



File copy

13 JUL -1 10:14

S E N A T E

S. B. No. 43

BY: *Jin*

Introduced by Senator Sergio Osmeña III

EXPLANATORY NOTE

Industrial peace and stability are essential elements for inclusive economic growth and a major challenge facing the extractive industry today.

In 1994, our country had about 7 billion metric tons in metallic mineral reserves and 50 billion metric tons in non-metallic reserves. Of the 9 million hectares of mineral resources (about 30% of the total land area of 30 million hectares), less than 0.5 million hectares are under exploration or development. Because these resources are still to be fully tapped, mining operations have been escalating.

The mineral resources are located within our lands or under our seas, which are also rich in other living or non-living resources that protect us and preserve life - water, forest covers, watersheds. These resources also sustain economic activities like farming, eco-tourism, and fishing. Moreover, the lands also have cultural, historical or ecological values that are not easily measured in monetary terms or are even beyond pecuniary estimation.

Since any mining operation necessarily involves the alteration of the land or the seabed, people who use the land or sea for settlement and livelihood are likely to be displaced by it.


The benefits derived from mining must therefore be balanced against its costs on people and the environment.

Since the enactment of the Philippine Mining Act of 1995 (RA 7942), which institutes a new system of mineral resources exploration, development, utilization, and conservation, and the Small-scale Mining Act of 1991 (RA 7076), which regulates small scale mining at the local level, significant developments have been observed:

- a. Extraction mining is a low job-generating activity. Average employment contribution over the years is only about 1/3 of 1% of total employment. As of October 2009, mining and quarrying jobs numbered a scant 169,000.
- b. Mining has become one of the most contentious social justice issues. Farmers, farmworkers, indigenous peoples and fisherfolks live in the areas where minerals are usually located. Mining those minerals threaten or endanger their health, food supply, livelihood, culture and the integrity of their ancestral domains. Often, they are forced into situations of conflict among themselves or with the miners.

- c. Vulnerability of persons and communities to geohazards and climate change impacts is significantly increased by presence of mining operations. The series of environmental calamities and disasters that many of us are still trying to cope with are glaring examples.
- d. While mining is not the principal cause of denudation, it is certainly a major contributor to deforestation, which has reached the "irreversible" stage since only 3%-6% of old growth forest is left or 18%-23% of forestland including second-growth or reforested areas. In contrast, there is greater value earned from not cutting our trees to get minerals - the carbon sink value of our forests. It is estimated that the carbon sink value in a future carbon market of the Palawan forests is about P140 billion.
- e. From 2001 to 2005, the mining and quarrying sector contributed only within a range of 1.0% (in 2001) to 1.7% (in 2005) of GDP, as observed in an ADB study. In 2006, its overall contribution to GDP was 1.5%.
- f. From 2000 to 2009, the contribution of mining excise taxes (large-scale, small scale, non-metallic) to total excise tax collections was minimal at about 0.7%. Mining excise taxes relative to total BIR collections was even smaller at 0.07%;
- g. The government receives only 2% excise tax share in mining production sharing agreements and, from 1997 to 2007, realized only 7.5% of the production value of mining. Among the causes is the redundant tax incentive scheme.
- h. There has been an anomalous discrepancy between exports and reported production values of minerals amounting to more than P277 Billion from 2000 to 2009. Likewise, there has been a wide gap between potential excise taxes and actual tax collections - about P7.8 Billion over the same period.
- i. There is no consolidated data across government agencies on foreign exchange inflows and outflows to get accurate picture of the net foreign exchange benefits derived, if any. Large-scale mining typically cites gross investment inflows and export proceeds but do not include data on the foreign exchange outflows. Since they are allowed to recover and repatriate all pre-operating costs (including investments) up to 5 years, the net flows are likely to be about only even. As for export proceeds, mining operations usually front-load production during the first five years, which happens to coincide with their tax exemptions. Profit remittance can, thus, be considerable.
- j. After 50 years of mining in our country, the industry is still extract-and export-ore activity and there is no significant industrialization footprint. The backward linkages of mining is .46 or less than half of other industries and the forward linkages is a low .82 which does not put mining in "enough value adding activity" to merit priority. Mining has never played a major role in our development, even during the mining boom of the seventies and early eighties.

In order to address the challenges facing the mining industry, this measure is being proposed. It seeks to provide a framework for the utilization and management of the country's mineral resources that addresses the needs of the domestic economy and upholds the rights of all stakeholders involved, including the workers, farmers, indigenous peoples and the local or host communities.


SERGIO OSMEÑA III
Senator

13 JUL -1 10 43

SENATE

S. B. No. 43

RECEIVED BY: 

Introduced by Senator Sergio Osmeña III

**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 Republic of
the Philippines in Congress assembled:*

1 **CHAPTER 1. DECLARATION OF POLICIES**

2 **SECTION 1. Short Title.** This Act shall be known as the "**Philippine Mineral**
3 **Resources Act of 2013**".

4 **SEC. 2. – Declaration of Policy.** It is hereby declared the policy of the State to:

5 a) Maintain peace and order, protect life, liberty and property and promote
6 the general welfare;

7 b) Advance the medium- and long-term needs of the Philippines;

8 c) Encourage the advancement of the industry's technology with emphasis
9 on existing indigenous knowledge, research and development;

10 d) Protect and advance the right of the people to a balanced and healthful
11 ecology in accord with the rhythm and harmony of nature;

12 e) Value the dignity of every human person and guarantees full respect
13 for human rights;

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

26 **SEC. 3.** Mining is vital to nation building and the economic advancement of our
27 people. The mineral industry plays an essential role in establishing a progressive,
28 independent and self reliant economy.

1 The State shall formulate a National Industrialization Program pursuant to the
2 principles of agricultural modernization, development of industrial and
3 manufacturing industries, and rational, sustainable, and equitable development of
4 the national economy. Pursuant to the foregoing, the State shall implement a
5 Mineral Management Plan that provides the framework for the utilization and
6 management of the country's mineral resources, which will address the needs of
7 the domestic economy and upholds the rights of industry workers, indigenous
8 peoples and local communities.

9 **SEC. 4.** The judicious stewardship of our mineral resources, as well as its
10 exploration, development and utilization shall comply with the following
11 principles:

- 12 a) The current export-orientation of mining is hereby reversed and a
13 domestic needs-based development of the industry shall be pursued
14 by the State as a step towards achieving genuine economic
15 development;
- 16 b) The mining industry shall be geared towards national industrialization
17 and shall be built for the production of raw materials such as base
18 metals, basic chemicals and petrochemicals needed by the basic,
19 medium and heavy industries to produce as much consumer,
20 intermediate and capital goods with the country's stock of finite mineral
21 and non-mineral industrial raw materials and in the process provide
22 jobs to the country's vast human resources;
- 23 c) The community shall actively participate in the stewardship of mineral
24 resources. Community-based initiatives shall be encouraged and
25 supported;
- 26 d) The State and its members shall develop its human resources and
27 encourage the evolution of its own appropriate technologies. The State

1 shall provide the appropriate support and protection to Filipino
2 corporations to further develop and increase their participation in the
3 industry; All mining industry investments shall be mutually-beneficial
4 and help achieve the specific target and goals of the National
5 Industrialization Program. To come up with the large capital
6 requirement for mining, the State must use local sources such as but
7 not limited to the granting of incentives and financial aid to local private
8 sector investors, re-channeling of government budget allocations for
9 foreign debt payments and military expenditures, and the proceeds
10 from the government shares of the Malampaya Natural Gas Project;

11 e) The State shall allow, in exceptional cases, foreign corporations to
12 invest in the mineral industry. Based on the National Industrialization
13 Program and the country's capability and capacity, the government
14 must identify the mineral areas where foreigners can help and invest
15 subject to rigorous screening and strict regulations as provided in this
16 Act and related laws. The participation of foreign companies in the
17 critical stages of minerals extraction and processing shall be in
18 accordance with a mandatory program or agreement for technology
19 transfer and equity shares that do not exceed 40 percent of the full
20 capital requirements;

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

26 f) In land and water use, the production of sufficient food free from
27 pollution towards food security shall always be the priority;

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

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

12 i) Small-scale mining operations shall be supported and regulated by the
13 state. The state will encourage the formation of cooperatives among
14 small-scale miners and provide financial and technical support to
15 develop the labor-intensive and upgrade the backward technologies into
16 a more efficient and less environmentally destructive mining process.
17 Whenever small- scale mining are stopped, alternative and sustainable
18 livelihood shall be provided to the small-scale miners.

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

24 k) Mining industry research and development shall focus on harnessing
25 more economically- efficient and less environmentally-destructive
26 methods. The advanced technologies from other countries that are
27 proven to be appropriate locally shall be adopted in the industry;

1 l) All mining operations shall be strictly regulated to ensure the domestic
2 processing of mineral ores up to the secondary and tertiary stages of
3 industrial production to develop our own basic and medium industries.
4 Recycling programs and substitution in the use of minerals shall be
5 incorporated in the overall plan of mining development to reduce mine
6 waste and pollution, and mining rehabilitation techniques. Indigenous
7 technologies that are relevant and appropriate, particularly with respect
8 to the domestic processing of minerals shall be promoted, harnessed,
9 expanded and upgraded;

10 m) The State and its members shall share in the burden of satisfying the
11 need for mineral resources primarily through reusing and recycling
12 existing mineral products. Ecologically-sound practices at all stages of
13 mining shall be promoted. Mining technologies such as open-pit mining
14 and submarine mine tailing disposal methods that are banned abroad
15 and/or proven inappropriate in countries like the Philippines must all be
16 banned. Environmental standards shall be set to ensure the protection
17 and efficient utilization of the country's mineral resource base.
18 Ecological considerations in mining development shall be given due
19 emphasis and attention to substantially eliminate destructive effects
20 that certain mining industrial processes might have on the people's
21 health and the environment. Monitoring mechanisms with strong
22 participation from the local communities will be instituted;

23 n) Mining in environmentally-critical areas such as small island
24 ecosystems, primary forests and watersheds shall be banned.
25 Dumping of mine wastes and tailings to rivers, lakes and seas are
26 prohibited; The integrity of the environment shall not be compromised;
27 and

1 o) Areas affected by mining shall be rehabilitated, including abandoned
2 mines. Violators shall be strictly punished and made to pay heavy
3 compensation to the State and the affected communities;

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

6 **CHAPTER II. SCOPE AND GENERAL PRINCIPLES**

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

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

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

1 others, prioritizing development for local communities and all other stakeholders
2 directly affected by mining operations.

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

10 **SEC. 9.** The State shall accord support to communities dependent on small-scale
11 mining whose operations shall strictly adhere to the provisions of this law.

12 **SEC. 10.** Subject to their right to self-determination, indigenous cultural
13 communities/indigenous peoples (ICCs/IPs) own and have the responsibility to
14 manage the mineral resources in their respective ancestral domains, free from
15 external manipulation, interference, force threat, intimidation, coercion and other
16 analogous acts. The State shall support indigenous cultural communities in
17 developing capacities to effectively exercise their right and responsibility.

18 **SEC. 11.** Mining shall be limited in scale in accordance with this Act.

19 **SEC. 12.** Mineral resources development, utilization and processing shall be
20 reserved for Filipino citizens and for Filipino corporations. Exploration shall be
21 undertaken directly by the State for the benefit of the nation.

1 **SEC. 13.** Remining and recycling of mineral resources shall be prioritized over
2 the opening of new mines to maximize and recover the remaining minerals
3 resources from the rejects or wastes of previous mines and mining operations.

4 **SEC. 14.** The State shall prioritize the rehabilitation of the abandoned mines in
5 the country. The State shall ensure the fullest compliance of all government and
6 corporate entities in and on the closure of mines, the rehabilitation/restoration of
7 the immediate environs or each mining project/activity in the country as provided
8 by law.

9 **SEC. 15.** The State shall encourage and support Filipino private corporations and
10 mining cooperatives to participate and invest in the mining industry on mutually-
11 beneficial grounds that will push forward the National Industrialization Program in
12 both small-scale and large-scale projects.

13 **SEC. 16.** Mineral resource extraction shall be allowed based on the Philippine
14 Government's National Industrial Plan. The sharing of profits from mining
15 activities, including the anticipated environmental and social costs on the affected
16 local communities of each mining project, should far outweigh ecological and
17 social benefits and costs from other land uses. The anticipated cost of
18 environmental and social impacts on the affected local communities, which shall
19 at all times be prevented and/or mitigated through the allocation of sufficient
20 funds for this purpose. In mining projects with foreign participation, a just return
21 of investment scheme for the foreign entrants into the industry shall be
22 prescribed by law.

23 **SEC. 17.** The State shall prioritize the development of mineral resources needed
24 for national development and the creation of domestic processing capacity for
25 industrial metals, the integration of agricultural modernization and other labor-

1 intensive downstream industries. Mine planning shall be conducted to meet this
2 principle. The National Industrial Plan shall support national development based
3 on the principles of sustainable development and modernization of its economic
4 base. This framework will define minerals to be extracted, volume to be extracted
5 and when to be extracted. This shall be matched with the approved mining areas
6 as identified by the Councils. These matched areas are eligible for mining
7 operations.

8 CHAPTER III. DEFINITION OF TERMS

9 **SEC. 18. Definition of terms.** As used in and for the purposes of this Act, the
10 following terms, whether used in singular or in plural form, shall mean:

11 a. **Abandonment** - the act of the contractor leaving a mine without
12 rehabilitating the affected areas or completing such rehabilitation despite
13 the legal obligation to do the same;

14 b. **Acid mine drainage** - the dissolution, mobilization and transportation of
15 toxic metals from rocks resulting from the chemical reaction of the acid-
16 generating minerals in rock and waste materials having high permeability
17 to both air and rainfall and other water inflows when land is opened up for
18 mining and initiates the chemical reaction, resulting to a perpetual
19 machine of acid generation;

20 c. **Ancestral domains** - all areas generally belonging to indigenous
21 cultural communities/indigenous peoples (ICCs/IPs) comprising lands,
22 inland waters, coastal areas, and natural resources therein, held under a
23 claim of ownership, occupied or possessed by ICCs/IPs, by themselves or
24 through their ancestors, communally or individually since time immemorial,
25 continuously to the present except when interrupted by war, force
26 majeure or displacement by force, deceit, stealth or as a consequence of

1 government projects or any other voluntary dealings entered into by
2 government and private individuals/corporations, and which are necessary
3 to ensure their economic, social and cultural welfare. It shall include
4 ancestral lands, forests, pasture, residential, agricultural, and other lands
5 individually owned whether alienable and disposable or otherwise, hunting
6 grounds, burial grounds, areas of worship, bodies of water, mineral and
7 other natural resources, and lands which may no longer be exclusively
8 occupied by ICCs/IPs but from which they traditionally and historically had
9 access to for their subsistence and traditional activities, particularly the
10 home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators

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

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

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

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

- 1 h. **Carrying capacity** - the capacity of natural and human environments to
2 accommodate and absorb change without experiencing conditions of
3 ecological instability and attendant degradation;
- 4 i. **Certificate of Ancestral Domains Title (CADT)** - title formally
5 recognizing the rights of possession and ownership of ICCs/IPs over their
6 ancestral domains identified and delineated in accordance with law;
- 7 j. **Certificate of Ancestral Lands Title (CALT)** - a title formally
8 recognizing the rights of ICCs/IPs over their ancestral lands;
- 9 k. **Closure of mines** - permanent cessation of operations at a mine or
10 mine processing site after completion of the decommissioning process;
- 11 l. **Consensus** - the decision communally reached after appropriate
12 participatory consultation and discussion, free from any external
13 manipulation, interference and coercion, and other analogous cases and
14 obtained after fully disclosing the intent and scope, including the positive
15 and negative impacts of the activity, in a language and process
16 understandable to the community or group.
- 17 m. **Consent** - the voluntary assent of the landowner or those who have
18 been in open, continuous, exclusive and notorious possession of the land
19 for more than ten (10) years in good faith, or thirty (30) years in bad faith,
20 free from any external manipulation, interference and coercion, and
21 obtained after fully disclosing the intent and scope, including the positive
22 and negative impacts of the activity, in a language and process
23 understandable to the said landowner or occupant;
- 24 n. **Contract area** - the area delineated as specifically provided by a
25 mineral agreement for the development or utilization of mineral resources
26 found therein;
- 27 o. **Critical watershed** - refers to a drainage area of a river system, lake
28 or water reservoir supporting existing and proposed hydroelectric power,

1 domestic water supply, geothermal power and irrigation works, which
2 needs immediate rehabilitation and protection to minimize soil erosion,
3 improve water yield and prevent possible flooding. The term shall also
4 include areas which are traditional human settlements, land-uses, or sea-
5 uses which are representative of a culture/cultures, or human interaction
6 with the environment especially when it has become vulnerable under the
7 impact of irreversible change;

8 **p. Critical habitats** - place or environment where species or subspecies
9 naturally occur or has naturally established its population that are crucial
10 to the survival of a species and essential for its conservation;

11 **q. Cultural sites** - those that bear a unique or at least exceptional
12 testimony to a cultural tradition or to a civilization which is living or which
13 has disappeared or, directly or tangibly associated with events or living
14 traditions, with ideas, or with beliefs, with artistic and literary works of
15 outstanding universal significance;

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

19 **s. Decommissioning** - the activity or process that begins after cessation
20 of prospecting activities or mineral production (including metallurgical plant
21 production). It involves, among others, the removal of unwanted
22 infrastructure, making excavations and waste repositories safe and stable
23 and surface rehabilitation with a view to negate or minimize any adverse
24 environmental impacts remaining after cessation of mineral production. It
25 includes the after-care or maintenance that may be needed.

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

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

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

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

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

19 **y. Indigenous peoples/Indigenous cultural communities (IP/ICC)** - refer
20 to a group of people or homogenous societies identified by self-ascription
21 and ascription by others, who have continuously lived as organized
22 community on communally bounded and defined territory, and who have,
23 under claims of ownership since time immemorial, occupied, possessed
24 and utilized such territories, sharing common bonds of language, customs,
25 traditions and other distinctive cultural traits, or who have, through
26 resistance to political, social and cultural inroads of colonization, non-
27 indigenous religions and cultures, became historically differentiated from
28 the majority of Filipinos. ICCs/IPs shall likewise include peoples who are

1 regarded as indigenous on account of their descent from the populations
2 which inhabited the country, at the time of conquest or colonization, or at
3 the time of inroads of non-indigenous religions and cultures, or the
4 establishment of present state boundaries, who retain some or all of their
5 own social, economic, cultural and political institutions, but who may have
6 been displaced from their traditional domains or who may have resettled
7 outside their ancestral domains. They are peoples who have a spiritual
8 relationship with the land;

9 **z. Indigenous political structure** - refers to organizational and cultural
10 leadership systems, institutions, relationships, patterns and processes for
11 decision-making and participation, identified by ICCs/IPs such as, but not
12 limited to, Council of Elders, Council of Timuays, Bodong Holders, and any
13 other tribunal or body of similar nature;

14 **aa. Joint venture agreement** - an agreement wherein the government and
15 a qualified person organize a joint-venture company, with both parties
16 having equity shares, to develop and manage mineral resources. Aside
17 from earnings on the equity, the Government shall be entitled to a share in
18 the output computed at a certain percentage mutually agreed upon by and
19 beneficial to both parties.

20 **bb. Key biodiversity areas** - are sites of global biodiversity conservation
21 significance. They are defined by standardized criteria and thresholds to
22 guide conservation interventions such as the establishment of protected
23 areas;

24 **cc. Large-scale mining** - mining in areas with more than twenty (20)
25 hectares, using mechanized tools and equipment, requiring considerable
26 capital and having large-scale environmental, social, cultural and economic
27 impacts with regard to resource use and/or consumption.

1 dd. **Mineral agreement** - a contract entered into by the government, in
2 behalf of the State, and a private Filipino person, granting such person/s
3 the privilege to mine a specific contract area;

4 ee. **Mineral resource** - any concentration of minerals/rocks with potential
5 economic value;

6 ff. **Mineral processing** - the milling, beneficiation or upgrading of ores or
7 minerals and rocks or by similar means to convert the same into
8 marketable products;

9 gg. **Minerals** - all naturally occurring inorganic substance in solid, gas,
10 liquid, or any intermediate state excluding energy materials such as coal,
11 petroleum, natural gas, radioactive materials, and geothermal energy;

12 hh. **Mine development** - preparing the mine site for production by shaft
13 sinking or pit excavation building of access roads, and constructing of
14 surface facilities;

15 ii. **Mine wastes and tailings** -rock materials from surface or underground
16 mining and milling operations with little or no economic value to the
17 generator of the same;

18 jj. **Mining activity** - any or all of the following activities: exploration,
19 extraction, utilization, processing, transportation and other activities
20 conducted for the same.

21 kk. **Mining area** - a portion of the contract area which has been identified
22 by the contractor wherein actual mining operations are conducted;

23 ll. **Mining operations** - either all or any of the mining activities involving
24 exploration, feasibility, development, utilization, and processing;

25 mm. **National industrialization** - in the mining industry, this shall denote
26 the primacy of mineral production, processing and distribution for the
27 primary benefit of the domestic economy. This includes creating favorable
28 conditions for Filipino entrepreneurs to engage in mining through various

1 state-private agreements that shall ensure that mining shall help spur more
2 domestic investments, increase agricultural production and produce both
3 consumer and producer goods and manufactures;

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

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

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

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

24 rr. **Open-pit mining** - Extracting metal ores and minerals that lie near the
25 surface by removing the overlying material and breaking and loading the
26 ore. Also known as open-cast mining and open-cut mining;

27 ss. **Ore** - a material that contains minerals in such quantities that it can be
28 mined and worked commercially to extract that mineral. The mineral is

1 usually contained in chemical combination with some other element in
2 addition to various impurities;

3 **tt. Pollution control and infrastructure devices** - infrastructure,
4 machinery, equipment and/or improvements used for impounding, treating,
5 or neutralizing, precipitating, filtering, conveying and cleansing mine
6 industrial waste and tailings as well as eliminating or reducing hazardous
7 effects of solid particles, chemicals, liquids or other harmful by-products
8 and gases emitted from any facility utilized in mining operations for their
9 disposal;

10 **uu. Private land** - any land belonging to any private person which includes
11 alienable and disposable land being claimed by a holder, claimant, or
12 occupant who has already acquired a vested right thereto under the law,
13 although the corresponding certificate or evidence of title or patent has not
14 been actually issued;

15 **vv. Processing** - includes all treatment an ore receives after its extraction
16 and beneficiation, which involves changes in the chemical nature of the
17 mined minerals;

18 **ww. Progressive rehabilitation** - rehabilitation which involves the staged
19 treatment of disturbed areas during exploration, construction/development
20 and mining operations;

21 **xx. Protected areas** - identified portions of land and water set aside by
22 reason of their unique physical and biological significance, managed to
23 enhance biological diversity and protected against destructive human
24 exploitation;

25 **yy. Protected landscapes, seascapes, marine sanctuaries** - areas of
26 national significance which are characterized by the harmonious
27 interaction of man and the environs while providing opportunities for public
28 enjoyment through recreation and tourism within the bounds of the normal
29 lifestyle and economic activity of these areas;

1 **zz. Quarry resources** - any common rock or other mineral substances as
2 the Director of the Mines and Geosciences may declare to be quarry
3 resources such as, but not limited to, andesite, basalt, conglomerate, coral
4 sand, diatomaceous earth, diorite, decorative stones, gabbro, granite,
5 limestone, marble, marl, red burning clay for potteries and bricks, rhyolite,
6 rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and
7 volcanic glass, *Provided*, That such quarry resources do not contain metals
8 or metallic constituents and for other valuable minerals in economically
9 workable quantities; *Provided further*, That non-metallic minerals such as
10 kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite,
11 talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica,
12 precious and semi-precious stones, and other non-metallic minerals that
13 may later be discovered and which the Director declares the same to be of
14 economically workable quantities, shall not be classified under the category
15 of quarry resources;

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

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

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

20 **ddd. Recycling** - shall refer to the treating of used or waste materials
21 through a process of making them suitable for beneficial use and for other
22 purposes, and includes any process by which solid waste materials are
23 transformed into new products in such a manner that the original products
24 may lose their identity, and which may be used as raw materials for the
25 production of other goods or services: *Provided*, That the collection,
26 segregation and re-use of previously used packaging material shall be
27 deemed recycling under the Act.

28 **eee. Rehabilitation** - the process by which the land will be returned to a
29 form and productivity in conformity with a prior land use plan including a

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

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

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

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

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

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

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

24 lll. **Strategic minerals** - minerals needed for national industrialization,
25 including rural development;

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

1 nnn. **Traditional small-scale mining** - small-scale mining using traditional
2 means and without the use of chemical or mechanized extraction and
3 separation means, methods, implements, and/or equipment;

4 ooo. **Watershed continuum** - shall refer to an area consisting of the
5 watershed and its divide including its connection from the headwaters to the
6 reef or a land area drained by a stream or a fixed body of water and with
7 tributaries having a common outlet for surface runoff. It is the system by
8 which the mining-affected communities shall be determined following the
9 drainage of a stream or fixed body of water with tributaries having a
10 common outlet for surface runoff;

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

12 **CHAPTER IV. OWNERSHIP AND GOVERNANCE**

13 **SEC. 19. Authority of the Bureau.** The Mines and Geosciences Bureau shall be
14 a scientific research institution under the Department of Environment and Natural
15 Resources (DENR) primarily conducting and developing research of mineral
16 resources and mining technologies and training of local communities, local
17 government units and indigenous peoples. It shall also regulate the operations of
18 persons involved in mining activities. It shall also work with the Multi-Sectoral
19 Mineral Council in the monitoring of mining activities.

20 **SEC. 20. Regional offices.** The Bureau shall have as many regional offices in
21 the country as may be established by the Secretary, upon the recommendation
22 of the Director.

23 **SEC. 21. Bureau as repository of information.** The Bureau shall be the central
24 repository of information regarding mineral lands, resources, permits, studies and
25 other information relevant to the operation of a mine, including the necessary

1 requirements which a contractor is obliged to submit. All other governmental
2 offices and other bodies created under this Act shall copy furnish the Bureau of
3 all other information related to mining.

4 **SEC. 22. Recording system.** There shall be established a national and regional
5 filing and recording system. A mineral resource database system shall be set up
6 in the Bureau which shall include, among others, a mineral rights management
7 system.

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

14 **SEC. 24. Bureau to conduct exploration activities.** Exploration of mineral
15 resources shall be exclusively and directly undertaken by the State through the
16 Bureau. In no case shall this function be delegated or contracted out to private
17 corporations or persons.

18 **SEC. 25. Non-invasive exploration.** Exploration activities shall only be non-
19 invasive such as seismic, gravity, magnetic, electromagnetic, radar, induced
20 polarization, radio-wave and electro-geochemical.

21 **SEC. 26. Consent.** The Bureau shall not enter into any private lands for the
22 purposes of exploration activities without the written consent of the land owner,
23 possessor and/or occupant; or the FPIC of the ICC/IP and payment of just

1 compensation for the use of property. Neither shall the Bureau enter into any part
2 of the ancestral domains/lands of ICCs/IPs without their free and prior informed
3 consent. Further, the Bureau shall not enter into any distributed land under the
4 Comprehensive Agrarian Reform Program within the ten (10) years prohibited
5 period of the said program.

6 **SEC. 27. Ownership of ICCs/IPs.** The mineral resources within ancestral
7 domains/ancestral lands are the collective private property of the indigenous
8 cultural communities/indigenous peoples (ICCs/IPs) as provided by law. The
9 management of such mineral resources shall build on the indigenous knowledge
10 systems and practices of the ICCs/IPs.

11 **SEC. 28. Free, prior and informed consent.** No mining activity shall be
12 conducted within the ancestral domains/lands of ICCs/IPs without their free, prior
13 and informed consent (FPIC), in addition to the conditions set for under the
14 succeeding sections of this Act.

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

22 **SEC. 30. When ICCs/IPs displaced from ancestral domain, and when**
23 **ancestral domain is already** covered by other titles emanating from the state
24 other than CADT/CALT. Native title over ancestral domain subsists
25 notwithstanding the fact that the ICCs/IPs who hold such native title have been

1 displaced therefrom or that such ancestral domains have been occupied by other
2 persons or corporations under another claim of title emanating from the State. In
3 such cases, ICCs/IPs shall continue to own such mineral resources.

4 **SEC. 31. Questions on the validity of FPIC.** In instances that there are
5 questions on the legality or validity of the issued free prior and informed consent,
6 mining operations shall not be allowed to be conducted in the ancestral domains
7 or lands of the ICCs/IPs without the final resolution of such question on the
8 legality or validity of the FPIC.

9 **SEC. 32. Ownership of the State.** The mineral resources found outside
10 ancestral domains/lands shall be owned by the State. The State shall ensure that
11 the management of mineral resources shall be primarily for the benefit of the
12 local communities in whose territory the same shall be found. Any minerals
13 extracted shall be solely used for local industries consistent with the Minerals
14 Management Plan. The State may directly undertake development, utilization
15 and processing of mineral resources or it may enter into mineral agreements with
16 eligible parties pursuant to the provisions of this Act.

17 **SEC. 33. Inventory of mineral resources.** The Bureau shall identify and provide
18 an inventory of the available mineral resources, including the mine tailings and
19 wastes within the country. It shall submit to the DENR a report which shall
20 contain the following information:

- 21 a) the classification of minerals;
- 22 b) the quality and grade of the ore;
- 23 c) the potential mine life;
- 24 d) the geological description of the area;
- 25 e) the economic viability of mine tailings;

- 1 f) whether the area is a key biodiversity area or if it is a critical habitat;
2 g) and all other relevant information necessary for potential mineral
3 investments.

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

6 **SEC. 34. Identification of strategic minerals.** The Bureau shall conduct
7 researches and studies prior to any mining operations to identify strategic mineral
8 resources. Only mineral resources that shall be needed for local industries,
9 agricultural modernization and rural development shall be opened to mining
10 subject to the implementing rules and regulations of this Act.

11 **SEC. 35. Demarcation of mineral areas.** The Bureau shall demarcate the
12 boundaries of all areas identified as containing commercial quantities of mineral
13 resources on the ground.

14 **SEC. 36. Baseline information on watershed continuums.** The baseline
15 information on all watersheds in the country shall be required and made available
16 to the public, online as much as possible. No mining permit shall be issued
17 without this baseline information.

18 **SEC. 37. Affected local community and local government unit.** For the
19 purposes of this Act, the affected local community and the affected local
20 government unit are defined in relation to the watershed continuum which is
21 potentially negatively impacted by mining operation in the demarcated area. The
22 local communities and the local government units therefore are those who are
23 dependent on the watershed eco- system and its resources.

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

5 **SEC. 39. Powers of the Council.** The Council shall have the following powers,
6 among others:

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

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

20 No mining operations shall be allowed without the Council having been properly
21 convened.

22 **SEC. 41. Areas open to mining.** The Council shall have the power to determine
23 whether or not the land where mineral resources are found shall be opened to
24 mining. Areas may only be opened to mining upon the unanimous vote of all the
25 members of the Council pursuant to the guidelines provided by this Act. In

1 determining whether or not such area shall be opened, the following shall be
2 required:

- 3 a) Report of the Bureau on the conducted exploration;
- 4 b) Existence of downstream industries for the mineral resources;
- 5 c) Potential environmental impacts;
- 6 d) Potential cultural impacts;
- 7 e) Conflict and risk assessment;
- 8 f) Potential health impacts;
- 9 g) Potential economic benefits of the development and utilization of the
10 minerals;
- 11 h) Carrying capacity and the ecological profile of the area;
- 12 i) Existing and alternative land uses of the area;
- 13 j) Local government land use plan.

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

1 This information shall be accessible to the public at all times.

2 *Provided however,* That in no case shall the Council open the following areas to
3 mining:

4 a) Areas declared by Local Government Units as No-Mining Zones as
5 specified by 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
15 burial grounds;

16 k) Traditional swidden farms and hunting grounds;

17 l) Lands covered by the Comprehensive Agrarian Reform Law or Republic
18 Act No. 6657, as amended;

19 m) Prime agricultural lands, irrigable and irrigated lands as defined by
20 Republic Act No. 9700;

21 n) Cultural property enumerated under the National Cultural Heritage Act
22 of 2009 or Republic Act No. 10066;

23 o) Community sites;

24 p) Key biodiversity areas;

25 q) High conflict areas;

26

- 1 r) The Province of Palawan pursuant to Republic Act No. 7611 and other
2 areas covered by local ordinances;
- 3 s) In military and other government reservations, except upon prior written
4 clearance by the government agency concerned;
- 5 t) Near or under public or private buildings, cemeteries, archeological and
6 historic sites, bridges, highways, waterways, railroads, reservoirs, dams
7 or other infrastructure projects, public or private works including
8 plantations or valuable crops, except upon written consent of the
9 government agency or private entity concerned;
- 10 u) In areas expressly prohibited by law or ordinances;
- 11 v) In areas covered by small-scale miners as defined by law unless with
12 prior consent of the small-scale miners, in which case a royalty payment
13 upon the utilization of minerals shall be agreed upon by the parties, said
14 royalty forming a trust fund for the socioeconomic development of the
15 community concerned; and
- 16 w) Old growth, natural or primary forests, watershed forest reserves,
17 wilderness area, mangrove forests, mossy forests, national parks,
18 protection forests, provincial/municipal forests, parks, greenbelts, game
19 refuge and bird sanctuaries and their respective buffer zones prohibited
20 under the National Integrated Protected Area System (NIPAS) under
21 Republic Act No. 7586, Department Administrative Order No. 25, series
22 of 1992 and other laws and ordinances and those expressly prohibited
23 by other laws.

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

1 **SEC. 42. Manner of voting by the Council for opening an area to mining.**

2 Sections 26 and 27 of the Local Government Code on consultation and consent
3 shall be strictly adhered to. Local government units at all levels shall conduct
4 mandatory public hearings with the affected local communities, to be carried out
5 within their respective territories and presenting those enumerated under Section
6 41.

7 After the inventory of the existing minerals, the formulation of a mine plan, and
8 the existence of the baseline information of the particular watershed area, the
9 Bureau shall convene the Council.

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

12 Local government units, ICCs/IPs, NGOs and peoples organizations, shall
13 ensure that the Bureau shall comprehensively explain the goals and objectives
14 of the project or program, its negative and positive impact upon the people and
15 the community in terms of environmental or ecological balance, and the
16 measures that will be undertaken to prevent or minimize the adverse effects
17 thereof. Thereafter, the approval of the respective sanggunians of the affected
18 local government units shall be required in accordance to the sentiment of the
19 peoples of the local government unit as a result of the consultations conducted.

20 *Provided*, That the affected local government unit representatives shall meet and
21 shall relay the decision of their respective constituents to the provincial
22 government/independent component cities/highly urbanized cities. The
23 provincial/component city/highly urbanized city government representative shall
24 sit in the Council and shall carry the result of the vote of all the affected local
25 government units within the province resulting from the process provided in the

1 preceding paragraph of this Section. There must be a unanimous vote among
2 the local government units for the purpose of opening a particular area for
3 mining. Failure to reach a unanimous vote for opening shall mean that the area is
4 closed to mining. All the proceedings shall at all times be recorded.

5 *Provided moreover,* That in case there are affected indigenous cultural
6 communities/indigenous peoples within the watershed continuum, they shall also
7 bring the community's vote to the Council after undergoing their own processes
8 in accordance with their respective indigenous political structure, free from any
9 external manipulation, interference, coercion and other analogous acts, and
10 obtained after fully disclosing the intent and scope, including the positive and
11 negative impacts of the activity, in a language and process understandable and
12 acceptable to them.

13 *Provided finally,* That any member of the community may file a protest with the
14 Council during this period of consultations and deliberations for the Council's
15 consideration.

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

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

1 **SEC. 45. Publication, posting and radio announcement requirements.** The
2 decision of the Council shall be published by the Bureau in the local newspaper
3 in the local language, shall be announced on the local radio programs for not less
4 than six (6) weeks and notices shall be distributed widely in communities. The
5 notice containing relevant information shall likewise be posted in conspicuous
6 places for the information of the general public and shall be announced during
7 the local market day.

8 **CHAPTER V. MINERAL AGREEMENTS**

9 **SEC. 46. Modes of mineral agreement.** A mineral agreement may only take
10 the following forms as herein defined:

11 a) **Mineral production sharing agreement** - is an agreement where the
12 Government grants to the contractor the exclusive right to conduct mining
13 operations within a contract area and shares in the gross output. The
14 contractor shall provide the financing, technology, management and
15 personnel necessary for the implementation of this agreement;

16 b) **Co-production agreement** - is an agreement between the Government
17 and the contractor wherein the Government shall provide inputs to the
18 mining operations other than the mineral resource; and

19 c) **Joint venture agreement** - is an agreement where a joint-venture
20 company is organized by the Government and the contractor with both
21 parties having equity shares. Aside from earnings in equity, the
22 Government shall be entitled to a share in the gross output.

23 In no case shall Financial or Technical Assistance Agreements, or any other
24 similar agreements, contracts, and/or executive issuances granting license or

1 permission to explore, develop and/or utilize mineral resources be awarded to
2 foreign entities or persons.

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

6 **SEC. 48. Identification of mining projects.** With the unanimous vote of the
7 Council to open areas for mining operations, the Bureau shall prepare the
8 necessary information sheets on the said area for potential investments. The
9 Bureau shall call for proposals to develop the mining area based on the Mineral
10 Management Plan.

11 **SEC. 49. Pre-screening of mining proposals.** Mining proposals shall be pre-
12 screened by the Bureau according to the National Industrialization and Mineral
13 Management Plan upon the submission of interested parties of the following:

- 14 a) demonstration of financial capability;
- 15 b) proven social and environmental track record, including those of its
16 officers and directors;
- 17 c) clear corporate structure and ownership;
- 18 d) proof of physical office and operations of the proponent within the
19 Philippines;
- 20 e) identification of potential investors;
- 21 f) mining project feasibility;
- 22 g) mining operation work plan;
- 23 h) proposed operation, mitigation and prevention methods and/or
24 equipment;
- 25 i) capacity to process minerals;

1 j) intent to develop downstream industries;

2 k) intent to contribute to local community development.

3 l) Submission of the Environmental and Social Impact Assessment and
4 Mitigation Plan.

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

9 **Section 50. Environmental and Social Impact Assessment and Mitigation**

10 **Plan.** The contractor shall submit an Environmental and Social Impact
11 Assessment and Mitigation Plan (ESIAMP) containing the means, methods,
12 processes and schedule by which the contractor shall conduct its operations and
13 mitigate negative environmental and social impacts. Social impact shall include
14 possible impacts on the enjoyment and exercise of human rights, cultural rights.

15 The ESIAMP shall include plans relative to mining operations; the rehabilitation,
16 regeneration and restoration of mineral areas; slope stabilization of mined out
17 and tailings covered areas; aquaculture, watershed development and water
18 conservation; the relocation and return of displaced population; and provisions
19 for alternative livelihood and socioeconomic development.

20 The ESIAMP shall also contain a Social Development Plan which shall likewise
21 contain the plans of the proponent for the development of the community through
22 the establishment of infrastructures and programs that shall be sustainable even
23 after the closure of the mine.

1 **SEC. 51. Pre-qualification.** The Bureau shall thereafter identify the top three (3)
2 proposals and shall recommend the same to the Council for deliberation.

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

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

1 component city/highly urbanized city resulting from the process provided in the
2 preceding paragraph of this Section.

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

6 The affected ICCs/IPs shall also deliberate on the proposals in accordance with
7 their own systems and processes free from any external manipulation,
8 interference, coercion and other analogous acts, and obtained after fully
9 disclosing the intent and scope, including the positive and negative impacts of
10 the activity, in a language and process understandable and acceptable to them.

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

15 **Section 53. Posting and publication requirement.** After notice, the Bureau
16 shall notify the proponent of the accepted proposal and cause the publication and
17 posting of the accepted proposal.

18 *Provided,* That any member of the community may contest the decision of the
19 Council within six (6) weeks upon the posting and publication of notice of the
20 acceptance of the proposal in the manner provided in Section 42. No mining
21 operations shall be allowed to be conducted pending any action questioning the
22 legality or validity of the proposal.

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

4 **SEC. 55. Environmental and Social Impact Compliance Certificate.** The
5 mining proponent shall be issued an Environmental and Social Impact
6 Compliance Certificate by the Bureau with the approval of the Council. *Provided,*
7 no amendments to the conditions of the Certificate shall be allowed, unless such
8 proposed amendment shall work for the benefit of the communities, and in which
9 case, the Council and the Bureau shall be notified of any amendments to the
10 ESIAMP and that the former should give their consent to the same, after the
11 proponent explaining in detail the reason for such amendment and the possible
12 impacts and consequences of these amendments.

13 *Provided further,* That any violation of the ESIAMP shall cause the cancellation of
14 the Certificate.

15 **SEC. 56. Maximum areas for mineral agreements.** The maximum area under
16 mineral agreements that a person can hold at any one time shall be determined
17 by the Council. *Provided,* That the contract area per agreement shall not exceed
18 five hundred (500) hectares, *Provided further,* That no person shall be awarded
19 in excess of the total contract area of seven hundred-fifty (750) hectares in any
20 given watershed area. For the purposes of this Act, the prohibition on the
21 maximum area shall also include corporations that shall have common directors
22 or significant shareholders.

23 **SEC. 57. Term of mineral agreement.** The term of the mineral agreement shall
24 be equivalent to the mine life plus an additional five (5) years for the rehabilitation
25 of the mining area. *Provided,* That in no case shall a Mineral Agreement have a

1 term beyond fifteen (15) years, *Provided further*, That the contractor shall already
2 include rehabilitation/remediation of the mining area within the ten-year term.

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

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

11 **SEC. 58. Prohibition on open-pit mining method and submarine tailings**
12 **disposal.** Open-pit mining method for the extraction of mineral ores and the
13 submarine tailings disposal method shall be prohibited.

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

23 **SEC. 60. Mandatory consultations in each mining phase.** Mandatory
24 consultations with affected communities shall be undertaken in each phase of

1 mining operation: exploration, extraction, processing, and mine closure to ensure
2 that the peoples shall be informed of the proposed plans and methods that are
3 proposed to be conducted.

4 **SEC. 61. FPIC of ICCs/IPs on each stage of mining operation.** The free and
5 prior informed consent of the ICCs/IPs shall be required at each and every stage
6 of the mining operations. Free and prior informed consent shall be secured in
7 accordance with the laws, practices and processes of the concerned ICCs/IPs.
8 The violation of any of the conditions imposed by the ICCs/IPs on the contractor
9 shall cause the cancellation of the mineral agreement. Included in this process is
10 the explanation of the rights of ICCs/IPs of ownership and self-determination.

11 **SEC. 62. Consent of private landowners.** No person shall be allowed entry
12 into private lands without the written consent of the landowners, possessors or
13 lawful occupants of the land and/or the FPIC of the ICC/IP.

14 **SEC. 63. Expropriation.** Expropriation proceedings shall be filed with the regular
15 courts to determine whether the taking of private property for mining purposes
16 shall meet a public purpose and to determine just compensation.

17 **SEC. 64. Multi-partite monitoring.** The Council shall form a multi-partite
18 monitoring team to monitor compliance by the contractor of the terms and
19 conditions of the mineral agreement. It may conduct ocular inspections of the
20 contract area at any time of the day and night. It shall also inspect all the books
21 of contractors and refer the same to independent auditors. The Multi-partite
22 monitoring team and/or the Bureau may confiscate surety, performance and
23 guaranty bonds posted through an order to be promulgated by the Director. The
24 Council, the Director or the local government authorities may deputize, when
25 necessary, any member or unit of the Philippine National Police, barangay, duly

1 registered nongovernment organization (NGO) or any qualified person to police
2 any and all mining activities.

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

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

18 **SEC. 67. Access to information.** All contractors for mineral permits and
19 agreements shall provide information to affected indigenous peoples, local
20 communities, and local governments. The following information, among others,
21 shall be required:

- 22 a) full disclosure of methods and processes of mining;
- 23 b) full disclosure of environmental and social risks;
- 24 c) full disclosure of ownership structure;
- 25 d) full disclosure of financial sources.

1 All information and documents related to proposals, mineral agreements, permits
2 and mining operations shall not be considered confidential.

3 Refusal to grant access to this information shall be cause for the disqualification
4 of prospective proponents or cancellation of mineral agreements and permits.

5 The Bureau, being the repository of all relevant information under this Act is
6 mandated to grant access to the public of any information in its custody. Refusal
7 or unnecessary delay by the officers of the Bureau to give information shall be
8 punishable by a fine of fifty thousand pesos (Php 50,000.00) for every instance of
9 refusal or unnecessary delay.

10 Information requested by indigents or marginalized sectors shall be given to them
11 for free.

12 **CHAPTER VI. SMALL-SCALE MINING**

13 **SEC. 68. Applicability of RA 7076.** Small-scale mining shall continue to be
14 governed by the provisions of Republic Act No. 7076 or the People's Small-Scale
15 Mining Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board
16 shall be composed of the Governor or City Mayor, as chairperson, as the case
17 may be, a representative from the DENR as co-chairperson, one (1) small scale
18 mining representative, one (1) big-scale mining representative, one
19 representative from a nongovernment organization who shall come from an
20 environmental group, one representative from a people's organization (PO)
21 coming from the marginalized sector, and at least one (1) representative from the
22 indigenous communities, whenever applicable, as members. The representatives
23 from the private sector, nongovernment organization and indigenous

1 communities shall be selected by their respective organizations and/or
2 communities, and appointed by the PMRB or CMRB.

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

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

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

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

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

1 **SEC. 73. Environmental measures in small-scale mining.** The State shall
2 immediately address the environmental and health hazards and problems in
3 small-scale mining, including the use of hazardous chemicals, such as mercury,
4 cyanide and other chemicals, in the amalgamation of gold by small-scale miners.

5 **SEC. 74. Prohibition on the use of mercury.** Mercury use in small-scale mining
6 shall be prohibited. The Bureau shall research, develop and actively promote
7 appropriate technologies in small-scale mining including labor-intensive
8 methods, environmental protection and physical techniques or gold extraction
9 among small-scale miners.

10 **SEC. 75. Multi-sectoral monitoring team.** A multi-sectoral monitoring team
11 shall be organized to monitor the SSMP permittee's compliance with the terms
12 and conditions of its SSMP and ECC. The MMT shall conduct ocular inspections
13 of the SSMP area at any time of the day and night and shall have visitorial
14 powers.

15 **SEC. 76. Alternative livelihood support.** The state shall support the
16 improvement of the livelihood of small-scale-miners by extending the services for
17 access to other more viable and sustainable forms of livelihood, and, if the same
18 is not possible, the following support services:

- 19 a) access to minerals markets and to financing;
- 20 b) facilitating partnership with mining companies or contractors by, among
21 others, requiring mining companies to buy tailings from small-scale
22 mining operations for further processing or recycling;
- 23 c) facilitating partnership among small-scale mining cooperatives; and
- 24 d) other incentives to attract informal small-scale miners to formalize their
25 status.

1 **SEC. 77. Buying stations.** The Bangko Sentral ng Pilipinas shall ensure that
2 buying stations acquire gold from small-scale traders at prevailing international
3 gold market prices and the prevailing exchange rate set by the BSP Treasury
4 Department on a daily basis.

5 **CHAPTER VII. QUARRY RESOURCES**

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

14 **SEC. 79. Quarry Permit.** Any qualified Filipino may apply for a quarry permit on
15 privately- owned lands except ancestral domains and/or public lands for building
16 and construction materials such as marble, basalt, andesite, conglomerate, tuff,
17 adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles
18 and building bricks, pumice, perlite and other similar materials that are extracted
19 by quarrying from the ground at the provincial/city mining regulatory board. The
20 provincial governor shall grant the permit after the applicant has complied with all
21 the requirements as prescribed by the rules and regulations set forth by this Act.
22 *Provided* that gathering/extraction of sand for its metallic contents such as
23 magnetite from the country's rivers and shorelines shall be require a mineral
24 agreement in lieu of a quarry permit.

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

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

9 **SEC. 80. Quarry Fee and Taxes.** A permittee shall pay a quarry fee as provided
10 for under the implementing rules and regulations. The permittee shall also pay
11 the excise tax as provided by pertinent laws.

12 **SEC. 81. Cancellation of Quarry Permit.** A quarry permit may be cancelled by
13 the provincial governor for violations of the provisions of this Act or its
14 implementing rules and regulations or the terms and conditions of said permit:
15 *Provided*, That before the cancellation of such permit, the holder thereof shall be
16 given the opportunity to be heard in an investigation conducted for the purpose.

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

23 **SEC. 83. Industrial Sand and Gravel Permit.** Any qualified person may be
24 granted an industrial sand and gravel permit by the Bureau for the extraction of

1 sand and gravel and other loose or unconsolidated materials outside ancestral
2 domains that necessitate the use of mechanical processing covering an area of
3 not more than five hectares (5 has.) at any one time. The permit shall have a
4 term of five (5) years, renewable for a like period but not to exceed a total term of
5 twenty-five (25) years.

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

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

17 **SEC. 86. Private Gratuitous Permit.** Any owner of land may be granted a
18 private gratuitous permit by the provincial governor to extract sand and gravel,
19 quarry or loose unconsolidated materials within his property.

20 **SEC. 87. Guano Permit.** Any qualified person may be granted a guano permit
21 by the provincial governor to extract and utilize loose unconsolidated guano and
22 other organic fertilizer materials in any portion of a municipality where he/she has
23 an established domicile outside ancestral domains. The permit shall be for
24 specific caves and/or for confined sites with locations verified by the
25 Department's field officer in accordance with existing rules and regulations.

1 *Provided*, That extraction does not violate and is consistent with the provisions in
2 the Cave Conservation Act and the Wildlife Act.

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

7 **SEC. 89. Council recommendation for approval.** All permits under Chapter
8 VII of this Act shall require the recommendation of the Multi-Sectoral Mineral
9 Council prior to approval by the provincial government unit. The absence of a
10 recommendation from the Council prohibits the approval of any permit in this
11 Chapter.

12 **CHAPTER VIII. TRANSPORT, SALE AND PROCESSING OF MINERALS**

13 **SEC. 90. Ore transport permit.** A permit specifying the origin and quantity of
14 non-processed mineral ores or minerals shall be required for their transport.
15 Transport permits shall be issued by the Bureau. The absence of a permit shall
16 be considered as *prima facie* evidence of illegal mining and shall be sufficient
17 cause for the confiscation of the ores or minerals being transported, the tools and
18 equipment utilized, and the vehicle containing the same.

19 **SEC. 91. Track record.** Only mining companies with demonstrated capacity and
20 good environmental track record in mineral processing shall be allowed to extract
21 minerals. The Council shall encourage contractors to put up processing plants
22 within the community with the end in view of generating employment and
23 developing other downstream industries.

1 **SEC. 92. Mineral trading registration.** No person shall engage in the trading of
2 mineral products, either locally or internationally, unless registered with the
3 Department of Trade and Industry and accredited by the Department, with a copy
4 of said registration submitted to the Bureau.

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

9 **CHAPTER IX. DEVELOPMENT OF COMMUNITIES, SCIENCE AND**
10 **TECHNOLOGY**

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

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

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

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

15 **CHAPTER X. BENEFIT SHARING, TAXES AND FEES**

16 **SEC. 98. Taxes and fees.** The contractor shall pay all taxes and fees as
17 required by law, including, but not limited to:

- 18 a) contractor's income tax;
- 19 b) customs, duties and fees on imported capital equipment;
- 20 c) value-added tax on imported goods and services;
- 21 d) withholding tax on interest payments on foreign loans;
- 22 e) withholding tax on dividends to foreign stockholders;
- 23 f) documentary stamps taxes;
- 24 g) capital gains tax;
- 25 h) excise tax on minerals;

- 1 i) local business tax;
- 2 j) real property tax;
- 3 k) community tax;
- 4 l) occupation fees;
- 5 m) registration, accreditation, and permit fees;
- 6 n) water usage fees.

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

12 **SEC. 100. Indigenous cultural communities' royalty.** In case of mineral
13 operations within ancestral domains, the contractor shall pay at least ten per cent
14 (10%) of the gross revenues as royalty to the ICCs/IPs. Community development
15 programs shall not be considered as royalty payment. The payment of the
16 royalties shall directly be given to the communities in a process that build on the
17 ICCs/IPs' traditional and customary laws.

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

24 **SEC. 101. Scientific research and development fund.** A Scientific Research
25 and Development Fund shall be set aside to be devoted to research and

1 development of clean mining technologies, improvement of mining processes,
2 mine rehabilitation, mitigating technologies, setting up and maintenance of an
3 independent pool of experts and operational expenses of the Bureau.

4 **SEC. 102. Legal support services fund.** A legal support fund shall be set aside
5 for the use of the communities and local government units for cases that they
6 may file against mining permittees or cases that may be filed against them by
7 mining companies in trying to do their responsibility of protecting the rights of the
8 marginalized groups, the environment and sustainable development in general.

9 **SEC. 103. Local Government Unit share.** Local Government Units shall be
10 entitled to a share of the net revenues from mining operations which shall be paid
11 directly to the provincial/independent component city/highly urbanized city
12 treasurer/s for distribution to other local government units. To determine the
13 government share, the following variables shall be considered:

- 14 a) Classification of local government;
- 15 b) Vulnerability;
- 16 c) Human development index.

17 A percentage of this amount shall be set aside by the respective local
18 government units for Disaster Risk Management. This fund shall likewise benefit
19 ICCs/IPs within the territory of the local government unit.

20 *Provided,* That the administrative and operational expenses of the Council shall
21 also be taken from this share.

22 **SEC. 104. Mine wastes and tailings fees.** A semi-annual fee to be known as
23 mine wastes and tailings fee is hereby imposed on all operating mining

1 companies in accordance with the implementing rules and regulations. The mine
2 wastes and tailings fee shall accrue to a fund to be used as support funds for
3 monitoring activities of the Council. The Secretary is authorized to increase mine
4 wastes and tailings fees, when public interest so requires.

5 **SEC. 105. Incentives.** Incentives that shall be given to the contractors shall only
6 be limited to pollution control or mitigation devices.

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

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

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

21 **CHAPTER XI. SAFETY AND ENVIRONMENTAL PROTECTION**

22 **A. Safety**

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

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

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

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

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

1 **SEC. 113. Power to issue orders.** The mines regional director, in consultation
2 with the Environmental Management Bureau, forthwith or within such time as
3 specified in the order, require the contractor to remedy any practice connected
4 with mining, which is not in accordance with safety and anti-pollution laws and
5 regulations. In case of imminent danger to life or property, the Director may
6 summarily suspend the mining operation until the danger is removed, or
7 appropriate measures are taken by the contractor. Unreasonable delay to
8 remove the danger or introduce the necessary improvements by the contractor
9 shall be a cause for the cancellation of the mineral agreement.

10 **SEC. 114. Report of accidents.** In case of any incident or accident, causing or
11 creating the danger of loss of life or serious physical injuries, the person in
12 charge of operations shall immediately report the same to the regional office
13 where the operations are situated. Failure to report the same without justifiable
14 reason shall be cause for the imposition of administrative sanctions prescribed in
15 the rules and regulations implementing this Act.

16 **B. Environmental Protection**

17 **SEC. 115. Environmental Insurance.** Contractors and mineral processing
18 permit holders shall be obliged to execute an insurance contract as an
19 environmental assurance for each and every source of pollution or disaster,
20 relative to the "worst case scenario" costs, following accepted actuarial
21 standards, *Provided*, That in no way shall this provision be construed to remove
22 or reduce the liability of the contractors and/or permit holders to compensate any
23 damage caused by their operations. *Provided further*, That the insurer shall be an
24 accredited international company in good standing.

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

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

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

20 **SEC. 118. Rehabilitation.** Contractors and permittees shall technically and
21 biologically rehabilitate the excavated, mined-out, tailings covered and disturbed
22 areas to the condition of environmental safety, as may be provided in the
23 implementing rules and regulations of this Act. A mine rehabilitation fund shall be
24 created, based on the contractor's approved work program, and shall be
25 deposited as a trust fund in a government depository bank and used for physical
26 and social rehabilitation of areas and communities affected by mining activities

1 and for research on the social, technical and preventive aspects of rehabilitation.
2 Failure to fulfill the above obligation shall mean immediate suspension or closure
3 of the mining activities of the contractor/permittee concerned.

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

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

17 **SEC. 119. Progressive rehabilitation.** Contractors shall also conduct progressive
18 rehabilitation activities.

19 **SEC. 120. Adoption of Precautionary Principle.** When an activity related to
20 mining raises threats of harm to human health or the environment, precautionary
21 measures shall be taken proactively even if some cause and effect relationship
22 are not fully established scientifically. The mining proponent and the Bureau shall
23 also be obliged to disclose whether or not the cause and effect have not yet been
24 scientifically established.

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

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

10 **SEC. 123. Dumping of waste.** Dumping of waste or tailings in any body of
11 water shall be prohibited. Provisions on the Clean Water Act and Clean Air Act
12 shall be strictly implemented.

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

18 **SEC. 125. Preservation of topsoil.** The removed topsoil, or the more
19 productive horizons of the soil shall be preserved for other uses.

20 **SEC. 126. Priority use for water.** The National Water Resources Board shall
21 investigate any existing use of water resources in the area whether or not
22 covered by any existing water permit or registration. Upon determination of any
23 existing use, the applicant shall procure the consent of all water users and/or the
24 free prior and informed consent of ICCs/IPs with or without water permits within

1 the same groundwater network or any downstream users of water resources. In
2 all instances, priority shall be given to use of water for domestic, municipal, and
3 agricultural purposes. If potential negative impact on other water users is
4 identified, the water permit shall not be granted. For water resources within the
5 ancestral domain of indigenous peoples, no water permit shall be granted by the
6 National Water Resources Board without the free and prior informed consent of
7 indigenous peoples.

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

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

19 **C. Acid Mine Drainage**

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

1 **SEC. 130. Establishment of a prediction and monitoring system.** The Bureau
2 shall establish a prediction and monitoring system to identify potential acid-
3 producing materials and monitor their production of acid waste.

4 **SEC. 131. Avoidance of waterways.** Open pits, waste rock piles and tailings
5 impoundments shall not be built near or on waterways to prevent contact and
6 subsequent acid production and groundwater contamination.

7 **SEC. 132. Remining.** Remining shall be prioritized over the opening of new
8 mines to maximize and recover the remaining minerals from the rejects or wastes
9 of previous mines and mining operations, *Provided*, That remining operations
10 shall follow the processes, standards, parameters and guidelines set for mining
11 operations in this Act.

12 **SEC. 133. Suits after the termination of contracts or projects.** Recognizing
13 that the effects of mining may be seen or felt, actions relating to the health of
14 affected communities or peoples, environmental degradation and other similar
15 effects may be maintained against the project proponent and/or persons even
16 after the mineral agreement or mining project has terminated.

17 **CHAPTER XII. RESOLUTION OF CONFLICTS**

18 **SEC. 134. Panel of arbitrators.** There shall be a panel of arbitrators in the
19 regional office of the Department composed of three (3) members, two (2) of
20 whom must be members of the Philippine Bar in good standing and one a
21 licensed mining engineer or a professional in a related field, and duly designated
22 by the Secretary as recommended by the Mines and Geosciences Bureau
23 Director. Those designated as members of the panel shall serve as such in
24 addition to their work in the Department without receiving any additional

1 compensation. As much as practicable, said members shall come from the
2 different bureaus of the Department in the region. The presiding officer thereof
3 shall be selected by the drawing of lots. His tenure as presiding officer shall be
4 on a yearly basis. The members of the panel shall perform their duties and
5 obligations in hearing and deciding cases until their designation is withdrawn or
6 revoked by the Secretary. Within thirty (30) working days, after the submission of
7 the case by the parties for decision, the panel shall have exclusive and original
8 jurisdiction to hear and decide on the following:

9 a) Questions involving compliance with the established technical
10 guidelines and standards herein established, or those to be established
11 by the implementing rules and regulations of this Act;

12 b) Questions involving the compliance with technical procedures herein
13 established, or those to be established by the implementing rules and
14 regulations; and,

15 c) Other similar instances wherein the technological and technical
16 expertise of the Department shall be needed.

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

21 *Provided,* That disputes pending before the Bureau and the Department at the
22 date of the effectivity of this Act shall undergo an immediate review within sixty
23 (60) working days upon the passage of this Act to determine the cause of action.

24 Those which are outside the technical expertise of the Department or Bureau

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

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

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

12 a) To promulgate rules and regulations governing the hearing and
13 disposition of cases before it, as well as those pertaining to its internal
14 functions, and such rules and regulations as may be necessary to
15 carry out its functions;

16 b) To administer oaths, summon the parties to a controversy, Issue
17 subpoenas requiring the attendance and testimony of witnesses or the
18 production of such books, papers, contracts, records, statement of
19 accounts, agreements, and other documents as may be material to a
20 just determination of the matter under investigation, and to testify in
21 any investigation or hearing conducted in pursuance of this Act;

22 c) To conduct hearings on all matters within its jurisdiction, proceed to
23 hear and determine the disputes in the absence of any party thereto who
24 has been summoned or served with notice to appear, conduct its

1 proceedings or any part thereof in public or in private, adjourn its
2 hearings at any time and place, refer technical matters or accounts to
3 an expert and to accept his report as evidence after hearing of the
4 parties upon due notice, direct parties to be joined in or excluded from
5 the proceedings, correct, amend, or waive any error, defect or
6 irregularity, whether in substance or in form, give all such directions as it
7 may deem necessary or expedient in the determination of the dispute
8 before it, and dismiss the mining dispute as part thereof, where it is trivial
9 or where further proceedings by the Board are not necessary or
10 desirable:

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

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

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

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

4 **CHAPTER XIII. ACCESS TO JUSTICE**

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

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

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

1 **SEC. 140. Strategic Legal Action Against Public Participation (SLAPP).**

2 SLAPPs shall be strictly prohibited. SLAPP is any legal action, whether civil,
3 criminal or administrative, filed to harass, vex, exert legal action or stifle legal
4 recourses of community members complaining against violations of this Act or
5 enforcing the provisions of the Act, or exercising their freedom of assembly or
6 right of public participation. The investigating prosecutor or court *shall*
7 immediately determine within a period of thirty (30) days from filing thereof
8 whether a legal action is a SLAPP and accordingly dismiss the same.

9 **SEC. 141. Indigents' suit.** Indigents shall be exempt from payment of any
10 administrative or court fees, including docket fees for the filing of a case. Lawyers
11 shall be provided by the Public Attorney's Office to pauper litigants in case they
12 could not afford legal services.

13 **SEC. 142. Application of the customary laws of ICCs/IPs.** The contractor shall
14 respect the customary laws of the ICCs/IPs and *shall* submit to the processes of
15 their customary laws, *Provided*, That these laws are not contrary to the
16 provisions of the Constitution.

17 **SEC. 143. Strict liability.** Mining corporations are strictly liable for all damages
18 that the mining operations might cause. In case of any actual damage, the
19 burden of proof shall lie with the corporations.

20 **SEC. 144. Piercing the corporate veil.** When the separate personality of the
21 corporation from its shareholders is being invoked as defense in order to
22 perpetuate a crime, fraud or other machinations, or evade liability, the separate
23 personality of the corporation shall be set aside. Civil, criminal and administrative
24 actions may thus be filed directly against the members of the Board of Directors,
25 officers and/or individual stockholders.

1 **SEC. 145. Citizen suits.** For the purpose of enforcing the provisions of this Act
2 or its implementing rules and regulations, any citizen may file appropriate civil,
3 criminal and administrative suits against any of the following:

4 a) Any person who violates or fails to comply with the provisions of this Act
5 or its implementing rules and regulations;

6 b) Any public officer with respect to orders, rules and regulations
7 inconsistent with this Act;

8
9 c) Any public officer who willfully or grossly neglects the performance of
10 an act specifically enjoined as a duty by this Act or its rules and
11 regulations; or abuses the authority in the performance of a duty/ies
12 under this Act or *its* implementing rules and regulations.

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

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

20 **CHAPTER XIV. PENAL PROVISIONS**

21 **SEC. 146. Grounds for the cancellation of mineral agreements and permits:**

- 1 a) Violation of any provision of this Act;
- 2 b) Human rights violations perpetrated by the contractor or any agent of
- 3 the contractor;
- 4 c) Non-payment of taxes;
- 5 d) Bribery, use of force, intimidation, threat, coercion of public officials and
- 6 communities;
- 7 e) Any act that shall create or contribute to conflicts;
- 8 f) Other analogous acts.

9 *Provided, that, violations of environmental provisions shall cause the immediate*
10 *cancellation of mining permits, and the contractor shall be required to pay for the*
11 *rehabilitation, restoration or clean up of the impacts of such violations.*

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

14 **SEC. 147. False statements.** Any person who knowingly presents any false
15 application, declaration, or evidence to the Government or publishes or causes to
16 be published any prospectus or other information containing any false statement
17 relating to mines, mining operations or mineral agreements and permits shall,
18 upon conviction, be penalized by a fine of not exceeding One Hundred Thousand
19 pesos (P100,000.00).

20 **SEC. 148. Illegal exploration.** Any person undertaking exploration work without
21 the necessary exploration permit shall, upon conviction, be penalized by a fine of
22 not exceeding Five Million pesos (P5,000,000.00).

23 **SEC. 149. Panning.** Panning shall be considered an act of mining. Any person

1 undertaking panning without the necessary mining permit shall upon conviction,
2 be convicted of illegal panning penalized under Section 27 (RA 7076). In
3 addition, such person shall be liable to pay damages made to the environment by
4 reason of such panning. In the case of associations, partnerships, or
5 corporations, the president and each of the directors thereof shall be responsible
6 for the acts committed by such association, corporation, or partnership.

7 **SEC. 150. Theft of minerals.** Any person extracting minerals and disposing the
8 same without a mining agreement, lease, permit, license, or steals minerals or
9 ores or the products thereof from mines or mills or processing plants shall, upon
10 conviction, be imprisoned from six (6) months to six (6) years or pay a fine from
11 One Hundred thousand pesos (P100,000.00) to One Million pesos
12 (P1,000,000.00) or both, at the discretion of the appropriate court. In addition, he
13 shall be liable to pay damages and compensation for the minerals removed,
14 extracted, and disposed of. In the case of associations, partnerships, or
15 corporations, the president and each of the directors thereof shall be responsible
16 for the acts committed by such association, corporation, or partnership.

17 **SEC. 151. Unauthorized dealing, selling, and/or buying of gold.** Any person,
18 partnership or corporation who shall sell, buy or in any manner deal gold from
19 any miner or person without being duly authorized by the Bangko Sentral ng
20 Pilipinas shall be punished as unauthorized dealing and shall be penalized in
21 accordance with the provisions in this Act.

22 **SEC. 152. Destruction of mining structures.** Any person who willfully destroys
23 or damages structures in or on the mining area or on the mill sites shall, upon
24 conviction, be imprisoned for a period not to exceed five (5) years and shall, in
25 addition, pay compensation for the damages which may have been caused
26 thereby.

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

1 **SEC. 154. Willful damage to a mine.** Any person who willfully damages a mine,
2 unlawfully causes water to run into a mine, obstructs any shaft or passage to a
3 mine, renders useless, damages or destroys any machine, appliance, apparatus,
4 rope, chain, tackle, or any other things used in a mine, shall be punished, upon
5 conviction, by the appropriate court, by imprisonment not exceeding a period of
6 five (5) years and shall, in addition, pay compensation for the damages caused
7 thereby.

8
9 **SEC. 155. Illegal obstruction to permittees or contractors.** Any person who,
10 without justifiable cause, prevents or obstructs the holder of any permit,
11 agreement or lease from undertaking his mining operations shall be punished,
12 upon conviction by the appropriate court, by a fine not exceeding Five thousand
13 pesos (P5,000.00).

14 **SEC. 156. Vitiating of FPIC.** Any person found to have vitiated the consent of
15 the ICCs/IPs through bribery, threat, force, and/or intimidation, or any other
16 similar means, shall suffer the penalty of six (6) years and one (1) day to ten (10)
17 years in prison, and a fine of at least two million pesos (Php 2,000,000.00). If the
18 perpetrator is a government official, the penalty shall be eight (8) years and one
19 (1) day to twelve (12) years imprisonment, and a fine of at least four (4) million
20 pesos (Php 4,000,000.00). He/she shall be perpetually prohibited from assuming

1 public office, and shall be disqualified from receiving other benefits by virtue of
2 his/her position in government.

3 **SEC. 157. Penalty for human rights violations.** Contractors or other persons
4 who have violated the human rights of communities in connection with the mining
5 operations shall be penalized with ten (10) years to fourteen (14) years
6 imprisonment and a fine of at least five million pesos (Php 5,000,000,00) and
7 shall indemnify the victims.

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

14 **SEC. 159. Abandonment.** Contractors and/or permittees who shall abandon
15 mines shall be perpetually banned or disqualified from conducting mining
16 operations, directly or indirectly. The ban and/or disqualification shall include the
17 officers and directors of corporations that have abandoned mines.

18 **SEC. 160. Confiscation of equipment and property.** The equipment and
19 property of contractors and permit holders violating this Act shall be forfeited in
20 favor of the government.

21 **SEC. 161. Non-application of the corporate veil.** Any person violating the
22 provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the
23 Philippines as amended, or is found to have used the corporate structure to

1 defeat the provisions of this Act shall suffer the penalty of five million pesos
2 (P5,000,000.00) and perpetual ban in the mining industry.

3 **SEC. 162. Reinstatement of revoked permits.** After notice and hearing,
4 revoked permits that have undergone due process may be reinstated, *Provided,*
5 That it may only be reinstated once.

6 **CHAPTER XV. TRANSITORY PROVISIONS**

7 **SEC. 163.** There shall be a moratorium on all mining activities until all the
8 systems are in place for the proper implementation of the law.

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

13 **SEC. 165.** The classification of public lands as mineral reservations pursuant to
14 pre-existing laws shall hereby cease. All such lands shall be closed to mining
15 unless opened thereto in accordance with the provisions of this Act. The
16 President's power to declare mineral reservations shall henceforth cease to exist.
17 A review of the current mineral land classification shall be conducted to
18 determine the best livelihood and economic option for the said area.

19 **SEC. 166.** The members of the panels of arbitrators and the provincial or city
20 mining regulatory boards established under Republic Act No. 7942 shall hold-
21 over their positions until replaced in accordance with provisions of this Act.