

Sponsored by Representatives Risa H. Baraquel (Akbayan) and Lorenzo R. Tanada III (Quezon, 4th District), the bill -- titled "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" -- is supposedly intended to replace Republic Act 7942 or the Philippine Mining Act of 1995.

Quinones said they are still looking for sponsors at the Senate.

The bill calls for the national government to have 10 percent of gross revenues aside from taxes, as a form of royalty fee.

The local government units, on the other hand, shall be entitled to a share of the net revenues paid directly to the provincial treasurer, taking into consideration the classification of the LGU as per vulnerability and human development index.

The bill proposes that indigenous people be given at least 10 percent of the gross revenue in royalty fees.

It is apparently is a far contrast from the current law.

Indigenous people are now receiving a royalty fee of at least one percent of gross revenues, while the government gets two percent excise tax from the gross revenue, said Constancio A. Paye, Jr., Central Mindanao director of the Mines and Geosciences Bureau.

The alternative mining bill also proposes the removal of the Financial or Technical Assistance Agreement (FTAA), which allows 100-percent ownership of mining ventures.

"Only Filipino citizens or corporations, 60% of whose equity is owned or controlled by Filipinos, are allowed to mine -- to conduct development, utilization and processing of mineral resources in the Philippines," a primer prepared by the Alyansa Tigil Mina said.

Sagittarius Mines, Inc., which is based in nearby Tampakan, South Cotabato, has been granted an FTAA by the government. The mining company is largely owned by Swiss miner Xstrata Copper through a 62.5% interest, Australian junior exploration firm Indophil Resources NL (34.23%) and Filipino conglomerate Alsons Corp. (3.27%).

The also bill also aims to decrease the maximum areas and term for mining contractors.

The maximum contract area for mining operations shall be limited to

500 hectares and the maximum term is 15 years, including five years for rehabilitation, according to the bill.

Paye said that based on the existing mining act, firms are allowed 81,000 hectares during exploration and a maximum of 5,000 hectares during production stage but subject to increase depending on the need.

He added that firms can have 25 years for production and can be extended for another 25 years. (MindaNews)

Dapitan Declaration

Published Date: 11-10-2002

Dapitan Declaration

(Dapitan Initiative against the 1995 Mining Code)

Dapitan City, Philippines, 11 October 2002

We have witnessed the destructive effects of mining on human and other life forms violations of people's rights, fish kills, environmental destruction, pollution, and dreaded diseases which are glaring in the cases of Canatuan in Zamboanga del Norte and the communities in Marinduque. This cannot go on. There are alternative ways of organizing and understanding our world and how we want to live.

We believe in the initiative of committed individuals to convince others and lead to a growing number of advocates.

We declare that given the current state of the mining industry and our current economic and political set up, there can be no sustainable mining as contained in the proposed National Minerals Policy. We commit as individuals, not only to oppose the current legal framework provided by Republic Act Nos. 7942 and 7076 but also to increase public awareness of these issues.

We commit to contribute to do whatever we can as individuals to uphold indigenous people's rights and achieve a more ecologically sound, gender-fair, equitable system of resource management.

We will work for a democratic and consultative process in enacting a new legal framework to achieve a wise stewardship of our natural resources based on the following principles.

Everyone should share in the burden of satisfying resource needs primarily through re-using and recycling existing mineral products.

In land and water use, the concerns of food security, which includes food free from pollution, livelihood production, ecological balance, equity, and social justice should always be the priority.

Only resources that are necessary for domestic use and national industrialization should be utilized. We

should develop our own human resources and encourage the evolution of our own appropriate technologies. Priority should be given to community-based, community-initiated and community-owned stewardship of resources.

There should be no compromise on human rights, dignity and collective identities. At the minimum, we call for:

The immediate cancellation of all existing financial and technical assistance agreements (FTAAs), minerals production sharing agreements (MPSAs), exploration permits, and other mining agreements, licenses and other instruments because they are all based on a highly flawed system;

The scrapping of RA 7942 (Philippine Mining Act), RA 7076 (Small-scale Mining Act); PD 463, and all related laws that are oppressive to the people;

A moratorium on the issuance of large-scale mining permits, licenses, agreements and other instruments for one hundred years;

Rehabilitation, restoration of mining areas and accountability of mining corporations for the destruction that they caused;

Upholding workers' rights; and Prohibiting state and privately sponsored armed groups from areas where there are current and prospective mining operations.

We believe that our individual commitments will grow into a voice of millions of Filipinos. It will be impossible not to heed our call.

This is our legacy to future generations.

Signed:

Carmelo M. Acuña

Fr. Susano O. Arbas

Atty Gerthie Mayo-Anda

Fr. Albert Anthony K. Bael

Bishop Warlito P. Baldomero

Edgar Canda

Lyda Jara Canson

Joji Cariño

Fr. Victor A. Fontejon

Carmencita "Chin-Chin" A. Gutierrez

Atty. Marvic M.V.F. Leonen

Sr. Rosanne B. Mallilin

Bishop Jose R. Manguiran

Fr. Lauro C. Mozo

Director Antonio "Butch" D. Perez

Engr. Rolando A. Soliva

Teddy A. Casiño

Engr. Catalino L. Corpuz

Tesa C. de Vela

Maria Lourdes M. Tison

Alberto G. Valero

Cesar H. Villanueva

Bishop Zacarias Jimenez

Signed this 11th of October,

2003 at the Shrine City of

Dapitan in Zamboanga del Norte.



LRC-KSK

TANAWAN
Express
Friends of the Earth International

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ALTERNATIVE MINING BILL (AMB)

AMB was filed last May 13, 2009 with Cong. Riza Honteveros-Baraquel, Cong. Erin Tañada, Cong. Walden Belo, Cong. Carlos Padilla and Cong. Rufus Rodriguez.

Why is there a need for an Alternative Mining Bill?

On March 3, 1995, when the Philippine Mining Act was passed, Filipinos all over the country coming from different sectors and organizations made their resistance heard. The Mining Act of 1995 is inherently flawed. Some of these flaws as contained in the law are as follows:

1. It promotes the exportation of raw minerals without maximizing the benefits of such resources for the Filipino people;
2. It fails to take into consideration externalities or negative impacts, thus leaving the masses and the local government units to bear the brunt of such impacts;
3. It prioritizes exploration, development and utilization of resources over and above food security and environmental conservation;
4. It grants too much power for decision-making to the President, when resources are the only heritage of the Filipino people, meanwhile disempowering local communities through lack of participatory mechanisms;
5. The law is not consistent with sustainable development;
6. It grants too many incentives for investments, including confidentiality of information, return of investments, tax-breaks, etc.;
7. It lacks systems that would ensure payment and compensation of affected communities and local government units;
8. It fails to provide for punishment and accountability on social impacts, including human rights violations;
9. It fails to provide a rational and comprehensive benefit-sharing among the stakeholders;
10. It fails to consider the physical characteristics of the Philippines that is not conducive to industries like these, despite claims that the Philippines has a rich mineral resource, when the country in fact is also a rich agricultural country; and
11. It allows 100% ownership and control of natural resources to foreigners.

These are only a few of the policy issues that the law contains. The experience on the ground with local communities are also an entirely a different matter, when the abuses, discrimination and violations are very real and painful.

Thus, shortly after its passage, in 1997 a case was lodged with the Supreme Court of the Philippines by the La Bugal B'laan Tribal Association of Sultan Kudarat and many other parties, challenging the constitutionality of the Mining Act of 1995. The case centered on the one hundred per cent (100%) ownership and control under Foreign or Technical Assistance Agreements (FTAA), as well as the economic provisions of the FTAA and the Mining Act.

While the case was ongoing, advocates from all over the country gathered on October 11, 2002 at the Rizal Shrine, Dapitan City to sign a manifesto which is what is known now as the "Dapitan Initiative". It is through this activity that advocates expressed the policies and principles that should govern the mining industry, to wit:

1. Uphold indigenous people's rights and achieve a more ecologically sound, gender-fair, equitable system of resource management;
2. Everyone should share in the burden of satisfying resource needs primarily through re-using and recycling existing mineral products;
3. In land and water use, the concerns of food security, which includes food free from pollution, livelihood production, ecological balance, equity, and social justice should always be the priority;
4. Only resources that are necessary for domestic use and national industrialization should be utilized. We should develop our own human resources and encourage the evolution of our own appropriate technologies. Priority should be given to community-based, community-initiated and community-owned stewardship of resources;
5. There should be no compromise on human rights, dignity and collective identities.

Furthermore, the following were demanded:

1. The immediate cancellation of all existing financial and technical assistance agreements (FTAAs), minerals production sharing agreements (MPSAs), exploration permits, and other mining agreements, licenses and other instruments because they are all based on a highly flawed system;
2. The scrapping of RA 7942 (Philippine Mining Act), RA 7076 (Small-scale Mining Act); PD 463, and all related laws that are oppressive to the people;
3. A moratorium on the issuance of large-scale mining permits, licenses, agreements and other instruments for one hundred years;
4. Rehabilitation, restoration of mining areas and accountability of mining corporations for the destruction that they caused;
5. Upholding workers' rights; and
6. Prohibiting state and privately sponsored armed groups from areas where there are current and prospective mining operations.

Since then, efforts were made to engage and challenge the Philippine Government, the international finance corporations, the transnational mining corporations, the mining industry and other key players to expose the wrongs and failures of the law and the policy, their implementation and the practices involved in the mining industry.

All publications of the Legal Rights and Natural Resources Center - Kasama sa Kalikasan / Friends of the Earth-Philippines (LRC-KSK/FOE-Phils.) are dedicated to the countless individuals and communities who struggle for a more dignified existence. They are the primary source of our insights and inspiration.

Tan-Awan
Ispesyal

Legal Rights and Natural Resources Center - Kasama sa Kalikasan (LRC-KSK) Cagayan de Oro

WHAT IS RESPONSIBLE MINING?

At first, the term 'sustainable mining' was first coined to show that sustainable development and a highly extractive industry can go hand in hand. With numerous protests all over the world against such a concept – for mining by its very nature cannot be sustainable – the term was dropped and sustainable development through the benefits of mining was then promoted. Still, this brought about resistance from various stakeholders and communities.

Recently, in the past few years, the Philippine government has once again offered a new term, that is, "Responsible Mining". On September 19, 2008, a conference was held in Davao. There, the elements of 'responsible mining' were identified, and yet, despite this, the conference brought the conclusion that there is no responsible mining in the Philippines and that the country is not ready for it. These elements are:

1. (abides by the) principles of sustainable development
2. (has) built-in protection for the indigenous peoples
3. (involves) sharing of the benefits of mining among the major stakeholders, and
4. (has) strict environment and social provisions.

*A suggestion to include "uplift the condition" of the IPs instead of just "built-in protection for IPs" was brushed off as an implied part of the original statement and that protection will suffice.

IS RESPONSIBLE MINING POSSIBLE IN THE PHILIPPINES? WHY NOT?

Referring therefore to the criteria of the so-called "responsible mining", element #1 is not met based on the following provisions of the 1995 of the Mining Act:

1. No prohibition against entry and mining in main sources of food (a perfect example of this would be the Calatagan case, wherein the Supreme Court declared that the land classification of the area as mineralized takes precedence over the distribution of the land under agrarian reform)
2. The Mining Act provides for timber rights;
3. Mining Act fails to take into consideration water resource competition with local communities, at the same time fails to impose water usage fees;

4. Mineral reservations or contracts extending up to fifty years close other sustainable land uses for a particular area;
5. Timber lands and forestlands are open to mining, and preference is still given to mineral lands;
6. Maximum areas for permits range from 8,100 hectares to 40,500 for mining operations, and up to 81,000 hectares for exploration permits, thereby closing the area to other persons having alternative uses for the land;
7. Failure to provide incentives or programs for the creation and support of downstream industries that would benefit from mining;
8. Failure to recognize that affected communities not only include those in the immediate area of operation, but also those affected by water systems.

Criteria #2 which provides for the built in protection for Indigenous peoples also fails given that:

1. The law only provides for the progressive or subsequent application of laws, therefore, there is no social justice for indigenous communities which were discriminated against in the past;
2. There is no recognition of the ownership and control of indigenous peoples over their natural resources found within their ancestral domains;
3. There are no provisions for the protection and defense of the rights of indigenous peoples or human rights in general;
4. Payments of royalties are not directly given to indigenous communities, instead it is deposited in a trust fund.

Criteria #3 must also fail because:

1. Government share is only limited to taxes, unless the contract area falls inside a mineral reservation, therefore, profit is enjoyed by the corporation;
2. Fiscal incentives are given to contractors which may last up to ten (10) years;
3. Local government units are not given a direct share from income, except through the Internal Revenue Allotment;
4. Local communities only stand to benefit through 'community development projects' which are still tax deductible in favor of the company.

Criteria # 4 likewise is inapplicable under this law, to wit:

1. There are no provisions to protect human rights violations;

2. Limited provisions on insurance funds, performance bonds, and policies on the treatment of abandoned mines;
3. No provisions for acid mine drainage;
4. The law sorely lacks on provisions for social impact assessments;
5. Allows mining in geohazard areas;
6. Allows for easement rights;
7. Penalties are very small;
8. Highly dependent on administrative regulation, without providing for stricter monitoring systems, especially when the EIA provides for self-regulation of the mining proponent;
9. No provisions for remining, recycling and reusing;
10. No provisions for disaster risk management;
11. Only recognizes declared protected areas or watersheds, and does not take into consideration the actual use of the area;
12. Allows mining for small ecosystems.

Therefore, clearly, 'responsible mining' is still a myth in the Philippine context. The enumeration above only provides for the black-letter law, and does not even dwell on the implementation problems and issues. Other problems that communities faced are:

1. The DENR is a highly politicized department. It has a dual contradicting role of exploitation and conservation.
2. There is a lack of transparency in the conduct and business of the industry;
3. Community rights and local government rights are marginalized and watered down through the issuance of rules and regulations;
4. There is an absolute lack of human resources in monitoring and regulating the industry;
5. There are no support services that should accompany affected communities and local government units;
6. Corruption is very high;
7. Militarization is encouraged by other government policies;
8. Poor understanding of legal concepts and doctrines in the interpretation of laws;
9. Lack of political will among the other government agencies that are involved in the approval of a permit;
10. Other systems are not yet in place, while resources are being marketed;
11. Corporate social responsibility remains to be a voluntary mechanism; And many more others.

the already dire situation of our environment by handing over our lands and mineral resources for corporate exploitation. All these, in exchange for a grossly disadvantageous amount from mining revenues," Ledesma said. "The Alternative Mining Bill is dedicated to countless women and men who have risked, and those continuing to risk, their lives for genuine freedoms," said Carl Cesar Rebuta, team leader of LRC's regional office here. According to Rebuta, "the time for change has come" and that the 1995 Mining Act must be repealed because of its many flaws. He argued that the old law promoted the exportation of raw minerals without maximizing the benefits of such resources for the Filipino people and failed to take into consideration the negative impact of mining on the social and natural environment, while placing priority on exploration, development and use of resources over and above food security and environmental conservation. He also cited that it grants too much power for decision-making to the President, when resources are the only heritage of the Filipino people, and disempowers local communities through lack of participatory mechanisms.

IN PHOTO -- AN aerial view of Lafayette Mining Ltd.'s Rapu Rapu copper, gold and silver mine on the island of Rapu Rapu, southeast of Manila, shows how mining strips the land of forest cover. The Alternative Mining Bill has been filed at the House of Representatives on Wednesday, and its proponents believe the proposed bill could resuscitate the industry. BLOOMBERG

www.Kagay-an.com
NGOs seek City Hall's 'strong support' for Alternative Mining Bill

By Mike Banos

Environmental groups Wednesday marched shoulder to shoulder with indigenous peoples and other citizens adversely affected by the mining industry to City Hall asking for the local government's endorsement of the Alternative Mining Bill (AMB).

The AMB which seeks the scrapping of Republic Act 7942, also known as the

Philippine Mining Act, was filed earlier the same afternoon by Rep. Lorenzo Tañada III (LP, Quezon) and Rep. Riza Hontiveros (Akbayan, PL) in the House of Representatives.

"We are calling on the Cagayan de Oro City Council to pass a resolution strongly urging Congress to pass the AMB," said Cheryl Pulutan of Kaisahan, one of the 23 non-government organizations (NGOs) in the Alternative Law Groups (ALG). "We are also calling on the local government to support the AMB through small advocacy activities in the various groups and barangays which make up the city."

Ben Salvador of the City Environmental and Natural Resources Office (Cenro) responds to the requests and questions of supporters of the Alternative Mining Bill under the media's watchful eye during a dialogue in the SP session hall Wednesday afternoon. (photo by Mike Banos)

Rep. Rufus Rodriguez (PMP, 2nd District, Cagayan de Oro) and Rep. Teofisto "T.G." Guingona III (2nd District, Bukidnon) publicly announced their support for the AMB earlier. The AMB is subtitled "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."

Supporters of the AMB marched to the SP Session Hall following a brief discussion of the bill at the Archbishop Patrick Cronin Hall of the St. Augustine Cathedral compound. They were met by Ben Salvador of the City Environment and Natural Resources (Cenro) office who represented Kag. Ian Acenas, chair of the SP Environmental Committee, who was attending to other business in Gingoog City and Medina, Misamis Oriental.

"The AMB seeks to bring back the exploration, development and utilization of mineral resources within the framework of national development, the right of peoples to self-determination, and respect for human rights and the environment," said lawyer Carl Cesar Rebuta, regional team leader of the LRC.

Shecyy Ubarco, a resident of Zone 1, Bulua whose residence was hit by the

flash flood on the weekend of January 10-11, 2009, related how she struggled to keep her children from being wrenched from her grasp by the rampaging floodwaters which were partly blamed on unregulated mining in the Cagayan de Oro watershed.

Nomer Melendez, better known as Datu Makabuli, a Higa-onon tribal chieftain from the Impasug-ong and Impalutao areas in Bukidnon, also related how chromite mining endorsed by the local government and with permits from the DENR were poisoning their drinking water, killing livestock and the fish in the river on which they depended for food and livelihood, without getting their rightful share of the profits from the minerals excavated from their ancestral domain lands.

"We wondered why the miners were granted permits by the DENR when the resident IPs of which I am the chieftain were not consulted about it," Datu Makabuli said in the vernacular. "Because of their bulldozing upstream, we IPs are the most affected by their activities yet have not shared even one centavo of their profits."

In response, Salvador stressed the CENRO is neither for or against the AMB or RA 7942 since it has a regulatory function and cannot take sides in either issue. However, he committed to those present to bring their urgent request for the SP resolution asking for the urgent approval of the AMB for appropriate action. He also signed the petition for the support of the AMB in his personal capacity.

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Critics push alternative mining bill in Congress

by MindaNews
Thursday, 14 May 2009

GENERAL SANTOS CITY (MindaNews/13 May) -- Critics of large scale mining have gone to the House of Representatives in their move to eliminate full foreign ownership of mining ventures in the country. Erwin B. Quinones, of the Legal Rights and Natural Resources Center-Kasama sa Kalikasan- Friends of the Earth Philippines (LRC-KSK-FoE Phils) that was tasked to draft the bill, said it was shaped over six years of consultations with various sectors.

B. OWNERSHIP AND GOVERNANCE

RA 7942	AMB	Comments
(Sec. 4) Because the overarching principle of RA 7942 is the Regalian doctrine, the State, through government, owns the mineral resources.	- Mineral resources found within ancestral domains/lands are owned by ICCs/IPs Mineral resources outside ancestral domains/lands are owned by the State	ICCs/IPs do not only enjoy priority rights over the EDU of natural resources found within their ancestral domains/lands.
(Sec. 5) The power to declare mineral reservations are given to the President.	The power to declare mineral reservations are taken away. All existing mineral reservations shall be withdrawn and shall be classified with regard to actual use.	The power to declare mineral reservations should not lie on the hand of just one person. The declaration of a mineral reservation limits the use of the land. The economic use of the land is therefore not maximized, and the interests of the peoples living in such area are secondary.
(Sec. 8 & 9) The DENR is the primary agency that shall have the responsibility over the EDU of mineral resources. The Bureau is the primary agency to regulate mining. It also has the recommendatory power for the approval of a mineral agreement. DENR and the MGB are granted too much political power.	The Bureau is transferred to the Department of - Science and Technology. - The Bureau and/or DENR no longer has political power to decide whether or not a mineral agreement shall be approved. The political power to determine whether or not mining should be conducted is devolved to the Council.	- The transfer is deliberate. The council ensures a more participatory process is undertaken.
(Sec. 15) the law covers the exploration, development and utilization of all mineral resources	Only covers the onshore exploration, development and utilization of ore resources, excluding coal, petroleum and offshore mining.	Special laws need to be passed to govern offshore mining, as well as coal and petroleum mining.

C. MINERAL AGREEMENTS

RA 7942	AMB	Comments
(Sec. 13) Meridional blocks is the basic unit of measurement	Meridional system is no longer used.	The meridional system is too big a measurement, especially for an archipelagic country like the Philippines.
(Sec. 17) royalty to ICCs/IPs shall be agreed upon and shall be deposited in a trust fund for the well-being of the community.	Royalty to ICCs/IPs shall be at least 10%, in addition to other considerations or agreements.	Royalty is 10% in recognition of ownership of ICCs/IPs to their land, similar to the 10% royalty/government share.
Sec. 19) The policy is, all areas within the country are open to mining unless closed by the law or other special laws.	There is a shift to, all areas are closed to mining unless opened by the Council after the deliberations and processing.	

COMPARISON BETWEEN THE MINING ACT OF 1995 AND THE ALTERNATIVE MINING BILL

This section deals with the basic differences between the Mining Act of 1995 or Republic Act 7942 and the Alternative Mining Bill.

RA 7942	AMB	Comments
(Sec. 2) The only policy that RA 7942 used is the Regalian doctrine under Art. XII, Sec. 2, par. 1	(Sec. 2) The AMB enumerates all relevant policies and principles contained in the Constitution. These are: a. Art. II, Secs. 2, 5, 7, 10, 15, 16, 19, 22, 23, 25 b. Art. XIII, Sec. 1	There is a need to shift the primary principle of the Mining Act from the Constitutional provision on the exploitation, development and utilization (EDU) of mineral resources (Art. XII, Sec. 2) to more important overarching principles in resource use. The reason is simple: what is involved is not the mere EDU of mineral resources, but also other resources like water and land. The Bill should be primarily rights-based, identifying the rights involved in the conduct mining operations. These rights are: 1. Community rights, not only of IPs but resource-dependent communities like farmers and fisherfolk who use the land and water; 2. LGU right to Local autonomy; 3. The right to be consulted by the public; 4. Human rights as enumerated in different international covenants and the Bill of Rights enumerated under the Constitution; Economic rights.

Thus, with the consultations and experiences of communities, local government units and other advocates, the Alternative Mining Bill was crafted to respond to the loopholes and the shortcomings of the law.

The Bill seeks to reform the policy and the framework of how the industry is being practiced now. Very important lessons of life and survival are put into this bill to come up with the rational conduct of mining. Thus, the policy proposals contained in the Dapitan Initiative, plus these experiences are articulated and brought to life by the Bill.

HAS THE AMB GONE THROUGH THE PROCESS OF CONSULTATIONS AND RESEARCHES?

The Bill went through a process of consultation and validation with different key players. At the outset, it must be pointed out that though it is not expected that each and every minute suggestion was reflected in the bill, and it is impossible to please every one, a process was undertaken to ensure that the major concerns were addressed. It is very important that the bill is simply the articulation of the basic agreements during the Dapitan Initiative, then taking into consideration the experiences and analysis of different individuals, organizations and communities.

The bill is the result of different processes, which included interviews, focused group discussions, community visits, research, and data-gathering. Starting from 2004, consultations were conducted in different communities and areas that had issues on mining to specifically feed onto an alternative mining bill. However, positions, calls, experiences and other stories that were publicized or that were raised during public forums or conferences were gathered even from the passage of the Philippine Mining Act in 1995. Round table discussions, focused group discussions and interviews with known experts in different studies were held to further give credibility to the Bill.

We have no illusions that this bill will pass in toto or as it is. In the legislative process, there will be compromises definitely, but what is more important to consider is that this is a tool which elevates marginalized and impoverished communities to the level of big businesses in terms of political power. This is the only document which reflects decades-long issues, conflicts and problems of these communities. By entering into the legal system, it forces government, transnational corporations, international finance corporations and other countries to face communities and address the issues raised in the bill.

C. MINERAL AGREEMENTS

RA 7942	AMB	Comments
(Sec. 19) areas closed to mining are: (a) In military and other government reservations, except upon prior written clearance by the government agency concerned; (b) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned; (c) In areas covered by valid and existing mining rights; (d) In areas expressly prohibited by law; (e) In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and (f) Old growth or virgin forests, proclaimed watershed forest reserves, wilderness area, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law and in areas expressly prohibited under the National Integrated Protected Area System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws.	a. Forests as defined by this law; b. old growth or primary forests; c. head waters of watershed areas; d. protected landscapes/seascapes; e. areas with potential for acid mine drainage; f. critical habitats; g. areas near large bodies of water; h. areas with rainy climate and on the typhoon path; i. geohazard areas; j. cultural sites, which may include, but not limited to, sacred sites and burial grounds; k. traditional swidden farms and hunting grounds; l. community sites; m. key biodiversity areas; densely populated areas.	The meridional system is too big a measurement, especially for an archipelagic country like the Philippines.
Exploration may be contracted to private persons	Exploration can only be conducted by the Bureau	
(Sec. 28) Maximum areas for mineral agreements 16,200 has.	Maximum area is 500 has., with maximum cumulative amount of 750 has. within a particular watershed	
Affected communities are those communities found within the contract area.	Affected communities and local government units are determined in relation to the watershed system.	The affected communities are expanded to include downstream communities in recognition to the potential effects mining.
(Sec. 30) The law allows assignment and transfer of mineral agreements.	Transfers and assignments are not allowed.	
(Sec. 32) The maximum term for the contract is fifty (50) years.	The maximum area is fifteen (15) years.	The economic use of the land is not maximized if it is closed to other land uses for fifty (50) years.

C. MINERAL AGREEMENTS

RA 7942	AMB	Comments
(Chapter VI) FTAA's wherein 100% foreign ownership are allowed.	FTAA's are not allowed.	There is no violation of the Constitution when we do not allow the FTAA because the FTAA is only a special privilege.
(Chapter XI) The chapter on Safety and Environmental Protection is lenient.	Additional conditions are provided for stricter regulations.	There is no violation of the Constitution when we do not allow the FTAA because the FTAA is only a special privilege.
(Chapter XII) Auxiliary rights (timber, water, explosives, etc.) are provided under the present law.	These auxiliary rights are removed from the bill.	

D. BENEFIT SHARING

RA 7942	AMB	Comments
(Sec. 80) government share is limited on excise taxes (2%) on mineral products	- Government share is 10%. - Local government units' share is also provided. - More funds and fees are established	
(Chapter XVI) Numerous incentives are enumerated	Incentives are only limited to pollution-control devices and equipment and on the establishment of downstream industries.	During this time of crisis, incentives should not be given to investments.

E. PENALTIES

RA 7942	AMB	Comments
(Chapter XVII) Grounds for cancellation, revocation and termination are only limited to administrative grounds.	The takes into account human rights violations aside from administrative grounds.	The Mining Act of 1995 does not even recognize as a ground for cancellation human rights violations of corporations. Thus, penal provisions are also added and have become more prohibitive. Penalties and fees were increased.

Alternative Mining Bill may give industry a new Life

Business Mirror
Written by Bong D. Fabe / Correspondent
Wednesday, 13 May 2009 18:53

CAGAYAN DE ORO CITY—Liberal party Rep. Lorenzo Tañada III of Quezon and Akbayan party-list Rep. Riza Hontiveros on Wednesday filed The Alternative Mining Bill (AMB) in the House of Representatives.

This city's second district representative, Rep. Rufus Rodriguez and Rep. Teofisto Guingona III of Bukidnon said they would support the AMB—a product of years of consultations between the Legal Rights and Natural Resources Center-Kasama sa Kalikasan/Friends of the Earth Philippines and its partners in the Alternative law Groups (ALG) and the different sectors of society in response to the damages posed and wrought by The Mining Act of 1995 or Republic Act (RA) 7942. Rev. Fr. Jose Cabantan, director of the Social Action Center of the Archdiocese of Cagayan de Oro, called on the House of Representatives to support the passage of the AMB, saying "it is now time to scrap the RA 7942." "The AMB aims to bring back the

exploration, development and utilization of mineral resources within the framework of national development, the right of peoples to self determination, and respect for human rights and the environment," Cabantan said. Archbishop Antonio Ledesma, S.J., D.D., stressed that 14 years after the Mining Act of 1995, there is no real evidence, or solid proof, of progress especially in the sites of struggles (SOS). SOS is a term that refers to communities in mining areas. "Fourteen years of the implementation of the Mining Act of 1995 had brought about the physical and economic dislocation of many indigenous peoples and other upland rural communities, as well as aggravated