 issued;
- 40
- 41 uu. **Processing** – includes all treatment an ore receives after its extraction and
42 beneficiation, which involves changes in the chemical nature of the mined
43 minerals;
- 44

- 1 vv. **Progressive rehabilitation** – rehabilitation which involves the staged treatment
2 of disturbed areas during exploration, construction/development and mining
3 operations;
- 4 ww. **Protected areas** – identified portions of land and water set aside by reason of
5 their unique physical and biological significance, managed to enhance biological
6 diversity and protected against destructive human exploitation;
- 7 xx. **Protected landscapes, seascapes, marine sanctuaries** – areas of national
8 significance which are characterized by the harmonious interaction of man and
9 the environs while providing opportunities for public enjoyment through
10 recreation and tourism within the bounds of the normal lifestyle and economic
11 activity of these areas;
- 12 yy. **Quarry resources** – any common rock or other mineral substances as the
13 Director of the Mines and Geosciences may declare to be quarry resources such
14 as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous
15 earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red
16 burning clay for potteries and bricks, rhyolite, rock phosphate, sandstone,
17 serpentine, shale, tuff, volcanic cinders, and volcanic glass, Provided, That such
18 quarry resources do not contain metals or metallic constituents and /or other
19 valuable minerals in economically workable quantities; Provided further, That
20 non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand
21 and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite,
22 dolomite, mica, precious and semi-precious stones, and other non-metallic
23 minerals that may later be discovered and which the Director declares the same
24 to be of economically workable quantities, shall not be classified under the
25 category of quarry resources;
- 26 zz. **Quarrying** – process of extracting, removing and disposing quarry resources
27 found on or underneath the surface of private or public land;
- 28 aaa. **Regional Director** – the regional director of any mines regional office;
- 29 bbb. **Regional Office** – any of the mines regional offices;
- 30 ccc. **Recycling** – shall refer to the treating of used or waste materials through a
31 process of making them suitable for beneficial use and for other purposes, and
32 includes any process by which solid waste materials are transformed into new
33 products in such a manner that the original products may lose their identity, and
34 which may be used as raw materials for the production of other goods or
35 services: *Provided*, That the collection, segregation and re-use of previously
36 used packaging material shall be deemed recycling under the Act;
- 37 ddd. **Rehabilitation** – the process by which the land will be returned to a form and
38 productivity in conformity with a prior land use plan including a stable ecological

1 state that does not contribute substantially to environmental deterioration and is
2 consistent with surrounding aesthetic values;

3
4 eee. **Remediation** – removal of pollution or contaminants from environmental media
5 for the general protection of the area and the people;

6
7 fff. **Remining** – maximizing and recovering the remaining minerals from the rejects
8 or wastes of previous mines and mining operations;

9
10 ggg. **Restoration** – where the intent is to recreate an ecosystem as close as possible
11 to the original which existed at the site, with most of the structure and
12 productivity matching that of the original ecosystem, and most of the original
13 biodiversity: in time ecological processes and functions will match those of the
14 original forest;

15
16 hhh. **Self-determination** - refers to the right of a people to determine its own political
17 destiny as defined by existing Philippine laws. The right to self-determination has
18 includes the right of ICCs/IPs to choose their form of government within existing
19 national borders to achieve a greater degree of autonomy to help preserve their
20 culture, ancestral domain, and way of life;

21
22 iii. **Small-scale mining** – mining activities which rely heavily on manual labor using
23 simple implements and methods and do not use explosives or any heavy mining
24 equipment, primarily engaged in for sustainable living. Impacts from small-scale
25 mining shall not be large-scale, otherwise, the mining activity shall be defined as
26 large-scale mining;

27
28 jjj. **Small-scale mining permit** – permit issued for small-scale mining;

29
30 kkk. **Strategic minerals** – minerals needed for national industrialization, including
31 rural development;

32
33 III. **Tailings Disposal System or Tailings Placement** – the method wherein the
34 waste from mining operations are dumped, placed, or disposed;

35 mmm. **Traditional small-scale mining** – small-scale mining using traditional
36 means and without the use of chemical or mechanized extraction and separation
37 means, methods, implements, and/or equipment;

38
39 nnn. **Watershed continuum** -- shall refer to an area consisting of the watershed and
40 its divide including its connection from the headwaters to the reef or a land area
41 drained by a stream or a fixed body of water and with tributaries having a
42 common outlet for surface runoff. It is the system by which the mining-affected
43 communities shall be determined following the drainage of a stream or fixed
44 body of water with tributaries having a common outlet for surface runoff;

45
46 ooo. **Wildlife** – undomesticated forms and varieties of flora and fauna;

1
2 **CHAPTER IV**
3 **OWNERSHIP AND GOVERNANCE**
4

5 **Section 21. Authority of the Bureau.** The Mines and Geosciences Bureau shall be a
6 scientific research institution under the Department of Environment and Natural
7 Resources (DENR) primarily conducting and developing research of mineral resources
8 and mining technologies and training of local communities, local government units and
9 indigenous peoples. It shall also regulate the operations of persons involved in mining
10 activities. It shall also work with the Multi-Sectoral Mineral Council in the monitoring of
11 mining activities.
12

13 **Section 22. Regional offices.** The Bureau shall have as many regional offices in the
14 country as may be established by the Secretary, upon the recommendation of the
15 Director.
16

17 **Section 23. Bureau as repository of information.** The Bureau shall be the central
18 repository of information regarding mineral lands, resources, permits, studies and other
19 information relevant to the operation of a mine, including the necessary requirements
20 which a contractor is obliged to submit. All other governmental offices and other bodies
21 created under this Act shall copy furnish the Bureau of all other information related to
22 mining.
23

24 **Section 24. Recording system.** There shall be established a national and regional
25 filing and recording system. A mineral resource database system shall be set up in the
26 Bureau which shall include, among others, a mineral rights management system.
27

28 **Section 25. Publication.** The Bureau shall publish at least annually a mineral gazette
29 of nationwide circulation containing among others, a current list of mineral rights, their
30 locations specified in the appropriate map, mining rules and regulations, other official
31 acts affecting mining, and other information relevant to mineral resources development.
32 A system of publication fund shall be included in the regular budget of the Bureau.
33

34 **Section 26. Bureau to conduct exploration activities.** Exploration of mineral
35 resources shall be exclusively and directly undertaken by the State through the Bureau.
36 In no case shall this function be delegated or contracted out to private corporations or
37 persons.
38

39 **Section 27. Non-invasive exploration.** Exploration activities shall only be non-invasive
40 such as seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-
41 wave and electro-geochemical.
42

43 **Section 28. Consent.** The Bureau shall not conduct any exploration activity without the
44 free, prior and informed written consent of relevant land owner, possessor and/or
45 occupant; the affected communities; and/or of the ICC/IP. Neither shall the Bureau enter
46 into any part of the ancestral domains/lands of ICCs/IPs without their free and prior

1 informed consent. Further, the Bureau shall not enter into any distributed land under the
2 Comprehensive Agrarian Reform Program within the 10 years prohibited period of the
3 said program.

4

5 **Section 29. Ownership of ICCs/IPs.** The mineral resources within ancestral
6 domains/ancestral lands are the collective private property of the indigenous cultural
7 communities/indigenous peoples (ICCs/IPs) as provided by law. The management of
8 such mineral resources shall build on the indigenous knowledge systems and practices
9 of the ICCs/IPs.

10

11 **Section 30. Free, prior and informed consent.** No mining activity shall be conducted
12 within the ancestral domains/lands of ICCs/IPs without their free, prior and informed
13 consent (FPIC), in addition to the conditions set forth under the succeeding sections of
14 this Act.

15

16 **Section 31. When ancestral domain is not formally recognized.** When ancestral
17 domain is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral
18 Land Title (CADT/CALT), or is covered by a different title issued in favor of members of
19 the ICCs/IPs, mineral resources shall nevertheless be managed by the ICCs/IPs
20 concerned when it can be presumed that the area is part of ancestral domain. An area
21 is presumed to be part of ancestral domain by virtue of historic rights and self-
22 delineation by the ICCs/IPs.

23

24 **Section 32. When ICCs/IPs displaced from ancestral domain, and when ancestral
25 domain is already covered by other titles emanating from the State other than
26 CADT/CALT.** IP/ICC rights over ancestral domain subsists notwithstanding the fact that
27 the ICCs/IPs who hold such rights have been displaced therefrom or that such ancestral
28 domains have been occupied by other persons or corporations under another claim of
29 title emanating from the State. In such cases, ICCs/IPs shall continue to own such
30 mineral resources.

31

32 **Section 33. Questions on the validity of FPIC.** In instances that there are questions
33 on the legality or validity of the issued free prior and informed consent, mining
34 operations shall not be allowed to be conducted in the ancestral domains or lands of the
35 ICCs/IPs without the final resolution of such question on the legality or validity of the
36 FPIC.

37

38 **Section 34. Ownership of the State.** The mineral resources found outside ancestral
39 domains/lands shall be owned by the State. The State shall ensure that the
40 management of mineral resources shall be primarily for the benefit of the local
41 communities in whose territory the same shall be found. Any minerals extracted shall
42 be solely used for local industries consistent with the Minerals Management Plan. The
43 State may directly undertake development, utilization and processing of mineral
44 resources or it may enter into mineral agreements with eligible parties pursuant to the
45 provisions of this Act.

46

1 **Section 35. Inventory of mineral resources.** The Bureau shall identify and provide an
2 inventory of the available mineral resources, including the mine tailings and wastes
3 within the country. It shall submit to the DENR a report which shall contain the following
4 information:

- 5
- 6 a) the classification of minerals;
7 b) the quality and grade of the ore;
8 c) the potential mine life;
9 d) the geological description of the area;
10 e) the economic viability of mine tailings;
11 f) whether the area is a key biodiversity area or if it is a critical habitat;
12 g) and all other relevant information necessary for potential mineral investments.

13

14 The process for mineral exploration and/or approval for a mining permit shall not
15 commence without the said inventory.

16

17 **Section 36. Identification of strategic minerals.** The Bureau shall conduct researches
18 and studies prior to any mining operations to identify strategic mineral resources. Only
19 mineral resources that shall be needed for local industries, agricultural modernization
20 and rural development shall be opened to mining subject to the implementing rules and
21 regulations of this Act.

22

23 **Section 37. Demarcation of mineral areas.** The Bureau shall demarcate the
24 boundaries of all areas identified as containing commercial quantities of mineral
25 resources on the ground.

26

27 **Section 38. Baseline information on watershed continuums.** The baseline
28 information on all watersheds in the country shall be required and made available to the
29 public, online as much as possible. No mining permit shall be issued without this
30 baseline information.

31

32 **Section 39. Affected local community and local government unit.** For the purposes
33 of this Act, the affected local community and the affected local government unit are
34 defined in relation to the watershed continuum which is potentially negatively impacted
35 by mining operation in the demarcated area. The local communities and the local
36 government units therefore are those who are dependent on the watershed eco-system
37 and its resources.

38

39 **Section 40. Establishment of Multi-Sectoral Mineral Councils.** A Multi-Sectoral
40 Mineral Council shall be established for the purposes of this Act. There shall be as
41 many Multi-Sectoral Mineral Councils as there are watershed continuums with
42 demarcated mineral areas.

43

44 **Section 41. Powers of the Council.** The Council shall have the following powers,
45 among others:

46

- 1 a) To determine whether or not mining operations shall be allowed;
- 2 b) To deliberate on proposals for mineral agreements;
- 3 c) To approve the proposal for mineral agreements;
- 4 d) To monitor the conduct of mining operations;
- 5 e) To establish its internal rules of procedure which are not contradictory to this Act;

6
7 **Section 42. Composition of the Multi-Sectoral Mineral Council.** The Multi-Sectoral
8 Mineral Council shall be composed of representatives from the Bureau, one
9 representative from each of the affected provincial governments/independent
10 component cities/highly urbanized cities, representatives from
11 peoples/community/sectoral/non-governmental organizations as many as the
12 representatives of local government units, and the affected ICCs/IPs within the
13 watershed continuum. The Bureau shall be the convenor of the Council.

14
15 No mining operations shall be allowed without the Council having been properly
16 convened.

17
18 **Section 43. Areas open to mining.** The Council shall have the power to determine
19 whether or not the land where mineral resources are found shall be opened to mining.
20 Areas may only be opened to mining upon the vote of two-thirds of all the members of
21 the Council pursuant to the guidelines provided by this Act. In determining whether or
22 not such area shall be opened, the following shall be required:

- 23 a) Report of the Bureau on the conducted exploration;
- 24 b) Existence of downstream industries for the mineral resources;
- 25 c) Potential environmental impacts;
- 26 d) Potential cultural impacts;
- 27 e) Conflict and risk assessment;
- 28 f) Potential health impacts;
- 29 g) Potential economic benefits of the development and utilization of the minerals;
- 30 h) Carrying capacity and the ecological profile of the area;
- 31 i) Existing and alternative land uses of the area;
- 32 j) Local government land use plan.

33
34 No mining application shall be allowed unless an environmental economic audit or
35 resource valuation of the proposed mining area has been conducted or prepared
36 applying acceptable valuation standards. This audit or resource valuation shall be
37 conducted in coordination with multisectoral group of experts and community
38 stakeholders. It shall include determination of the expected economic returns and the
39 potential negative impacts from mining on the enjoyment and exercise of human rights,
40 cultural rights, and on peace and security. A detailed study must mention the flora,
41 fauna and environment present in the mining claim and the impact of mining operations
42 on the environment, the possible environmental degradation and the attendant loss of
43 subsistence resources cause. There must be mention of existence of sacred areas or
44 areas otherwise of cultural significance and address the impacts of resource exploitation
45 on indigenous peoples and local communities.

1
2 This information shall be accessible to the public at all times. *Provided That* in no case
3 shall the Council open the following areas to mining:

- 4 a) Areas declared by Local Government Units as No-Mining Zones as specified by
5 local ordinances, and other issuances;
- 6 b) Densely populated areas, especially residential areas;
- 7 c) Head waters of watershed areas;
- 8 d) Areas with potential for acid mine drainage;
- 9 e) Critical watersheds;
- 10 f) Critical habitats;
- 11 g) Climate disaster-prone areas;
- 12 h) Geohazard areas;
- 13 i) Small island ecosystems;
- 14 j) Cultural sites, which may include, but not limited to, sacred sites and burial
15 grounds;
- 16 k) Traditional swidden farms and hunting grounds;
- 17 l) Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
18 6657, as amended;
- 19 m) Prime agricultural lands, irrigable and irrigated lands as defined by Republic Act
20 No. 9700;
- 21 n) Cultural property enumerated under the National Cultural Heritage Act of 2009 or
22 Republic act No. 10066;
- 23 o) Community sites;
- 24 p) Key biodiversity areas;
- 25 q) High conflict areas;
- 26 r) The Province of Palawan pursuant to Republic Act No. 7611 and other areas
27 covered by local ordinances;
- 28 s) In military and other government reservations, except upon prior written
29 clearance by the government agency/agencies concerned;
- 30 t) Near or under public or private buildings, cemeteries, archaeological and historic
31 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
32 infrastructure projects, public or private works including plantations or valuable
33 crops, except upon written consent of the government agency/agencies or
34 private entity concerned;
- 35 u) In areas expressly prohibited by law or ordinances;
- 36 v) In areas covered by small-scale miners as defined by law unless with prior
37 consent of the small-scale miners, in which case a royalty payment upon the
38 utilization of minerals shall be agreed upon by the parties, said royalty forming a
39 trust fund for the socioeconomic development of the community concerned; and
- 40 w) Old growth, natural or primary and secondary forests, watershed forest reserves,
41 wilderness areas, mangrove forests, mossy forests, national parks, protection
42 forests, provincial/municipal forests, parks, greenbelts, game refuges and bird
43 sanctuaries and their respective buffer zones prohibited under the National
44 Integrated Protected Area System (NIPAS) under Republic Act No. 7586,

1 Department Administrative Order No. 25, series of 1992 and other laws and
2 ordinances and those expressly prohibited by other laws.

3
4 The determination whether or not the same are absolutely closed to mining shall not
5 only be limited to the existence of a law or ordinance declaring it as protected areas, but
6 also to the actual use of said area.

7
8 **Section 44. Process of determination for opening an area to mining.** After the
9 submission of the exploration report and the resource valuation report, the Bureau shall
10 convene the Council. The Council shall thereafter convene their respective constituents
11 to determine whether or not their respective territories shall be opened for mining.

12
13 Sections 26 and 27 of the Local Government Code on consultation and consent shall be
14 strictly adhered to. Local government units at all levels shall conduct mandatory public
15 hearings with the affected local communities, to be carried out within their respective
16 territories and presenting those enumerated under Section 41.

17
18 The decision of the respective Sanggunians of all the local government units in the
19 watershed continuum shall be made in accordance to the sentiment of the peoples of
20 the local government unit as a result of the consultations conducted.

21
22 *Provided,* That each Sangguniang Barangay within the watershed continuum shall
23 convene their respective barangay assemblies for the purpose of this section. Local
24 government units shall ensure that the Bureau shall comprehensively explain the goals
25 and objectives of the project or program, its negative and positive impact upon the
26 people and the community in terms of environmental or ecological balance, and the
27 measures that will be undertaken to prevent or minimize the adverse effects thereof.
28 The free prior and informed consent of all barangay assemblies within the watershed
29 continuum shall be a condition precedent for any mining activity.

30
31 *Provided further,* That no mining activity shall be approved by the council without the
32 free and prior informed consent of all indigenous peoples within the watershed
33 continuum.

34
35 For the purposes of declaring that an area is open for mining, the Council shall ensure
36 that all the requisites under Section 41 and 42 have been complied with.

37
38 *Provided finally,* That any member of the community may file a protest with the Council
39 during the period of consultations and deliberations for the Council's consideration.

40
41 **Section 45. Violation of Section 54.** Local government officials who are
42 administratively found to violate the preceding section and Section 54 of this Act vis-à-vis
43 the pertinent sections of the Local Government Code shall be removed from office
44 and perpetually disqualified from holding any elective or appointive position in
45 government, its divisions, subsidiaries and any government owned and controlled
46 corporations.

1
2 **Section 46. Pool of consultants.** There shall be a pool of independent consultants that
3 may assist the local government units, local communities or ICCs/IPs with regard to the
4 technical aspects of mining.

5
6 **Section 47. Publication, posting and radio announcement requirements.** The
7 decision of the Council shall be published by the Bureau in the local newspaper in the
8 local language, shall be announced on the local radio programs for not less than six (6)
9 weeks and notices shall be distributed widely in communities. The notice containing
10 relevant information shall likewise be posted in conspicuous places for the information
11 of the general public and shall be announced during the local market day.

12
13 **CHAPTER V**
14 **MINERAL AGREEMENTS**

15
16 **Section 48. Modes of mineral agreement.** A mineral agreement may only take the
17 following forms as herein defined:

- 18
19 a) **Mineral production sharing agreement** – is an agreement where the
20 Government grants to the contractor the exclusive right to conduct mining
21 operations within a contract area and shares in the gross output. The contractor
22 shall provide the financing, technology, management and personnel necessary
23 for the implementation of this agreement;
- 24
25 b) **Co-production agreement** – is an agreement between the Government and the
26 contractor wherein the Government shall provide inputs to the mining operations
27 other than the mineral resource; and
- 28
29 c) **Joint venture agreement** – is an agreement where a joint-venture company is
30 organized by the Government and the contractor with both parties having equity
31 shares. Aside from earnings in equity, the State shall be entitled to a share in the
32 gross output.

33
34 In no case shall Financial or Technical Assistance Agreements, or any other similar
35 agreements, contracts, and/or executive issuances granting license or permission to
36 explore, develop and/or utilize mineral resources be awarded to foreign entities or
37 persons.

38
39 **Section 49. Eligibility.** Only Filipino citizens or corporations sixty percent (60%) of
40 whose equity is owned or controlled by such citizens shall be allowed to conduct
41 development, utilization and processing of mineral resources within the country.

42
43 **Section 50. Identification of mining projects.** With the vote of two-thirds of all the
44 members of the Council, to open areas for mining operations, the Bureau shall prepare
45 the necessary information sheets on the said area for potential investments. The

1 Bureau shall call for proposals to develop the mining area based on the Mineral
2 Management Plan.

3
4 **Section 51. Pre-screening of mining proposals.** Mining proposals shall be pre-
5 screened by the Bureau according to the National Industrialization Program and Mineral
6 Management Plan upon the submission of interested parties of the following:

- 7
8 a) demonstration of financial capability;
9 b) proven social and environmental track record, including those of its officers and
10 directors;
11 c) clear corporate structure and ownership;
12 d) proof of physical office and operations of the proponent within the Philippines;
13 e) identification of potential investors;
14 f) mining project feasibility;
15 g) mining operation work plan;
16 h) proposed operation, mitigation and prevention methods and/or equipment;
17 i) capacity to process minerals;
18 j) intent to develop downstream industries;
19 k) intent to contribute to local community development; and
20 l) Submission of the Environmental and Social Impact Assessment and Mitigation
21 Plan

22
23 The Council shall fix the minimum capitalization that any bidder must satisfy based on
24 its determination of the expected economic returns and the potential negative impacts
25 from mining, upon reference to an independent study proposing such minimum
26 capitalization.

27
28 **Section 52. Environmental and Social Impact Assessment and Mitigation Plan.**
29 The contractor shall submit an Environmental and Social Impact Assessment and
30 Mitigation Plan (ESIAMP) containing the means, methods, processes and schedule by
31 which the contractor shall conduct its operations and mitigate negative environmental
32 and social impacts. Social impact shall include possible impacts on the enjoyment and
33 exercise of human rights, cultural rights. The ESIAMP shall include plans relative to
34 mining operations; the rehabilitation, regeneration and restoration of mineral areas;
35 slope stabilization of mined out and tailings covered areas; aquaculture, watershed
36 development and water conservation; the relocation and return of displaced population;
37 and provisions for alternative livelihood and socioeconomic development.

38
39 The ESIAMP shall also contain a Social Development Plan which shall likewise contain
40 the plans of the proponent for the development of the community through the
41 establishment of infrastructures and programs that shall be sustainable even after the
42 closure of the mine.

43
44 **Section 53. Pre-qualification.** The Bureau shall thereafter identify the top three (3)
45 proposals and shall recommend the same to the Council for deliberation.

46

1 **Section 54. Deliberation of the proposals.** Pre-conditions provided in Section 45 on
2 the free, prior and informed consent of persons, landowners, possessors or occupants,
3 communities or barangay assemblies, IPs/ICCAs, and/or local Sanggunians shall likewise
4. be required under this Section.

5
6 **Section 55. Posting and publication requirement.** After notice, the Bureau shall
7 notify the proponent of the accepted proposal and cause the publication and posting of
8 the accepted proposal.

9 *Provided,* That any member of the community may contest the decision of the Council
10 within six (6) weeks upon the posting and publication of notice of the acceptance of the
11 proposal in the manner provided in Section 44. No mining operations shall be allowed to
12 be conducted pending any action questioning the legality or validity of the proposal.

13
14 **Section 56. Issuance of the permit.** After six (6) weeks from the date of the posting
15 and publication, if no contest is filed, the Bureau shall issue a permit in accordance with
16 the decision of the Council on the winning proposal.

17
18 **Section 57. Environmental and Social Impact Compliance Certificate.** The mining
19 proponent shall be issued an Environmental and Social Impact Compliance Certificate
20 by the Bureau with the approval of the Council.

21
22 *Provided,* That no amendments to the conditions of the Certificate shall be allowed,
23 unless such proposed amendment shall work for the benefit of the communities, and in
24 which case, the Council and the Bureau shall be notified of any amendments to the
25 ESIAMP and that the former should give their consent to the same, after the proponent
26 explaining in detail the reason for such amendment and the possible impacts and
27 consequences of these amendments.

28
29 *Provided further,* That any violation of the ESIAMP shall cause the cancellation of the
30 Certificate.

31
32 **Section 58. Maximum areas for mineral agreements.** The maximum area under
33 mineral agreements that a person can hold at any one time shall be determined by the
34 Council. *Provided,* That the contract area per agreement shall not exceed five hundred
35 (500) hectares;

36
37 *Provided further,* That no person shall be awarded in excess of the total contract area of
38 seven hundred-fifty (750) hectares in any given watershed area. For the purposes of
39 this Act, the prohibition on the maximum area shall also include corporations that shall
40 have common directors or significant shareholders.

41
42 **Section 59. Term of mineral agreement.** The term of the mineral agreement shall be
43 equivalent to the mine life plus an additional five (5) years for the rehabilitation of the
44 mining area. *Provided,* That in no case shall a Mineral Agreement have a term beyond
45 fifteen (15) years. *Provided further,* That the contractor shall already include
46 rehabilitation/remediation of the mining area within the ten-year term.

1
2 In no case shall a Mineral Agreement be extended without just cause to be determined
3 by the Council, *Provided*, That the extension shall not cause the term of the agreement
4 to exceed the fifteen (15) year term mentioned in the preceding section. *Provided*
5 *further*, That for the purposes of this Act, just cause shall mean acts or events resulting
6 from war, force majeure or those beyond the control of the mining proponent not
7 attributable to the same.

8
9 *Provided finally*, That in no case shall mineral agreements be renewed after the
10 expiration of the fifteen-year period.

11
12 **Section 60. Prohibition on open-pit mining method and submarine tailings**
13 **disposal.** Open-pit mining method for the extraction of mineral ores and the submarine
14 tailings disposal method shall be prohibited.

15
16 **Section 61. Failure to initiate mining operations.** Failure to commence the
17 development stage of the mining operations in accordance with the work program within
18 two (2) years from the award of the mineral agreement shall cause the cancellation of
19 the mineral agreement. The contractor thereafter forfeits the value of the improvements
20 made upon the land. The contractor and other corporations who are also run by the
21 same directors and officers are thereafter banned from bidding to conduct mining
22 operations for ten (10) years after failure to commence the development stage of the
23 mining operations in accordance with the work program.

24
25 **Section 62. Mandatory consultations in each mining phase.** Mandatory
26 consultations with affected persons and communities shall be undertaken in each phase
27 of mining operation: exploration, extraction, processing, and mine closure to ensure that
28 the peoples shall be informed of the proposed plans and methods that are proposed to
29 be conducted.

30
31 **Section 63. FPIC on each stage of mining operation.** The free and prior informed
32 consent of the ICCs/IPs, the barangay assemblies, and private landowners, possessors,
33 occupants shall be required at each and every stage of the mining operations.

34
35 As to ICCs/IPs, their free and prior informed consent shall be secured in accordance
36 with their laws, practices and processes. Violation of any of the conditions imposed by
37 the ICCs/IPs on the contractor shall cause the cancellation of the mineral agreement.
38 Included in this process is the explanation of the rights of ICCs/IPs of ownership and
39 self-determination.

40
41 **Section 64. Multi-partite monitoring.** The Council shall form a multi-partite monitoring
42 team to monitor compliance by the contractor of the terms and conditions of the mineral
43 agreement. It may conduct ocular inspections of the contract area at any time of the
44 day and night. It shall also inspect all the books of contractors and refer the same to
45 independent auditors. The Multi-partite monitoring team and/or the Bureau may
46 confiscate surety, performance and guaranty bonds posted through an order to be

1 promulgated by the Director. The Council, the Director or the local government
2 authorities may deputize, when necessary, any member or unit of the Philippine
3 National Police, barangay, duly registered nongovernment organization (NGO) or any
4 qualified person to police any and all mining activities.

5

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

14

15 **Section 66. Non-transferability of mineral agreements.** In no case shall mining rights
16 under this Act be transferrable. The contractor shall also immediately notify the Council
17 and the Bureau of any substantial change in the ownership and/or control of the
18 corporation. Violation of this provision shall cause the cancellation of the agreement and
19 forfeiture of assets and equipment of the contractor in favor of the State.

20

21 **Section 67. Access to information.** All contractors for mineral permits and
22 agreements shall provide information to affected indigenous peoples, local
23 communities, and local governments. The following information, among others, shall be
24 required:

- 25
- 26 a) full disclosure of methods and processes of mining
27 b) full disclosure of environmental and social risks
28 c) full disclosure of ownership structure
29 d) full disclosure of financial sources

30

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

35

36 The Bureau, being the repository of all relevant information under this Act is mandated
37 to grant access to the public of any information in its custody. Refusal or unnecessary
38 delay by the officers of the Bureau to give information shall be punishable by a fine of
39 fifty thousand pesos (PhP 50,000.00) for every instance of refusal or unnecessary
40 delay. Information requested by indigents or marginalized sectors shall be given to
41 them for free.

42

43

44 **CHAPTER VI**
45 **SMALL-SCALE MINING**

46

1 **Section 68. Applicability of RA 7076.** Small-scale mining shall continue to be
2 governed by the provisions of Republic Act No. 7076 or the People's Small-Scale
3 Mining Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be
4 composed of the Governor or City Mayor, as chairperson, as the case may be, a
5 representative from the DENR as co-chairperson, one (1) small-scale mining
6 representative, one (1) large-scale mining representative, one representative from a
7 nongovernment organization who shall come from an environmental group, one
8 representative from a people's organization (PO) coming from the marginalized sector,
9 and at least one (1) representative from the indigenous communities, whenever
10 applicable, as members. The representatives from the private sector, non-government
11 organization and indigenous communities shall be selected by their respective
12 organizations and/or communities, and appointed by the PMRB or CMRB.
13

14 *Provided further*, That the conduct of small-scale mining shall also comply with the
15 prohibitions and regulations established herein for large-scale mining. Only qualified
16 individuals and cooperatives may apply for a small-scale mining permit.
17

18 **Section 69. Maximum term of small-scale mining permits.** The term for small-scale
19 mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.
20

21 **Section 70. Traditional small-scale mining within ancestral domains.** The Council
22 shall conduct regular monitoring activities within its jurisdiction to determine if the
23 provisions of relevant laws are complied with in traditional small-scale mining by
24 ICCs/IPs within their respective ancestral domains.
25

26 **Section 71. FPIC in small-scale mining.** Small-scale mining activities within any
27 ancestral domain by any person shall also require the free, prior informed consent of
28 ICCs/IPs.
29

30 **Section 72. Requirement for an Environmental and Social Impact Compliance
31 Certificate.** Small-scale mining shall likewise require an Environmental and Social
32 Impact Compliance Certificate. All small-scale mining applicants or proponents must
33 show proof of compliance with the terms and conditions of its Environmental and Social
34 Impact Compliance Certificate (ESICC) prior to the issuance of a small scale mining
35 permit. Failure to submit this requirement will result in the non-issuance of the small-
36 scale mining permit (SSMP).
37

38 **Section 73. Environmental measures in small-scale mining.** The State shall
39 immediately address the environmental and health hazards and problems in small-scale
40 mining, including the use of hazardous chemicals, such as mercury, cyanide and other
41 chemicals, in the amalgamation of gold by small-scale miners.
42

43 **Section 74. Prohibition on the use of mercury.** Mercury use in small-scale mining
44 shall be prohibited. The Bureau shall research, develop and actively promote
45 appropriate technologies in small-scale mining including labor-intensive methods,
46

1 environmental protection and physical techniques of gold extraction among small-scale
2 miners.

3

4 **Section 75. Multisectoral monitoring team.** A multisectoral monitoring team shall be
5 organized to monitor the SSMP permittee's compliance with the terms and conditions of
6 its SSMP and ECC. The MMT shall conduct ocular inspections of the SSMP area at any
7 time of the day and night and shall have visitorial powers.

8

9 **Section 76. Alternative livelihood support.** The state shall support the improvement
10 of the livelihood of small-scale-miners by extending the services for access to other
11 more viable and sustainable forms of livelihood, and, if the same is not possible, the
12 following support services:

- 13
- 14 a) access to minerals markets and to financing;
15 b) facilitating partnership with mining companies or contractors by, among others,
16 requiring mining companies to buy tailings from small-scale mining operations for
17 further processing or recycling;
18 c) facilitating partnership among small-scale mining cooperatives; and
19 d) other incentives to attract informal small-scale miners to formalize their status.

20

21 **Section 77. Buying stations.** The Bangko Sentral ng Pilipinas shall ensure that buying
22 stations acquire gold from small-scale traders at prevailing international gold market
23 prices and the prevailing exchange rate set by the BSP Treasury Department on a daily
24 basis.

25

26

27 **CHAPTER VII**
28 **QUARRY RESOURCES**

29

30 **Section 78. Quarry resources within ancestral domains.** Gathering of quarry
31 resources, sand and gravel, guano and other organic fertilizer materials, and gemstones
32 within ancestral domains shall likewise be subject to the free prior informed consent of
33 ICCs/IPs. ICCs/IPs and the government shall be entitled to at least ten per cent (10%)
34 of royalties depending on whether the resources are found inside or outside ancestral
35 domains. Permits shall be limited to a maximum term of five (5) years, renewable for
36 like periods but not exceeding a total term of twenty five (25) years, and a maximum
37 area of five (5) hectares.

38

39 **Section 79. Quarry Permit.** Any qualified Filipino may apply for a quarry permit on
40 privately-owned lands except ancestral domains and/or public lands for building and
41 construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe,
42 granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building
43 bricks, pumice, perlite and other similar materials that are extracted by quarrying from
44 the ground at the provincial/city mining regulatory board. The provincial governor shall
45 grant the permit after the applicant has complied with all the requirements as prescribed
46 by the rules and regulations set forth by this Act. *Provided, That gathering/extraction of*

1 sand for its metallic contents such as magnetite from the country's rivers and shorelines
2 shall be require a mineral agreement in lieu of a quarry permit.

3
4 The maximum area which a qualified person may hold at any one time shall be limited
5 to a surface area of five hectares (5 has.): *Provided*, That in large-scale quarry
6 operations involving cement raw materials, marble, granite, sand and gravel and
7 construction aggregates, a qualified person and the government may enter into a
8 mineral agreement as defined herein.

9
10 A quarry permit shall have a term of five (5) years, renewable for like periods but not to
11 exceed a total term of twenty-five (25) years. No quarry permit shall be issued or
12 granted on any area covered by a mineral agreement.

13
14 **Section 80. Quarry Fee and Taxes.** A permittee shall pay a quarry fee as provided for
15 under the implementing rules and regulations. The permittee shall also pay the excise
16 tax as provided by pertinent laws.

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

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

29
30 **Section 83. Industrial Sand and Gravel Permit.** Any qualified person may be granted
31 an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel
32 and other loose or unconsolidated materials outside ancestral domains that necessitate
33 the use of mechanical processing covering an area of not more than five hectares (5
34 has.) at any one time. The permit shall have a term of five (5) years, renewable for a like
35 period but not to exceed a total term of twenty-five (25) years.

36
37 **Section 84. Exclusive Sand and Gravel Permit.** Any qualified person may be granted
38 an exclusive sand and gravel permit by the provincial governor to quarry and utilize
39 sand and gravel or other loose or unconsolidated materials from public lands for his own
40 use, *Provided*, That there will be no commercial disposition thereof.

41
42 **Section 85. Government Gratuitous Permit.** Any government entity or instrumentality
43 may be granted a gratuitous permit by the provincial governor to extract sand and
44 gravel, quarry or loose unconsolidated materials outside ancestral domains needed in
45 the construction of building and/or infrastructure for public use or other purposes over

1 an area of not more than two hectares (2 has.) for a period coterminous with said
2 construction.

3
4 **Section 86. Private Gratuitous Permit.** Any owner of land may be granted a private
5 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose
6 unconsolidated materials within his property.

7
8 **Section 87. Guano Permit.** Any qualified person may be granted a guano permit by the
9 provincial governor to extract and utilize loose unconsolidated guano and other organic
10 fertilizer materials in any portion of a municipality where he/she has an established
11 domicile outside ancestral domains. The permit shall be for specific caves and/or for
12 confined sites with locations verified by the Department's field officer in accordance with
13 existing rules and regulations. *Provided*, That extraction does not violate and is
14 consistent with the provisions in the Cave Conservation Act and the Wildlife Act.

15
16 **Section 88. Gemstone Gathering Permit.** Any qualified Filipino may be granted a non-
17 exclusive gemstone gathering permit by the provincial governor to gather loose stones
18 useful as gemstones in rivers and other locations outside ancestral domains.

19
20 **Section 89. Council recommendation for approval.** All permits under Chapter VII of
21 this Act shall require the recommendation of the Multi-Sectoral Mineral Council prior to
22 approval by the provincial government unit. The absence of a recommendation from the
23 Council prohibits the approval of any permit in this Chapter.

24
25
26 **CHAPTER VIII**
27 **TRANSPORT, SALE AND PROCESSING OF MINERALS**

28
29 **Section 90. Ore transport permit.** A permit specifying the origin and quantity of non-
30 processed mineral ores or minerals shall be required for their transport. Transport
31 permits shall be issued by the Bureau. The absence of a permit shall be considered as
32 prima facie evidence of illegal mining and shall be sufficient cause for the confiscation of
33 the ores or minerals being transported, the tools and equipment utilized, and the vehicle
34 containing the same.

35
36 **Section 91. Track record.** Only mining companies with demonstrated capacity and
37 good environmental track record in mineral processing shall be allowed to extract
38 minerals. The Council shall encourage contractors to put up processing plants within
39 the community with the end in view of generating employment and developing other
40 downstream industries.

41
42 **Section 92. Mineral trading registration.** No person shall engage in the trading of
43 mineral products, either locally or internationally, unless registered with the Department
44 of Trade and Industry and accredited by the Department, with a copy of said registration
45 submitted to the Bureau.

1 **Section 93. Mineral processing permit.** No person shall engage in the processing of
2 minerals without first securing a minerals processing permit from the Council. Mineral
3 processing permits shall be for a period of five (5) years, renewable for like periods but
4 not to exceed a total term of twenty-five (25) years.

5

6 CHAPTER IX 7 DEVELOPMENT OF COMMUNITIES, SCIENCE AND TECHNOLOGY

8

9 **Section 94. Expenditure for community development.** A contractor shall assist in
10 the development of the community, and the promotion of the general welfare of its
11 inhabitants towards sustainable development. Community development projects shall in
12 no way decrease the obligation of the corporation with regard to royalties and fees due
13 to communities or local government units. Community development projects should be
14 consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains
15 Sustainable Development and Protection Plan (ADSDPP) and annual investment plans
16 of the local governments, CADT/CALT holders and the like.

17

18 **Section 95. Employment of Filipinos and training of members of the local
19 community.** A contractor and/or permittee shall give preference to Filipino citizens in all
20 types of mining employment within the country. Members of the local community shall
21 be trained in all aspects of the mining operations, including remining, recycling,
22 rehabilitation, and the management thereof.

23

24 **Section 96. Use of indigenous goods, services and technologies.** A contractor shall
25 give preference to the use of local goods, services, and the scientific and technical
26 resources in all stages of mining operations, where the same are of equivalent quality
27 and are available on equivalent terms as their imported counterparts.

28

29 **Section 97. Donation/turnover of facilities.** Prior to the cessation of mining operations
30 occasioned by abandonment or withdrawal of operations, on public lands by the
31 contractor, the latter shall have a period of one (1) year therefrom within which to
32 remove improvements; otherwise all the infrastructure, facilities and equipment shall be
33 turned over or donated tax-free to the proper government authorities, national or local,
34 to ensure that said infrastructure facilities and equipment are continuously maintained
35 and utilized by the host and neighboring communities. A fine of one hundred thousand
36 pesos (PhP100,000.00) shall be imposed for every day of delay.

37

38 CHAPTER X 39 BENEFIT SHARING, TAXES AND FEES

40 **Section 98. Taxes and fees.** The contractor shall pay all taxes and fees as required by
41 law, including, but not limited to:

- 42
- 43 a) contractor's income tax;
44 b) customs, duties and fees on imported capital equipment;
45 c) value-added tax on imported goods and services;
46 d) withholding tax on interest payments on foreign loans;

- 1 e) withholding tax on dividends to foreign stockholders;
- 2 f) documentary stamps taxes;
- 3 g) capital gains tax;
- 4 h) excise tax on minerals;
- 5 i) local business tax;
- 6 j) real property tax;
- 7 k) community tax;
- 8 l) occupation fees;
- 9 m) registration, accreditation, and permit fees;
- 10 n) water usage fees.

11
12 **Section 99. Government share.** Aside from the taxes and fees referred to in the
13 preceding section, Government shall have at least a share equivalent to ten per cent
14 (10%) of the gross revenues from the development and utilization of mineral resources
15 that are owned by it to be set aside for the general fund of the government.

16
17 **Section 100. Indigenous cultural communities' royalty.** In case of mineral
18 operations within ancestral domains, the contractor shall pay at least ten percent (10%)
19 of the gross revenues as royalty to the ICCs/IPs. Community development programs
20 shall not be considered as royalty payment. The payment of the royalties shall directly
21 be given to the communities in a process that build on the ICCs/IPs' traditional and
22 customary laws.

23
24 *Provided,* That the royalty established in this Act shall be a minimum royalty payment
25 and may still be subject to other conditions to be agreed by the parties, free from any
26 external manipulation, interference, coercion, and other analogous acts, and obtained
27 after fully disclosing the intent and scope, including the positive and negative impacts of
28 the activity, in a language and process understandable and acceptable to them.

29
30 **Section 101. Scientific research and development fund.** A Scientific Research and
31 Development Fund shall be set aside to be devoted to research and development of
32 clean mining technologies, improvement of mining processes, mine rehabilitation,
33 mitigating technologies, setting up and maintenance of an independent pool of experts,
34 and operational expenses of the Bureau.

35
36 **Section 102. Legal support services fund.** A legal support fund shall be set aside for
37 the use of the communities and local government units for cases that they may file
38 against mining permittees or cases that may be filed against them by mining companies
39 in trying to do their responsibility of protecting the rights of the marginalized groups, the
40 environment and sustainable development in general.

41 **Section 103. Local Government Unit share.** Local Government Units shall be entitled
42 to a share of the net revenues from mining operations which shall be paid directly to the
43 provincial/independent component city/highly urbanized city treasurer/s for distribution
44 to other local government units. To determine the government share, the following
45 variables shall be considered:

- 46 a) Classification of local government;

- 1 b) Vulnerability;
2 c) Human development index.

3
4 A percentage of this amount shall be set aside by the respective local government units
5 for Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the
6 territory of the local government unit. *Provided*, That the administrative and operational
7 expenses of the Council shall also be taken from this share.

8
9 **Section 104. Mine wastes and tailings fees.** A semi-annual fee to be known as mine
10 wastes and tailings fee is hereby imposed on all operating mining companies in
11 accordance with the implementing rules and regulations. The mine wastes and tailings
12 fee shall accrue to a fund to be used as support funds for monitoring activities of the
13 Council. The Secretary is authorized to increase mine wastes and tailings fees, when
14 public interest so requires.

15
16 **Section 105. Incentives.** Incentives that shall be given to the contractors shall only be
17 limited to pollution control or mitigation devices.

18
19 **Section 106. Deposit of capital and profits requirement.** As part of their
20 demonstrated financial capacity, all large-scale mining companies/contractors are
21 required to deposit their capital investment and profits in banks or financial institutions
22 that are owned, managed and operated by the Philippine government.

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

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

35
36 CHAPTER XI
37 SAFETY AND ENVIRONMENTAL PROTECTION

38 A. Safety

40 **Section 108. Mines safety.** All contractors and permittees shall strictly comply with all
41 the mines and safety rules and regulations concerning the safe and sanitary upkeep of
42 the mines and mining development. Government personnel involved in the
43 implementation of mines safety, occupational health and environmental rules and
44 regulations shall be covered under Republic Act No. 7305 or the Magna Carta of Public
45 Health Workers.

1 **Section 109. Mine labor.** No person under sixteen (16) years of age shall be employed
2 in any place of mining operations and no person under eighteen (18) years of age shall
3 be employed in a mine.

4
5 **Section 110. Mine supervision.** All mining and quarrying operations shall have at
6 least one (1) licensed mining engineer for every fifty (50) employees. Such engineer/s
7 shall have at least five (5) years of experience in mining operations, and one (1)
8 registered foreman.

9
10 **Section 111. Safety of workers.** All mining companies shall provide safeguards to the
11 health and well-being of workers. The Regional Office of the Department of Labor and
12 Employment shall inspect all mining sites within their areas of jurisdiction to determine
13 the conditions of workers. Denial of entry shall be punishable under this Act.
14 Representatives of labor unions shall also have visitatorial rights.

15
16 **Section 112. Mine inspection.** The mines regional directors and the Council shall have
17 jurisdiction over the safety inspection of all installations, surface or underground, in
18 mining operations at reasonable hours of day or night and as much as possible in a
19 manner that will not impede or obstruct work in progress of a contractor or permittee.
20 Monitoring reports and recommendations of the Bureau shall be submitted to the
21 Council.

22
23 **Section 113. Power to issue orders.** The mines regional director, in consultation with
24 the Environmental Management Bureau, forthwith or within such time as specified in the
25 order, require the contractor to remedy any practice connected with mining, which is not
26 in accordance with safety and anti-pollution laws and regulations. In case of imminent
27 danger to life or property, the Director may summarily suspend the mining operation
28 until the danger is removed, or appropriate measures are taken by the contractor.
29 Unreasonable delay to remove the danger or introduce the necessary improvements by
30 the contractor shall be a cause for the cancellation of the mineral agreement.

31
32 **Section 114. Report of accidents.** In case of any incident or accident, causing or
33 creating the danger of loss of life or serious physical injuries, the person in charge of
34 operations shall immediately report the same to the regional office where the operations
35 are situated. Failure to report the same without justifiable reason shall be cause for the
36 imposition of administrative sanctions prescribed in the rules and regulations
37 implementing this Act.

38
39
40 **B. Environmental Protection**

41
42 **Section 115. Environmental Insurance.** Contractors and mineral processing permit
43 holders shall be obliged to execute an insurance contract as an environmental
44 assurance for each and every source of pollution or disaster, relative to the "worst case
45 scenario" costs, following accepted actuarial standards, *Provided*, That in no way shall
46 this provision be construed to remove or reduce the liability of the contractors and/or

1 permit holders to compensate any damage caused by their operations. *Provided further,*
2 That the insurer shall be an accredited international company in good standing.

3
4 Prior to the approval of the insurance contract by the DENR, the DENR shall seek and
5 consider the opinion of an independent expert as to the financial credibility of the
6 insurer.

7
8 **Section 116. Calamity and Human Rights Protection Fund.** Persons issued a
9 mineral agreement shall deposit five million pesos (PhP 5,000,000.00) semi-annually in
10 an interest-bearing account a common fund maintained by the national government
11 which shall be used for responding to, or ameliorating the effects of calamities, natural
12 disasters and human rights violations including militarization, displacement, and forcible
13 evacuation in any part of the country in relation to mining activities. *Provided*, That in no
14 way shall this provision be construed to remove or reduce the liability of the contractors
15 and/or permit holders to compensate any damage caused by their operations.

16
17 **Section 117. Performance Bond.** The contractor shall put up a bond in an amount
18 equivalent to fifty per cent (50%) of the projected cost of rehabilitation as validated by
19 independent studies. This amount shall be deposited in an interest-bearing account.
20 The bond shall be forfeited in the event that the contractor shall fail or default in the
21 rehabilitation or remediation of the mining area as included in the work plan of the
22 contractor or abandons the mine at any time of its operations.

23
24 **Section 118. Rehabilitation.** Contractors and permittees shall technically and
25 biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas
26 to the condition of environmental safety, as may be provided in the implementing rules
27 and regulations of this Act. A mine rehabilitation fund shall be created, based on the
28 contractor's approved work program, and shall be deposited as a trust fund in a
29 government depository bank and used for physical and social rehabilitation of areas and
30 communities affected by mining activities and for research on the social, technical and
31 preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean
32 immediate suspension or closure of the mining activities of the contractor/permittee
33 concerned.

34
35 Mining firms are hereby mandated to reforest 100 hectares of land for every one
36 hectare of land they utilize in the course of their mining operations. Mining firms are also
37 mandated to immediately restore and replant areas that they have already finished
38 excavating as they move on to other development sites: *Provided*, That if mining firms
39 cannot do the reforestation in their immediate area they could do the reforestation in
40 other areas provided they comply with 100:1 hectare ratio. Any mining firm found to
41 have violated or have not complied with the foregoing mandatory provisions shall be
42 held liable with the penalty of revocation of their mining permits and payment of a fine of
43 not less than One Million Pesos (PhP 1,000,000).

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

4

5 **Section 119. Progressive rehabilitation.** Contractors shall also conduct progressive
6 rehabilitation activities.

7

8 **Section 120. Adoption of Precautionary Principle.** When an activity related to mining
9 raises threats of harm to human health or the environment, precautionary measures
10 shall be taken proactively even if some cause and effect relationship are not fully
11 established scientifically. The mining proponent and the Bureau shall also be obliged to
12 disclose whether or not the cause and effect have not yet been scientifically
13 established.

14

15 **Section 121. Adoption of Polluter Pays Principle.** Polluters shall pay for the damage
16 they cause to the environment. The amount of damages shall be determined by
17 accredited independent consultants, to be chosen from a list and agreed upon by both
18 the mining proponent and by the Council.

19

20 **Section 122. Tailings impoundment.** Tailings impoundments shall be built away from
21 critical watershed drainage areas. Furthermore, it shall be ensured that impoundments
22 will not endanger critical watershed areas or low lying valleys in the event of accidents
23 under abnormal conditions. Tailing impoundments and dams shall meet the
24 international standards for large dams.

25

26 **Section 123. Dumping of waste.** Dumping of waste or tailings in any body of water
27 shall be prohibited. Provisions on the Clean Water Act and Clean Air Act shall be strictly
28 implemented.

29

30 **Section 124. Use of toxic chemicals and methods.** At all times, mining contractors
31 shall use chemicals or reagents which would result to the least environmental and social
32 destruction. The use of mercury and cyanide for the extraction of gold, silver and other
33 minerals shall be prohibited. The use of blow torching to separate gold from amalgam
34 shall likewise be prohibited.

35

36 **Section 125. Preservation of topsoil.** The removed topsoil, or the more productive
37 horizons of the soil shall be preserved for other uses.

38

39 **Section 126. Priority use for water.** The National Water Resources Board shall
40 investigate any existing use of water resources in the area whether or not covered by
41 any existing water permit or registration. Upon determination of any existing use, the
42 applicant shall procure the consent of all water users and/or the free prior and informed
43 consent of ICCs/IPs with or without water permits within the same groundwater network
44 or any downstream users of water resources. In all instances, priority shall be given to
45 use of water for domestic, municipal, and agricultural purposes. If potential negative
46 impact on other water users is identified, the water permit shall not be granted. For

1 water resources within the ancestral domain of indigenous peoples, no water permit
2 shall be granted by the National Water Resources Board without the free and prior
3 informed consent of indigenous peoples.

4

5 **Section 127. Recycling of water resources.** Water used in mining operations shall be
6 recycled. Mining contractors shall be required to provide for the methods or equipment
7 for the recycling or reuse of water. Released contaminated water shall be treated
8 accordingly to meet national standards. Released water must at least be equivalent in
9 quality to the baseline water quality.

10

11 **Section 128. Water user fee.** A water user fee that reflects the value of water to the
12 country and community shall be imposed by the Council for water used in mining
13 operations. Contractors shall pay the fee to the National Water Resources Board which
14 shall use the same for monitoring and improvement of the affected waterways and
15 systems and the mitigation of negative impacts thereon to ensure that communities
16 shall have access to clean water.

17

18 **C. Acid Mine Drainage**

19

20 **Section 129. Prohibition from using acid-generating waste rock to build roads or**
21 **dams.** To prevent or mitigate acid mine drainage, there shall be a prohibition against
22 using acid-generating waste rock to build roads or dams or other infrastructures. The
23 use of such materials shall only be used after treatment to neutralize the effect of acid
24 mine drainage.

25

26 **Section 130. Establishment of a prediction and monitoring system.** The Bureau
27 shall establish a prediction and monitoring system to identify potential acid-producing
28 materials and monitor their production of acid waste.

29 **Section 131. Avoidance of waterways.** Open pits, waste rock piles and tailings
30 impoundments shall not be built near or on waterways to prevent contact and
31 subsequent acid production and groundwater contamination.

32

33 **Section 132. Remining.** Remining shall be prioritized over the opening of new mines to
34 maximize and recover the remaining minerals from the rejects or wastes of previous
35 mines and mining operations. *Provided,* That remining operations shall follow the
36 processes, standards, parameters and guidelines set for mining operations in this Act.

37

38 **Section 133. Suits after the termination of contracts or projects.** Recognizing that
39 the effects of mining may be seen or felt, actions relating to the health of affected
40 communities or peoples, environmental degradation and other similar effects may be
41 maintained against the project proponent and/or persons even after the mineral
42 agreement or mining project has terminated.

43

44 **CHAPTER XII**

45 **RESOLUTION OF CONFLICTS**

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

- 15
- 16 a) Questions involving compliance with the established technical guidelines and
17 standards herein established, or those to be established by the implementing
18 rules and regulations of this Act;
 - 19
 - 20 b) Questions involving the compliance with technical procedures herein established,
21 or those to be established by the implementing rules and regulations; and,
 - 22
 - 23 c) Other similar instances wherein the technological and technical expertise of the
24 Department shall be needed.

25

26 Disputes involving real rights, contractual obligations and the other causes of action that
27 are outside the technological and technical expertise of the Panel of Arbitrators shall be
28 under the jurisdiction of the regular courts or as otherwise provided by other special
29 laws.

30

31 *Provided*, That disputes pending before the Bureau and the Department at the date of
32 the effectivity of this Act shall undergo an immediate review within sixty (60) working
33 days upon the passage of this Act to determine the cause of action. Those which are
34 outside the technical expertise of the Department or Bureau shall be refiled with the
35 appropriate court, without costs to the complainant or petitioner.

36

37 **Section 135. Appeal.** The decision or order of the panel of arbitrators may be
38 appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen
39 (15) days from receipt thereof which must decide the case within thirty (30) days from
40 submission thereof for decision.

41

42 **Section 136. Mines Adjudication Board (MAB).** The Mines Adjudication Board shall
43 be composed of three (3) members. The Secretary of the DENR shall be the
44 Chairperson with the Director of the Mines and Geosciences Bureau and the
45 Undersecretary for Operations of the Department as members thereof. The Board shall
46 have the following powers and functions:

- 1
- 2 a) To promulgate rules and regulations governing the hearing and disposition of
3 cases before it, as well as those pertaining to its internal functions, and such
4 rules and regulations as may be necessary to carry out its functions;
- 5
- 6 b) To administer oaths, summon the parties to a controversy, issue subpoenas
7 requiring the attendance and testimony of witnesses or the production of such
8 books, papers, contracts, records, statement of accounts, agreements, and other
9 documents as may be material to a just determination of the matter under
10 investigation, and to testify in any investigation or hearing conducted in
11 pursuance of this Act;
- 12
- 13 c) To conduct hearings on all matters within its jurisdiction, proceed to hear and
14 determine the disputes in the absence of any party thereto who has been
15 summoned or served with notice to appear, conduct its proceedings or any part
16 thereof in public or in private, adjourn its hearings at any time and place, refer
17 technical matters or accounts to an expert and to accept his report as evidence
18 after hearing of the parties upon due notice, direct parties to be joined in or
19 excluded from the proceedings, correct, amend, or waive any error, defect or
20 irregularity, whether in substance or in form, give all such directions as it may
21 deem necessary or expedient in the determination of the dispute before it, and
22 dismiss the mining dispute as part thereof, where it is trivial or where further
23 proceedings by the Board are not necessary or desirable;
- 24
- 25 d) To hold any person in contempt, directly or indirectly, and impose appropriate
26 penalties therefor; and
- 27
- 28 e) To enjoin any or all acts involving or arising from any case pending before it
29 which, if not restrained forthwith, may cause grave or irreparable damage to any
30 of the parties to the case or seriously affect social and economic stability.

31

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

40

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

44

45 **CHAPTER XIII**
46 **ACCESS TO JUSTICE**

1
2 **Section 137. Obligation to respect human rights.** Corporations shall respect, protect
3 and promote the human rights of communities affected by mining, including the right to
4 life, liberty and property, freedom of movement, right of public participation and the right
5 to self-determination of indigenous cultural communities.
6

7 **Section 138. Violations of human rights.** Extrajudicial killing, torture, involuntary
8 disappearance, forcible displacement of populations, setting up of checkpoints, and
9 imposition of toll fees which impede the freedom of movement within mineral areas,
10 deprivation of food and water sources, vote-buying and bribery for the purpose of
11 securing consent or endorsement for the mining project, and other analogous acts are
12 violations of human rights. Violations of human rights by contractors shall cause the
13 immediate cancellation of mineral agreements. The offending contractor, as well as
14 corporations having the same directors and/or officers as of the offending contractor
15 shall be perpetually disqualified from being granted a mineral agreement. All equipment
16 and assets of the corporation or person shall be confiscated in favor of the government.
17

18 **Section 139. Use of paramilitary and military forces.** All mining companies are
19 strictly prohibited from employing paramilitary groups. Use of private and military forces
20 shall result in the automatic cancellation of the mineral agreement and the filing of
21 appropriate civil, criminal and/or administrative charges.
22

23 **Section 140. Strategic Legal Action Against Public Participation (SLAPP).** SLAPPs
24 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or
25 administrative, filed to harass, vex, exert legal action or stifle legal recourses of
26 community members complaining against violations of this Act or enforcing the
27 provisions of the Act, or exercising their freedom of assembly or right of public
28 participation. The investigating prosecutor or court shall immediately determine within a
29 period of thirty (30) days from filing thereof whether a legal action is a SLAPP and
30 accordingly dismiss the same.
31

32 **Section 141. Indigents' suit.** Indigents shall be exempt from payment of any
33 administrative or court fees, including docket fees for the filing of a case. Lawyers shall
34 be provided by the Public Attorney's Office to pauper litigants in case they could not
35 afford legal services.
36

37 **Section 142. Application of the customary laws of ICCs/IPs.** The contractor shall
38 respect the customary laws of the ICCs/IPs and shall submit to the processes of their
39 customary laws, *Provided*, That these laws are not contrary to the provisions of the
40 Constitution.
41

42 **Section 143. Strict liability.** Mining corporations are strictly liable for all damages that
43 the mining operations might cause. In case of any actual damage, the burden of proof
44 shall lie with the corporations.
45

1 **Section 144. Piercing the corporate veil.** When the separate personality of the
2 corporation from its shareholders is being invoked as defense in order to perpetuate a
3 crime, fraud or other machinations, or evade liability, the separate personality of the
4 corporation shall be set aside. Civil, criminal and administrative actions may thus be
5 filed directly against the members of the Board of Directors, officers and/or individual
6 stockholders.

7 **Section 145. Citizen suits.** For the purpose of enforcing the provisions of this Act or its
8 implementing rules and regulations, any citizen may file appropriate civil, criminal and
9 administrative suits against any of the following:

- 11 a) Any person who violates or fails to comply with the provisions of this Act or its
12 implementing rules and regulations;
- 14 b) Any public officer with respect to orders, rules and regulations inconsistent with
15 this Act;
- 18 c) Any public officer who willfully or grossly neglects the performance of an act
19 specifically enjoined as a duty by this Act or its rules and regulations; or abuses
20 the authority in the performance of a duty/ies under this Act or its implementing
21 rules and regulations.

23 The court shall exempt such action from the payment of filing fees, except fees for
24 actions not capable of pecuniary estimation, and shall likewise, upon prima facie
25 showing of non-enforcement or violation complained of, exempt the plaintiff from filing
26 an injunction bond for the issuance of a preliminary injunction.

28 The court shall determine whether or not the complaint is malicious or baseless and
29 shall accordingly dismiss the petition within thirty (30) days upon the filing of the case.

32 CHAPTER XIV 33 PENAL PROVISIONS

35 **Section 146. Grounds for the cancellation of mineral agreements and permits:**

- 37 a) Violation of any provision of this Act;
- 38 b) Human rights violations perpetrated by the contractor or any agent of the
39 contractor;
- 40 c) Non-payment of taxes;
- 41 d) Bribery, use of force, intimidation, threat, coercion of public officials and
42 communities;
- 43 e) Any act that shall create or contribute to conflicts;
- 44 f) Other analogous acts.

1 *Provided*, That, violations of environmental provisions shall cause the immediate
2 cancellation of mining permits, and the contractor shall be required to pay for the
3 rehabilitation, restoration or clean up of the impacts of such violations.

4*
5 Corporations, corporate directors/officers found guilty of the above enumeration may be
6 subjected to a perpetual ban in the mining industry in the Philippines.
7

8 **Section 147. False statements.** Any person who knowingly presents any false
9 application, declaration, or evidence to the Government or publishes or causes to be
10 published any prospectus or other information containing any false statement relating to
11 mines, mining operations or mineral agreements and permits shall, upon conviction, be
12 penalized by a fine of not exceeding One Hundred Thousand pesos (PhP100,000.00).
13

14 **Section 148. Illegal exploration.** Any person undertaking exploration work without the
15 necessary exploration permit shall, upon conviction, be penalized by a fine of not
16 exceeding Five Million pesos (P5,000,000.00).
17

18 **Section 149. Theft of minerals.** Any person extracting minerals and disposing the
19 same without a mining agreement, lease, permit, license, or steals minerals or ores or
20 the products thereof from mines or mills or processing plants shall, upon conviction, be
21 imprisoned from six (6) months to six (6) years or pay a fine from One Hundred
22 thousand pesos (P100,000.00) to One Million pesos (PhP1,000,000.00) or both, at the
23 discretion of the appropriate court. In addition, he shall be liable to pay damages and
24 compensation for the minerals removed, extracted, and disposed of. In the case of
25 associations, partnerships, or corporations, the president and each of the directors
26 thereof shall be responsible for the acts committed by such association, corporation, or
27 partnership.
28

29 **Section 150. Unauthorized dealing, selling, and/or buying of gold.** Any person,
30 partnership or corporation who shall sell, buy or in any manner deal gold from any miner
31 or person without being duly authorized by the Bangko Sentral ng Pilipinas shall be
32 punished as unauthorized dealing and shall be penalized in accordance with the
33 provisions in this Act.
34

35 **Section 151. Destruction of mining structures.** Any person who willfully destroys or
36 damages structures in or on the mining area or on the mill sites shall, upon conviction,
37 be imprisoned for a period not to exceed five (5) years and shall, in addition, pay
38 compensation for the damages which may have been caused thereby.
39

40 **Section 152. Mines arson.** Any person who willfully sets fire to any mineral stockpile,
41 mine or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon
42 conviction, by the appropriate court in accordance with the provisions of the Revised
43 Penal Code and shall, in addition, pay compensation for the damages caused hereby.
44

45 **Section 153. Willful damage to a mine.** Any person who willfully damages a mine,
46 unlawfully causes water to run into a mine, obstructs any shaft or passage to a mine,

1 renders useless, damages or destroys any machine, appliance, apparatus, rope, chain,
2 tackle, or any other things used in a mine, shall be punished, upon conviction, by the
3 appropriate court, by imprisonment not exceeding a period of five (5) years and shall, in
4 addition, pay compensation for the damages caused thereby.
5

6 **Section 154. Illegal obstruction to permittees or contractors.** Any person who,
7 without justifiable cause, prevents or obstructs the holder of any permit, agreement or
8 lease from undertaking his mining operations shall be punished, upon conviction by the
9 appropriate court, by a fine not exceeding Five thousand pesos (PhP 5,000.00).
10

11 **Section 155. Vitiation of FPIC.** Any person found to have vitiated the consent of the
12 ICC/IJs through bribery, threat, force, and/or intimidation, or any other similar means,
13 shall suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a
14 fine of at least two million pesos (PhP 2,000,000.00). If the perpetrator is a government
15 official, the penalty shall be eight (8) years and one (1) day to twelve (12) years
16 imprisonment, and a fine of at least four (4) million pesos (PhP 4,000,000.00). He/she
17 shall be perpetually prohibited from assuming public office, and shall be disqualified
18 from receiving other benefits by virtue of his/her position in government.
19

20 **Section 156. Penalty for human rights violations.** Contractors or other persons who
21 have violated the human rights of communities in connection with the mining operations
22 shall be penalized with ten (10) years to fourteen (14) years imprisonment and a fine of
23 at least five million pesos (PhP 5,000,000.00) and shall indemnify the victims.
24

25 **Section 157. Amendment to Section 27 of Republic Act No. 7076 or the Small-
26 scale Mining Act.** Violations of the provisions of RA 7076 or of the rules and
27 regulations issued pursuant hereto shall be penalized with imprisonment of six (6) years
28 and 1 day to twelve (12) years. The State shall confiscate and seize equipment, tools
29 and instruments; effect immediate suspension or closure of the mining activities of the
30 permittee concerned, and revoke the permit.
31

32 **Section 158. Abandonment.** Contractors and/or permittees who shall abandon mines
33 shall be perpetually banned or disqualified from conducting mining operations, directly
34 or indirectly. The ban and/or disqualification shall include the officers and directors of
35 corporations that have abandoned mines
36

37 **Section 159. Confiscation of equipment and property.** The equipment and property
38 of contractors and permit holders violating this Act shall be forfeited in favor of the
39 government.
40

41 **Section 160. Non-application of the corporate veil.** Any person violating the
42 provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as
43 amended, or is found to have used the corporate structure to defeat the provisions of
44 this Act shall suffer the penalty of five million pesos (PhP 5,000,000.00) and perpetual
45 ban in the mining industry.
46

1 **Section 161. Reinstatement of revoked permits.** After notice and hearing, revoked
2 permits that have undergone due process may be reinstated, *Provided*, That it may only
3 be reinstated once.

4

5 CHAPTER XV 6 TRANSITORY PROVISIONS

7

8 **Section 162.** There shall be a moratorium on all mining activities until all the systems
9 are in place for the proper implementation of the law.

10 **Section 163.** All existing mining permits, licenses and agreements are hereby deemed
11 cancelled. Those mine workers and their families that may be displaced during the
12 transition period shall receive livelihood support and job placements to be facilitated by
13 the appropriate agencies of the State.

14 **Section 164.** The classification of public lands as mineral reservations pursuant to pre-
15 existing laws shall hereby cease. All such lands shall be closed to mining unless
16 opened thereto in accordance with the provisions of this Act. The President's power to
17 declare mineral reservations shall henceforth cease to exist. A review of the current
18 mineral land classification shall be conducted to determine the best livelihood and
19 economic option for the said area.

20 **Section 165.** The members of the panels of arbitrators and the provincial or city mining
21 regulatory boards established under Republic Act No. 7942 shall hold-over their
22 positions until replaced in accordance with provisions of this Act.

23

24 CHAPTER XVI 25 FINAL PROVISIONS

26

27 **Section 166. Separability clause.** The provisions of this Act are hereby declared to be
28 separable and, in the event of any such provisions are declared unconstitutional, the
29 other provisions which are not affected thereby shall remain in force and effect.

30 **Section 167. Repealing clause.** Republic Act 7942, Presidential Decree 463,
31 Presidential Decree 512, and other related mining laws are hereby repealed. All
32 provisions in laws, decrees, issuances and other regulations inconsistent with this
33 present law shall be deemed amended or repealed if the inconsistency is irreconcilable.

34 **Section 168. Funds.** The amount of One Hundred Billion Pesos (PhP
35 100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau,
36 the Council, and other bodies established under this Act of which half of the said
37 amount shall be allotted for the baseline mineral exploration activities of the Bureau.

38 **Section 169. Implementing rules and regulations.** The implementing rules and
39 regulations of this Act shall be the product of joint collaboration by the Department, and

1 representatives from the local government units, peoples' organizations, sectoral
2 organizations and non-governmental organizations, and shall be drawn up after
3 appropriate and exhaustive public consultations at all levels nationwide.

4

5 **Section 170. Effectivity clause.** This Act shall take effect within fifteen (15) days
6 following its publication in two national newspapers of general circulation in the
7 Philippines.