

Investor's Prospectus on Philippine Mining

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Minerals Development Council
Republic of the Philippines
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Contents

Foreword	3
The Minerals Development Council	4
List of Acronyms	4
Why Invest in the Philippines: A Summary	5
Country Information	7
Constitutional and Legal Framework	11
National Policy to Promote and Revitalize Mining	12
Geology and Mineralization	13
Investing in the Philippine Mining Industry	15
Getting Started	15
Acquiring Mining Rights	16
Other Requirements in Acquiring Mining Rights	20
Requirements Before and During Mining Operations	21
Incentives for Mining Investors	26
Incentives Provided by the Mining Act of 1955	26
Incentives Provided by the Board of Investments	27
Appendices	
A. Registration with the Securities and Exchange Commission	30
B. Registration with the Department of Trade and Industry 31	
C. Registration with the Board of Investments	32
D. Registration of Mining Securities	33
E. Requirements and Flowchart for Mining Rights Applications	35
1. Exploration Permit	35
2. Mineral Production Sharing Agreement	36
3. Financial or Technical Assistance Agreement	37
4. Mineral Processing Permit	39
5. Flowchart for Mining Rights Applications	40
F. Procedures and Requirements for Other Related Documents	41
1. Social Acceptability Endorsements from Local Government Units	41
2. Basic Free, Prior and Informed Consent Process	41
3. Environmental Compliance Certificate	42
4. Timber Rights	44
5. Foreshore Lease Agreement	45
6. Water Rights	46
G. Directory	47

Foreword

GLOBAL demand continues to push up the prices of certain mineral commodities to historic highs. And the Philippines, richly endowed with mineral resources, beckons to the world as a prime source of valuable minerals.

From mere tolerance of mining, Philippine policy in 2003 shifted to vigorous promotion. The National Policy Agenda on Revitalized Mining (Executive Order 270 of January 16, 2004) established principles to encourage local and foreign investments; it ensures that the mining industry contributes to the country's sustainable development, with ample environmental protection and social equity. The ensuing Minerals Action Plan further sets forth specific activities addressing the concerns of all stakeholders—local governments, host communities, civil society groups, indigenous peoples, and the private sector.

In 2004, the Supreme Court upheld the constitutionality of the Philippine Mining Act of 1995, ending years of uncertainty on the allowable participation and rights of foreign-owned corporations. The Supreme Court ruled that given the inadequacy of Filipino capital and technology in large-scale exploration, development and utilization activities, the State may secure the help of foreign companies through financial or technical assistance. The foreign contractor “may be given reasonable management, operational, marketing, audit and other prerogatives to protect its investments and to enable the business to succeed.”

This *Investor's Prospectus on Philippine Mining* bespeaks the commitment of the Philippine Government and private sector to boost the revitalization of the mining industry.

Its publisher, the Minerals Development Council (MDC), a multi-agency body directly under the Office of the President, facilitates investments, harmonizes policies and addresses the industry's issues and concerns. The private sector, thru the Chamber of Mines of the Philippines, is also represented in the MDC.

Coupled with boosting mining investments, the Government pursues a vigorous campaign to protect the environment and the rights of affected communities. This ensures that the industry will develop *with*—not against—the environment and the local communities.

Our mining industry attracted US\$694M in investments in the past two and a half years. Another US\$348M in investment inflows are expected this year, and significant additional infusions are projected from 2008 to 2010. Thousands of jobs are being created along the way.

We envision not just attracting new investors, but also making certain that they will stay and, at the opportune time, look beyond mining, towards our country's other investment opportunities, not the least of which is ecotourism. The same areas opened for mining, once rehabilitated, will become productive habitats for healthy new communities—living proofs that responsible mining is worth investing in and promoting. In the meantime, we shall continue to enhance our policy package, to make it even more attuned to the aspirations of all stakeholders.

ANGELO T. REYES
Chairman, Minerals Development Council
Secretary, Department of Environment
and Natural Resources

The Minerals Development Council

The Minerals Development Council was created on October 11, 2005 by President Gloria Macapagal-Arroyo through Executive Order No. 469. At the time, the Philippines was hosting the 6th Asia-Pacific Mining Conference.

The inter-agency MDC is composed of key officials of the Department of Environment and Natural Resources, Presidential Adviser for Multilateral Development, Department of Agrarian Reform, Department of Agriculture, Department of Finance, Department of the Interior and Local Government, Department of Labor and Employment, Department of National Defense, Department of Trade and Industry, National Anti-Poverty Commission, National Commission of Indigenous Peoples, National Economic and Development Authority, Philippine Information Agency, Presidential Management Staff, and the Chamber of Mines of the Philippines. The DENR Secretary is the Chairman while the Presidential Adviser for Multilateral Development is the Vice Chairman.

The Council's primary responsibility is to advance the government policy of responsible and sustainable development of the State's mineral resources.

It is empowered to enlist the assistance of any agency or instrumentality of the government, including government owned or controlled corporations, to harmonize and synchronize requirements and procedures in order to facilitate the inflows of investments into the mining industry.

LIST OF ACRONYMS

A & D	Alienable and Disposable (lands)	ICC	Indigenous Cultural Community
AEPEP	Annual Environmental Protection and Enhancement Program	IP	Indigenous Peoples
ADLE	Additional Deduction for Labor Expense	IPP	Investment Priorities Plan
BIR	Bureau of Internal Revenue	IPRA	Indigenous People's Rights Act
BOI	Board of Investments	ITH	Income Tax Holiday
CARL	Comprehensive Agrarian Reform Law	JVA	Joint Venture Agreement
CENRO	Community Environment and Natural Resources Office/Officer	LGUs	Local Government Units
CLOA	Certificate of Land Ownership Award	MA	Mineral Agreement
CLRF	Contingent Liability Rehabilitation Fund	MEPEO	Mine Environmental Protection and Enhancement Office
CP	Certification Precondition	MDC	Minerals Development Council
CPA	Co-Production Agreement	MGB	Mines and Geosciences Bureau
CRMDD	Company Registration and Monitoring Department	MMT	Multi-partite Monitoring Team
DA	Department of Agriculture	MOA	Memorandum of Agreement
DENR	Department of Environment and Natural Resources	MPP	Mineral Processing Permit
DILG	Department of the Interior and Local Government	MPSA	Mineral Production Sharing Agreement
DMMC	Direct Mining and Milling Costs	MRF	Mine Rehabilitation Fund
DTI	Department of Trade and Industry	MTF	Monitoring Trust Fund
ECA	Environmentally Critical Area	MWTRF	Mine Wastes and Tailings Reserve Fund
ECC	Environmental Compliance Certificate	NCIP	National Commission on Indigenous Peoples
ECP	Environmentally Critical Project	NEDA	National Economic and Development Authority
EEZ	Exclusive Economic Zone	NGOs	Non-Government Organizations
EIA	Environmental Impact Assessment	NIPAS	National Integrated Protected Areas System
EIS	Environmental Impact System	PAWB	Protected Areas and Wildlife Bureau
EMB	Environmental Management Bureau	PENRO	Provincial Environment and Natural Resources Office/Officer
EO	Executive Order	PD	Presidential Decree
EP	Exploration Permit	PEA	Public Estates Authority
EPEP	Environmental Protection and Enhancement Program	PERD	Project Evaluation and Registration Department
EnWP	Environmental Work Program	PEZA	Philippine Economic Zone Authority
EWP	Exploration Work Program	POs	People's Organizations
FLA	Foreshore Lease Agreement	PPA	Philippine Ports Authority
FMRDP	Final Mine Rehabilitation and/or Decommissioning Plan	PSE	Philippine Stock Exchange
FMRDF	Final Mine Rehabilitation and/or Decommissioning Fund	RA	Republic Act
FPIC	Free, Prior and Informed Consent	RCF	Rehabilitation Cash Fund
FTAA	Financial or Technical Assistance Agreement	RED	Regional Executive Director
HLURB	Housing and Land Use Regulatory Board	SEZA	Special Economic Zone Act
		SEC	Securities and Exchange Commission
		SDMP	Social Development and Management Program
		SHP	Safety and Health Program

Why Invest in the Philippines: A Summary

THE PHILIPPINES is a natural gateway to the other Asia-Pacific economies, and enjoys flourishing trade links with the region. The Philippines is a stable democracy, with a free market economy.

The Philippines is among the top three investment destinations in the Asia-Pacific region, along with Hong Kong and Taiwan, in the 2006 rankings made by the Netherlands-based ING Investment Management. Japan's prestigious *Nikkei Weekly* in its May 21, 2007 issue also cited the Philippines and Vietnam as the new favorite investment sites in Asia; the Philippines earned its high rating by posting economic growth averaging 4.37% annually from 2001 to 2006, the country's best six-year average in the last 18 years. The outlook for 2007 is highly positive: GDP is expected to grow by 5.5%, interest rates are forecast to remain stable, and inflation is foreseen to ease further.

The Philippine government has deregulated the telecommunications, shipping, oil and energy, banking and insurance industries, and has a continuing economic and financial reform program.

Straddling the well-defined belt of volcanoes called the circum-Pacific Ring of Fire, the Philippines has the greatest number of proven deposits of metallic and non-metallic minerals among Southeast Asian countries.

Existing mining laws are attractive to investors. They allow co-production, joint venture, mineral production sharing, and financial or technical assistance agreements for large-scale mining projects.

The current policy of revitalizing mining has spurred renewed interest in the industry. The presence of major players like Xstrata, Sumitomo Mining, Anglo American Gold, BHP Billiton, CVMR, Phelps Dodge, Coral Bay, Anglo Gold Ashanti and Crew Minerals, attests to the allure of Philippine mining. Given these advances, the country's private and government sectors are taking stock of the bullish metals market and the surging minerals demand of industrializing countries, notably China and India, and the recovery of the Japanese economy. With the rest of the world's significant economies likewise on an upswing, the prospects are bright indeed for Philippine minerals.

The London-based *Mining Journal* reported in its March 2006 special edition:

Over the past decade, and despite stiff competition from other countries for the exploration dollar, the Philippines has progressed significantly, and exploration activity has resulted in the discovery of a new generation of potentially world-class deposits, such as Tampakan (copper), Far Southeast (copper-gold), Boyongan (copper) and many others.

They can be differentiated from previous discoveries that were of low grade and shallow-seated. They are relatively higher in value and have the potential to better absorb the social and environmental costs of mining.

The Philippines covers some 30 Mha [million hectares] but only about 1.5% are presently covered by mining permits, and some 30% of the remaining area is regarded by the Mines and Geosciences Bureau to be geologically prospective for metallic minerals. There are an estimated 9 Mha where there are potential additional sites for metallic minerals.

There is a large pool of Filipino professional geologists and mining engineers who have extensive experience in mineral exploration and mining operations. A continuing training program is also in the works to address an increasing demand for skilled workers.

English is spoken and understood throughout the archipelago.

The Philippines offers foreign investors a high standard of living at low cost. First-rate housing, hotels, schools and recreation facilities are found in Metro Manila and in major cities all over the country.

Repatriation of the earnings and capital of foreign investors is guaranteed.

Investors from various lands will find the Filipino people a happy mix of Asian and Western cultures. Among Asian countries, the Philippines is perceived to be the most westernized. But the tapestry of Philippine culture also threads other than Spanish and American—Malay, Chinese, Arabian, Indian, and Japanese. These are the major cultures that streamed into Philippine history, along with influences from the English, the French, the Germans and the Dutch. Still, 110 ethno-linguistic groups scattered throughout the archipelago retain their distinctive identities and dialects.

Country Information

Location

Western Pacific Ocean, just north of the equator, southeast of the Asian mainland, with Taiwan to the north and Indonesia to the south.

Geography

The Philippines is an archipelago consisting of 7,107 islands, with a total land area of 299,764 sq. km. It is the world's second largest archipelago after Indonesia. The interiors are mountainous, skirted by lowlands and alluvial plains. The highest point is Mt. Apo on Mindanao Island, at 2,954 meters above sea level.

According to the Philippine Institute of Volcanology and Seismology, there are more than 400 volcanoes throughout the archipelago, of which 22 are active, 27 are potentially active, and more than 350 are inactive.

There are three major island groups: Luzon, Visayas, and Mindanao. The City of Manila is the national capital.

Coastline

Official Philippine figure: 17,500 kilometers

U.S. figure: 36,289 kilometers

Climate

(main source: Philippine Atmospheric, Geophysical & Astronomical Services Administration)

Tropical marine, characterized by relatively high temperature, high humidity and abundant rainfall, similar in many respects to the climate of Central America.

The mean annual temperature is 26.6°C, except in Baguio City. The coolest month is January with a mean temperature of 25.5°C; the warmest is May, with a mean temperature of 28.3°C.

Baguio City, at an elevation of 1,500 meters, has a mean annual temperature of 18.3°C, earning its popularity as the country's summer capital.

The country's average monthly relative humidity varies between 71% in March and 85% in September.

Mean annual rainfall ranges from 965 to 4,064 millimeters annually. Baguio City, eastern Samar and eastern Surigao receive the greatest amount of rainfall, while the southern portion of Cotabato receives the least. At General Santos City in South Cotabato, the average annual rainfall is only 978 millimeters.

Based on temperature and rainfall, the country's climate can be divided into two major seasons: (1) the rainy season from June to November, during the southwest monsoon, and (2) the dry season from December to May. The dry season may be further divided into (a) the cool dry season (December to February) coinciding with the northeast monsoon, and (b) and the hot dry season (March to May).

Straddling the typhoon belt, the Philippines experiences 15-20 typhoons yearly, usually from July to October, generally moving northwesterly from the Marianas and Caroline Islands in the Pacific, sparing Mindanao Island.

Demography

(source: National Statistical Coordination Board)

Population:

2000 Census: 76.5 million

2007, Projected: 88.7 million

Urban-Rural Ratio:

(source: National Statistics Office)

The urban population comprised 48.05% of the population, based on the 2000 Census

Literacy:

Overall literacy was estimated in 2003 at 93.4% for the total population (92.6% for males, and 94.3% for females).

Employment:

(source: National Statistics Office, January 2007 Labor Force Survey)

Labor Force	56,145,000
Employment rate	92.2%
Unemployment	7.8%
Underemployment	21.5%

Religions:

(source: Department of Tourism)

Filipinos are predominantly Roman Catholic (82.9%). Other significant religious groups: Protestants (5.4%), Muslims (4.6%), Philippine Independent Church (2.6%) and Iglesia ni Cristo (2.3%).

Economic Indicators

(source: National Statistical Coordination Board)

GDP, 2006: US\$116.90 billion

GDP Growth:

2001	1.8%
2002	4.4%
2003	4.9%
2004	6.2%
2005	5.0%
2006	5.4%

GNP Growth:

4 th Quarter 2006	5.9%
Annual 2006	6.2%
(2005)	5.6%

Inflation Rate: (2000=100, April 2007)

Headline	2.3%
Core	2.6%

According to the National Statistics Office, slowdowns in the annual inflation rates of all the major commodity groups except clothing contributed to the headline inflation downtrend at 2.2% in March 2007. The core inflation rate also eased to 2.6% from 3.0% the previous month. The March inflation rate is the lowest in 20 years since April 1987.

The National Economic and Development Authority (NEDA) adds that this development brings inflation for the first quarter of 2007 to 2.9%, significantly down from the 7.3% in the same period in 2006, and way below the 4-5% target for 2007 of the Development Budget Coordination Committee.

Environment and Natural Resources

The Philippines is one of the world's 25 leading biodiversity hotspots, which are priority areas for biodiversity conservation, based on rankings made by Conservation International. Together, these 25 hotspots, although comprising only 1.4% of the earth's land area, contain 44% of the world's plant species and 35% of all terrestrial vertebrate species. The Philippine hotspot covers 20,803 square kilometers out of the archipelago's total of almost 300,000 square km. The country has a total of 25,995 sq. km. of protected areas. In the hotspot, there are 7,620 plant species and 1,114 terrestrial vertebrate species; of the latter, 103 endemic species are under threat,

the fourth most in the world's hotspots after the Tropical Andes (130), Madagascar and Indian Ocean Islands (123), and the Atlantic Forest (116). In addition to the 103 endemic species (birds, 56; mammals, 47) of terrestrial vertebrates, the Philippines also has 48 species of amphibians on the list of threatened species.

Major mineral resources include chromite, coal, cobalt, copper, gold, gypsum, iron, nickel, silver and sulfur. There are also deposits of bauxite, lead, mercury, molybdenum, and zinc.

Regular Holidays

New Year's Day (January 1); Holy Thursday (movable, March or April); Good Friday (movable, March or April); Eidul Fitre (movable date); Araw ng Kagitingan / Bataan Day (April 9); Labor Day (May 1); Independence Day (June 12); National Heroes Day (last Sunday of August); Bonifacio Day (November 30); Christmas Day (December 25); and Rizal Day (December 30)

Special Holidays

All Saints' Day (November 1) and Last day of the year (December 31)

Time Zone

8 hours ahead of Greenwich Mean Time

Languages

The two official languages are Filipino and English. The Philippines is the third-largest English-speaking country in the world. Spanish is spoken by a small minority of Filipinos of Spanish ancestry.

Welfare

Social security is compulsory for all employees, public and private.

Government

The Philippines is an independent democratic and republican state. Its government consists of three co-equal branches: the executive, the legislature and the judiciary. Executive power is vested in the President; legislative power in the bicameral Congress; and judicial power in the Supreme Court and other courts established by law.

The President is elected by direct vote of the people for a single term of six years. In the Congress, the Members of the House of Representatives have three-year terms, while those of the Senate serve for six years. Local government officials have three-year terms. The most recent elections for the Congress and local government officials were held in May 2007. The magistrates of the Supreme Court and of the lower courts are appointed by the President from the nominees of the Judicial and Bar Council, without need for congressional confirmation.

As of March 2007, the Philippines consisted of the following geopolitical subdivisions: 17 administrative regions, 81 provinces, 118 cities, 1,510 municipalities, and 41,995 barangays. Provinces are headed by governors, and cities and municipalities by mayors. The barangay is the basic political unit and is administered by a set of elective officials headed by the chairman, locally known as the punong barangay.

Infrastructures

The country has 199,950 kilometers of highways, of which 39,590 kms are paved; existing national roads account for 28,978 kms. Although less than half of this network

is all-weather, the road network is sufficient to integrate the entire archipelago. The expansion of the nautical highway system through the development of new airports and ports in all the roll-on and roll-off routes has considerably enhanced the movement of people and goods. Water and power supply, roads, airports and seaports, and telecommunications systems are being continuously upgraded and expanded. There are established government-managed export processing zones. Telephone and international direct dialing services are provided mainly by several telecommunication companies reaching almost all the provinces in the country and other parts of the world.

The National Power Corporation and several independent private power generating companies service the power needs of the entire archipelago. The country still relies mainly on imported crude oil to meet its energy requirements. However, consumption of crude oil is decreasing as the country develops more indigenous sources of energy such as hydropower, geothermal, coal, natural gas, wind power, solar power and biofuels. The Philippines is the world's second largest producer of geothermal energy.

Transportation

Land Transportation

There is a well developed network of public land transportation throughout the islands. Buses and jeepneys ply the principal roads of cities and towns. The jeepney, an ubiquitous means of transportation in the Philippines, is a distinctive Filipino invention that evolved from the leftover MacArthur jeeps of World War II. Metro Manila has three rail lines for urban mass transit under the Light Rail Transit Authority, a government owned corporation. Outside Metro Manila, railway transportation has limited coverage but the expansion of railroad

services in Luzon, the most populous island of the archipelago, is underway. The Philippine National Railways, which handles commuter and cargo traffic, has only 479 kms of routes at present, but the rehabilitation of the country's north and south lines is almost complete.

Maritime Transport

The country has 87 completed sea ports. Ten ports are undergoing major development.

The government has launched a high priority program geared to meet the increasing demand for public transport services. In terms of sea transport, the roll on, roll off project of the government has made it easier to link the various islands from the north to south.

Out of 24 major ports nationwide, only two (the Manila International Container Terminal and the Batangas Port) are capable of handling post-Panamax vessels. Major development works, however, are ongoing in the Port of Manila (North and South Harbors) and in ports in Subic, Lucena, Dingalan, Iloilo, Cagayan de Oro, Davao, General Santos, Ozamis, and Zamboanga.

Air Transport

(source: Air Transportation Office)

The Philippines has 85 national airports of various types, including eight international airports. The four regular international airports are in Manila, Clark, Subic and Mactan (Cebu), and the four alternate international airports are in Laoag, Davao, General Santos and Zamboanga. Philippine Airlines is the nation's flag carrier and other airline companies now service several provinces. Aircraft charter companies rent and lease small planes and helicopters for inter-island flights for passengers and cargo.

Constitutional and Legal Framework

THE 1987 CONSTITUTION espouses the Regalian doctrine, which holds the State to be the owner of mineral lands, minerals, and mineral resources. Thus, the exploration, development and utilization of mineral resources are under the full control and supervision of the State. Among the mining countries, only the United States does not adhere to this doctrine.

The Philippine Mining Act of 1995 (Republic Act No. 7942) specifies the Department of Environment and Natural Resources (DENR) as the primary agency responsible for the conservation, management, development, and proper use of the State's mineral resources, and its Mines and Geosciences Bureau (MGB) as directly in charge of the administration and disposition of mineral lands and mineral resources.

The Mining Act introduced a new system of mineral resources exploration, development, utilization and conservation, with due regard to other laws (e.g., Presidential Decree 1586, on environmental impact statement and other issues related to environmental management; RA No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992; RA No. 7160 or the Local Government Code of 1991; and RA No. 7916 or the Special Economic Zone Act of 1995).

On December 1, 2004, the Supreme Court upheld the constitutionality of the Philippine Mining Act of 1995 against a concerted challenge by various interest groups. The Court said in part: "The Constitution should be read in broad, life-giving strokes. It should not be used to strangle economic growth or to serve narrow, parochial interests. Rather, it should be construed to grant the President and Congress sufficient discretion and reasonable leeway to enable them to attract foreign investments and expertise." The Court also affirmed the constitutionality of the law's Implementing Rules and Regulations insofar as they relate to financial or technical assistance agreements.

National Policy to Promote and Revitalize Mining

IN 2003, President Gloria Macapagal-Arroyo announced a policy shift “from tolerance to promotion of the mining industry.” This was followed on January 16, 2004 by Executive Order No. 270, setting forth the National Policy Agenda on Revitalizing Mining, which was amended on April 16, 2004.

EO 270 emphasized that the exploration, development and utilization of the country’s mineral resources should be pursued within the framework of sustainable development and must therefore contribute to economic growth, environmental protection, and social equity and development. The twelve (12) principles that guide the revitalization program for mining are summarized as follows:

- Recognize the critical role of investments in the minerals industry
- Institute clear, stable and predictable investment and regulatory policies;
- Pursue value-adding of minerals and mineral products;
- Recognize and formalize the small-scale mining sector;
- Adopt efficient technologies in the extraction and utilization of minerals;
- Integrate environmental protection, mitigation and progressive rehabilitation in mining projects;

- Safeguard the ecological integrity of areas affected by mining, including biodiversity and small-island ecosystems;
- Pursue mining within the framework of multiple land use and sustainable utilization of minerals;
- Remediate and rehabilitate abandoned mines;
- Ensure equitable sharing of economic and social benefits from mining;
- Enhance public awareness and respect for the rights of communities; and
- Institutionalize continuous and meaningful consultation process with the industry and other stakeholders.

The Minerals Action Plan (MAP) issued on September 13, 2004 added flesh to the foregoing guiding principles, by identifying specific mining issues and concerns and the strategies and activities formulated to address them. The MAP, a product of a series of consultations, is now being implemented by government agencies, the private sector, and other stakeholders.

Geology and Mineralization

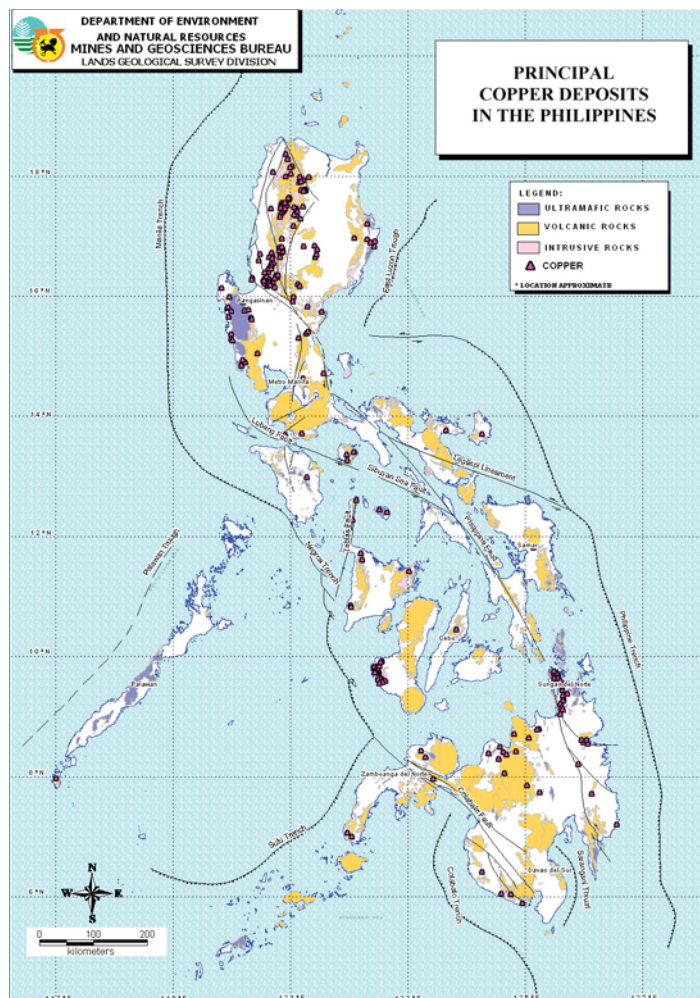
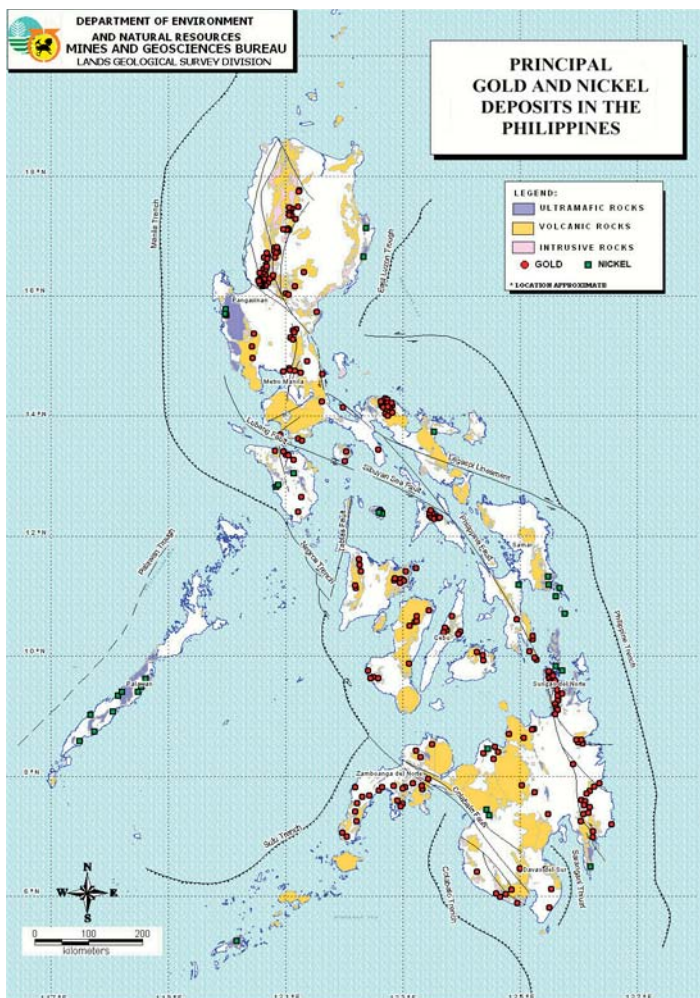
THE PHILIPPINES is a collage of metamorphic terranes, magmatic arcs, ophiolitic complexes, sedimentary basins and continental block of Eurasian affinity subjected to tectonic processes such as subduction, collision and major strike slip faulting. The subduction zones are represented on the east by the west dipping Philippine Trench traversing the eastern seaboard of the Philippines from Mindanao up to a point in Luzon and the East Luzon Trough. East dipping subduction zones include the Manila Trench, Negros Trench and Cotabato Trench. The southern termination of the Manila Trench is characterized by the transformation of the subduction of the South China Sea Plate into an arc-continent collisional deformation within Mindoro Island.

The continental block is represented by northern Palawan, southern Mindoro, Romblon Island Group and Buruanga Peninsula in Panay Island, known collectively as the North Palawan Block. Rock suites in this block include schists that are characteristically rich in quartz and chert formations that have been dated Late Permian to Jurassic.

The rest of the archipelago is considered as the Philippine Mobile Belt. Approximately co-axial with the mobile belt is the Philippine Fault, a major strike slip fault that apparently developed partially in response to the kinematic forces from the subduction from the east and west of the mobile belt.

Many areas of this mobile belt are underlain by ophiolitic complexes. Usually occurring together with pre-Cenozoic schists and phyllites, the ophiolitic rocks represent basement on which magmatic arcs have developed. The ages of the ophiolitic complexes range from Jurassic to early Paleogene. One of the best studied complete ophiolite sequence is the Zambales Ophiolite where tectonized peridotites progress to layered and isotropic gabbro, sheeted dike complex, pillow basalts and finally pelagic sedimentary rocks. Other ophiolitic complexes include those in Isabela, Polillo Island, eastern Rizal, Camarines Norte, Caramoan Peninsula, Mindoro, southern Palawan, Panay Island, Bohol Island, Leyte Island, Samar Island, Dinagat Island Group, north-central Zamboanga, Mindanao Central Cordillera and Pujada Peninsula. Ultramafic rocks of these ophiolites are hosts to significant deposits of chromite and nickel. Laterites over these rocks also contain economic deposits of secondary nickel minerals. On the other hand, massive sulphide and manganese deposits are associated with the volcanic and sedimentary carapace of the ophiolite.

Ancient magmatic arcs in the mobile belt are characterized by thick volcanic flows intercalated with pyroclastic and sedimentary rocks and intrusions of diorite, quartz diorite and andesitic to dacitic rocks. Some intrusions, however, have a more alkalic character such as the syenites in Isabela and monzonites in Quirino and Nueva Vizcaya. The ages of the diorite intrusions vary,



from late Early Cretaceous (Albian) in Cebu to Late Miocene-Pliocene (Black Mountain Quartz Diorite in Baguio District). Younger volcanic rocks, occurring as flows, intrusions and volcanic edifices disposed in linear belts are associated with active subduction processes. These are best exemplified by the Bataan volcanic belt and Bicol volcanic chain. Sedimentary basins located between arcs include the Ilocos-Central Valley Basin, Cagayan Valley Basin, southeast Luzon Basin, Visayan Sea Basin, Agusan-Davao Basin and Cotabato Basin.

Gold and copper deposits in the Philippines tend to be clustered in certain areas such as Luzon Central Cordillera, Camarines Norte, Surigao and Davao, although large deposits may also be found elsewhere, as in Zambales (Dizon mine), Cebu (Atlas mine) and South Cotabato (Tampakan project). Many copper-gold deposits are associated with intrusions (mostly diorite and quartz diorite, but also monzonites and syenites) as well as Pliocene-Pleistocene volcanism (Lepanto mine at Mankayan, Benguet). Iron deposits are also associated with Neogene intrusions of diorite and quartz diorite.

Investing in the Philippine Mining Industry

NEDA estimates the country's mineral wealth to be in the range of US\$840 billion.

The MGB in 1996 estimated that the country has 7.1 billion tons of metallic mineral reserves and 51 billion tons of nonmetallics, primarily limestone and marble. Of the metallic reserves, copper accounts for 4.8 billion tons, and gold for 110,000 tons.

The Foreign Chambers of Commerce of the Philippines (consisting of the American, Australia-New Zealand, Canadian, European, Japanese, and Korean chambers), and the Philippine Association of Multinational Companies Regional Headquarters, have projected the following benefits of mining to the Philippine economy: five-year capital investments of US\$3.2 billion, export earnings of US\$1.2 billion/year, tax revenues of PhP21 billion/year, direct employment for 6,000 and indirect employment for 24,000 people, and community development worth PhP312 million/year. These business organizations remarked: "By international standards, the Philippines is under-explored. During recent years, the discovery of the Boyongan, Didipio, Tampakan, Victoria and Far South East deposits has significantly reinforced the appetite of exploration companies to find new "world-class" ore bodies in the Philippines." They described the new ore-bodies being found as having "huge potential."

In 2004, total approved investments in the mining industry amounted to PhP1,512 million. The figure rose to PhP8,294 million in 2005, posting a growth rate of 448.5%.

For the medium term, the government's responsible mining targets are US\$4-6 billion investments for the development of 18-23 areas for large-scale mining, which are expected to create 239,000 direct and indirect jobs. In two international mining events in 2005, investment commitments totaling US\$1.9 billion were solicited.

Getting Started

Who are qualified to enter the mining business?

Under the Mining Act of 1995 and its Implementing Rules and Regulations, a **qualified person** means any Filipino citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with the technical and financial capability to undertake mineral resources development, and duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens.

A legally organized foreign-owned corporation shall be deemed a qualified person only for the purposes of applying for and receiving the grant of an exploration permit, financial and technical assistance agreement or mineral processing permit.

How are corporations set up in the Philippines?

All entities/persons who wish to do business in the Philippines are required to register with the Securities and Exchange Commission (SEC). The SEC is the primary government agency responsible for registering, regulating and supervising corporations and partnerships, including foreign corporations.

The SEC's Company Registration and Monitoring Department (CRMD) will guide the investor through the steps of verifying the proposed company name, drawing up the articles of incorporation and by-laws, depositing the paid-up capital, submission of the documents for processing, paying the filing fees and then claiming pertinent certificates or licenses. Six (6) sets of accomplished forms and documents, including the additional requirements for foreign-owned corporations, should be submitted to the CRMD for processing. Assuming all required documents are submitted and all information therein provided is in order, application for registration of new corporation with the SEC are processed within 24 hours from date of filing.

For convenience, the applicant may register online through the internet via the *SEC i-Register*. The system enables the applicant to verify and reserve corporate names as well as apply for registration, 24 hours, seven days a week. Applicants need only to access the SEC website at <http://www.sec.gov.ph> and follow the instructions provided.

Acquiring Mining Rights

Types of Mining Rights

Under RA No. 7942 or the Philippine Mining Act of 1995, the following mining rights can be acquired by a qualified person for the exploration, development, utilization and processing of mineral resources:

- Exploration Permit (EP);
- Mineral Agreements (such as Mineral Production Sharing Agreement, Joint Venture Agreement, and Co-Production Agreement);
- Financial or Technical Assistance Agreement (FTAA); and
- Mineral Processing Permit (MPP)

Exploration can be undertaken only either through an EP or an FTAA. For projects that have concluded a Mining Project Feasibility Study, the proponent may apply for an MPSA. Projects that require processing only of minerals may apply for a Mineral Processing Permit.

Exploration Permit

An Exploration Permit (EP) allows a qualified person to undertake exploration activities for mineral resources in certain areas open to mining. The EP has a term of two (2) years, renewable for like periods but not to exceed a total term of four (4) years for the exploration of non-metallic minerals or six (6) years for the exploration of metallic minerals. The maximum area that each qualified person may apply for or hold at any one time is:

QUALIFIED PERSON	ONSHORE (in any one province)	ONSHORE (in the entire Philippines)	OFFSHORE (in the entire Philippines beyond 500 meters from the mean low tide level)
Individual	20 meridional blocks or 1,620 hectares	40 meridional blocks or 3,240 hectares	100 meridional blocks or 8,100 hectares
Corporation/ Partnership/ Association/ Cooperative	200 meridional blocks or 16,200 hectares	400 meridional blocks or 32,400 hectares	1,000 meridional blocks or 81,100 hectares

Note: One (1) meridional block is equivalent to approximately 81 hectares.

EP holders may submit a Declaration of Mining Project Feasibility and apply for an MA or an FTAA, and proceed to development/ construction and commercial utilization.

Mineral Agreements

A Mineral Agreement is an agreement between a Contractor and the Government wherein the Government grants to the Contractor the exclusive right to conduct mining operations within, but not title over, the contract area. Mining operations that are allowed under Mineral Agreements include exploration, development and utilization of mineral resources.

A Mineral Agreement is exclusive to Filipino individuals and corporations. It has a term of twenty-five (25) years, renewable for another twenty-five (25) years under the same terms and conditions, without prejudice to changes mutually agreed upon by the Government and the Contractor. After the renewal period, the operation of the mine may be undertaken by the Government or through a Contractor.

There are three (3) modes of Mineral Agreements, namely:

- **Mineral Production Sharing Agreement (MPSA).** A mineral agreement wherein Government shares in the production of the Contractor, whether in kind or in value, as owner of the minerals, and the Contractor gets the rest. In return, the Contractor provides the necessary financing, technology, management and personnel for the mining project.
- **Co-Production Agreement (CPA).** An agreement wherein the Government provides inputs to the mining operations other than the mineral resources; and
- **Joint Venture Agreement (JVA).** An agreement wherein the Government and the Contractor organize a joint venture company, with both parties having equity shares. The Government is entitled to a share in the gross output of the mining project aside from its earnings in the equity of the company.

A qualified person may apply for or hold at any one time under a Mineral Agreement the following maximum areas:

Onshore

i. In any one province:

Individual	10 Meridional Blocks or 810 hectares
Corporation/ Partnership/ Association/Cooperative	100 Meridional Blocks or 8,100 Hectares.

ii. In the entire Philippines:

Individual	20 Meridional Blocks or 1,620 Hectares
Corporation/ Partnership/ Association/Cooperative	200 Meridional Blocks or 16,200 Hectares

Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level:

Individual	50 Meridional Blocks or 4,050 Hectares
Corporation/ Partnership/ Association/Cooperative	500 Meridional Blocks or 40,500 Hectares
For the Exclusive Economic Zone	A larger area to be determined by the Secretary

Financial or Technical Assistance Agreement

The Financial or Technical Assistance Agreement (FTAA) is an agreement for the large-scale exploration, development and utilization of minerals. An FTAA requires a minimum authorized capital of Four Million Dollars (US\$ 4,000,000) and a capital investment of Fifty Million Dollars (US\$ 50,000,000) for infrastructure and development in the contract area.

The FTAA is available to both domestic and foreign corporations. It has a term of 25 years, renewable for another 25 years. The FTAA prescribes minimum exploration ground expenditures during the exploration and pre-feasibility periods. The maximum area that a Qualified Person may apply for or hold in the entire Philippines are:

- Onshore - 81,000 hectares;
- Offshore - 324,000 hectares; or
- Combination of 81,000 hectares onshore and 324,000 hectares offshore.

FTAAs are not allowed for cement raw materials, marble, granite, sand and gravel and construction aggregates.

FTAA Contractors who have determined a viable mining project can be pursued are required to submit a Declaration of Mining Project Feasibility. The approval of this Declaration shall authorize the FTAA Contractor to proceed to development/ construction and commercial utilization.

FTAA Contractors are allowed to recover their pre-operating expenses, which shall be for a period of five (5) years or until the date of actual recovery, whichever comes earlier, or for a longer period for projects requiring large investments with high production rates and extensive mine life, as determined by the MGB and upon negotiation with the FTAA Negotiating Panel and with the approval by the DENR Secretary. From the approval of the Declaration of Mining Project Feasibility up to the end of the recovery period, corporate income tax, customs duties and fees on imported capital equipment, value-added tax on imported goods and services, withholding tax on interest payments on foreign loans and on dividends to foreign stockholders, and other national taxes, except excise tax on minerals, shall not be collected from the Contractor. After the recovery period, the Contractor is required to pay all applicable taxes, fees, royalties and other related payments to the national and local governments.

Mineral Processing Permit

A Mineral Processing Permit (MPP) is the permit granted to a qualified person for the processing of minerals. The Mining Act defines mineral processing as the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine wastes and/or other metallurgical by-products or by similar means to convert the same into marketable products.

An MPP is open to both domestic and foreign corporations. It has a term of five (5) years renewable for like terms but not to exceed a total of twenty five (25) years.

The major requirement in applying for an MPP is the proof of supply of minerals from a holder of a valid mining right.

Other Requirements in Acquiring Mining Rights

Proof of Consultation from Local Government Units

The Local Government Code of 1991 or RA No. 7160 requires the national government agency involved in the planning or implementation of projects or programs that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland or forest cover, and extinction of animal or plant species, to consult with the local government units (LGUs) and explain the goals and objectives of the projects or programs, their impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects. Under this law, no projects or programs shall be implemented unless the consultation is complied with and the prior approval of the *Sanggunian* (or local legislative council) is obtained.

In compliance with this provision, proponents applying for mining applications intended for exploration activities are required to conduct consultation with all LGUs concerned, or the legislative councils (*Sanggunian*) at the provincial, city/municipal, and barangay (village) levels (respectively, the *Sangguniang Panlalawigan*, *Sangguniang Panlungsod/Bayan*, and the *Sangguniang Barangay*). The presiding officers of these legislative councils are the vice-governor at the provincial level and the vice-mayors at the city and municipal levels. The proof of consultation or project presentation shall be in the form of the following:

- i. Copies of the pertinent Exploration and Environmental Work Programs duly received by the Secretary of all the *Sanggunians* concerned or the Office of the Vice-Mayor or Vice-Governor concerned; or
- ii. A certification of project presentation by all the Provincial Governors, Vice-Governors, Municipal/ City Mayors or Vice-Mayors concerned, or the Secretaries of all the *Sanggunians* concerned.

Free, Prior and Informed Consent from Indigenous Peoples / Certification Precondition from the National Commission on Indigenous Peoples

The Indigenous Peoples' Rights Act (IPRA) of 1997 grants to the indigenous peoples (IP) certain preferential rights to their ancestral domains and all resources found therein.

Ancestral domains are defined as areas generally belonging to IPs, subject to property rights within ancestral domains already existing or vested upon the effectivity of the IPRA, comprising lands, inland waters, coastal areas, and natural resources, held under a claim of ownership, occupied or possessed by IPs by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present, except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects or any voluntary dealings entered into by the government and private persons, and which are necessary to ensure their economic, social and cultural welfare.

Under the IPRA, no concession, license, lease or agreement shall be issued by any government agency without the Certification Precondition (CP) from the National Commission on Indigenous Peoples (NCIP). The CP states that the Free, Prior and Informed Consent (FPIC) has been obtained from the concerned IPs. For areas not occupied by IPs, a Certificate of Non-Overlap is issued instead by the NCIP.

For areas occupied by IPs, the applicant and representatives from the NCIP will conduct consultations and consensus-building to obtain the consent of the IPs. The FPIC is manifested through a Memorandum of Agreement with the IPs, traditionally represented by their elders. The CP is then issued by the NCIP stating that the FPIC has been obtained from the IPs concerned.

Requirements Before and During Mining Operations

Environmental Protection

The Mining Act of 1995 requires the following documents/measures to ensure that the environment is protected during exploration, mine development/construction, commercial production and mine decommissioning --

Certificate of Environmental Management and Community Relations Record

The Certificate of Environmental Management and Community Relations Record (CEMCRR) refers to the applicant's documented proof of its past environmental and community relations. This document contains information on the company's regard for the environment in its previous resource-use projects. The information shall include proof of the applicant's technical and financial capability to undertake resource protection and restoration/rehabilitation of degraded areas, and proof of its past community relations.

Environmental Work Program

Apart from the Exploration Work Program (**EnWP**), applicants for mining contracts which shall undertake exploration activities are required to submit an EnWP. This document describes the company's environmental protection and

enhancement strategies, post-exploration land use potential for disturbed lands, and monitoring and reporting mechanisms. It also includes a public information component to educate the community about the project. Applicants are required to furnish all concerned local government units with a copy of their EnWP.

Environmental Compliance Certificate

The Philippine Environmental Impact Statement (EIS) System under Presidential Decree 1586 requires all government and private entities to prepare an EIS for every project or activity which significantly affects the environment. PD 1586 mandates that environmentally critical projects (ECPs) and projects within environmentally critical areas (ECAs) shall require an EIS. Mining projects are considered ECPs and are thus required to submit their EIS. Upon evaluation of their EIS, mining projects are issued Environmental Compliance Certificates (ECCs), which contain the major elements of the environmental and social management plan that the companies need to implement to keep their adverse environmental impacts within acceptable limits.

Environmental Protection and Enhancement Program

The Environmental Protection and Enhancement Program (EPEP) provides the operational link between the ECC and the environmental protection and enhancement commitments of the company. It provides a description of the expected and considered-as-acceptable impacts and sets out the environmental protection and enhancement strategies during the life of the mine based on best practices in mine environmental management. The EPEP also includes the post-mining land use potential for various types of disturbed land.

Contractors are also required to submit an Annual EPEP (AEPEP) at least thirty (30) days prior to the start of each calendar year.

Final Mine Rehabilitation and/or Decommissioning Plan

The Final Mine Rehabilitation and/or Decommissioning Plan (FMRDP) ensures a smooth transition from active mining to eventual closure of the mine. The plan, which is formulated in consultation with the communities and local government units, must be submitted as an integral part of the EPEP. Using risk-based methodologies/ approaches, the FMRDP shall consider all mine closure scenarios and shall contain cost estimates for the implementation of the FMRDP, taking in consideration expected inflation, technological advances, the unique circumstances faced by the mining operation, among others. Such estimates shall be based on the cost of having the decommissioning and/or rehabilitation works done by third party contractors. Further, these estimates, on a per year basis, shall cover the full extent of work necessary to achieve the objectives of mine closure such as, but shall not be limited to, decommissioning, rehabilitation, maintenance and monitoring, and employee and other social costs, including residual care, if necessary, over a ten year period.

Contingent Liability and Rehabilitation Fund

The Contingent Liability and Rehabilitation Fund (CLRF) is the financial mechanism for multi-partite monitoring, progressive mine rehabilitation and compensation for damages. The CLRF is composed of the following:

- Mine Rehabilitation Fund (MRF), which is used for the regular monitoring of mining operations, physical rehabilitation of mining-affected areas, and research on the technical and preventive aspects of rehabilitation. It is further broken down as follows:
 - Monitoring Trust Fund (RCF) to cover the expenses incurred by the multi-partite monitoring team for the monitoring of the mining project. It may include costs for travel, laboratory expenses for the analysis of environmental samples, payments to consultants, etc.; and
 - Rehabilitation Cash Fund (RCF) for the implementation of activities under the EPEP, which is placed at an amount equivalent to 10% of the total EPEP costs, or PhP 5 million, whichever is lower.
 - Mine Waste and Tailings Reserve Fund (MWTRF), which is utilized as compensation for damages from mine wastes and tailings; and
 - Environmental Trust Fund (ETF), which is allocated as compensation for damages other than those caused by mine wastes and tailings.

Final Mine Rehabilitation and/or Decommissioning Fund

A Final Mine Rehabilitation and Decommissioning Fund (FMRDF) shall be established by a mining contractor to ensure that the full cost of the approved FMRDP is accrued before the end of the operating life of the mine. The FMRDF shall be deposited in a Government depository bank and shall be used solely for the implementation of the approved FMRDP.

Monitoring Mechanisms

Mining projects are regularly monitored by the government, through the Environmental Management Bureau (EMB) and the MGB, to determine their compliance to their approved ECC, work programs and to environmental laws, rules, regulations and standards. Mining projects are also required to undertake their own monitoring or engage the services of an independent third party. A Multipartite Monitoring Team (MMT) is also commissioned by the Mine Rehabilitation Fund Committee to monitor on a quarterly basis, the company's compliance with the ECC and the approved EPEP. The MMT is a multi-sectoral team composed of representatives from the MGB Regional Office, the DENR Regional Office, the company, a non-government organization (NGO), the host community, and indigenous peoples (IPs), if any.

Mine Environmental Protection and Enhancement Office

Contractors are required to incorporate a Mine Environmental Protection and Enhancement Office (MEPEO) in their mine organizational structure. The MEPEO is tasked to set the environmental priorities and identify the resources needed to implement environmental management programs. The MEPEO should be headed by either a licensed mining

engineer, a geologist, or a metallurgical engineer with at least five years' experience in actual mining environment work.

Safety and Health Standards

To ensure that the health and safety standards within the mining operations are complied with, mining contractors are required to submit a Safety and Health Program (SHP). The SHP details the activities such as occupational safety and health management, environmental risk management including emergency response, health control and services, provision for personal protective equipment, management and employee training, monitoring and reporting, etc. Contractors are also required to submit an Annual SHP.

Social Development

Social Acceptability Endorsements from Local Government Units

For mining applications for immediate development and/or utilization activities and approval of Declaration of Mining Project Feasibility under the Development and Construction / Operating Periods of MAs and FTAAAs, prior approval or endorsement in the form of a Resolution or Certification by at least a majority of the *Sanggunians* (local legislative councils) concerned shall be required.

Social Development and Management Program (SDMP)

The Social Development and Management Program (SDMP) is the primary tool for the development and implementation of community programs and projects in consultation and in partnership with the host and neighboring communities. It is a five (5) year program which aims to create responsible, self-reliant and resource-based communities. The company is required to allot one percent (1%) of its direct

mining and milling costs (DMMC) to fund the SDMP projects (90% of the DMMC) and the development of mining technology and geosciences (10% of the DMMC). The SDMP is implemented through an Annual SDMP which is submitted by the mining contractor detailing the projects for implementation for a certain year.

Timber Rights

Timber rights refer to the auxiliary mining rights granted to contractors under the Mining Act of 1995. A contractor may be allowed to cut trees or timber within his mining area as may be necessary for his mining operations, subject to forestry laws, rules and regulations. The timber rights provided by existing laws, rules and regulations are as follows:

Private Land Timber Permit

The Private Land Timber Permit (PLTP) is a permit issued to landowners for the cutting, gathering and utilization of naturally grown trees in private lands. This is granted to any person, association or corporation who is an owner of private land covered by either administrative or judicial titles such as Free Patents, Homestead and Sales Patents and Torrens Titles obtained under Land Registration Act No. 496 or Commonwealth Act 141 (the Public Land Act), or by Certificates of Land Ownership Award (CLOA) covering certified A&D lands issued to farmer-beneficiaries of the Comprehensive Agrarian Reform Program under RA 6657 (Comprehensive Agrarian Reform Law).

All cutting permit applications shall be issued by the DENR Regional Executive Director (RED) for volumes not exceeding 50 cubic meters and by the DENR Secretary for volumes exceeding 50 cubic meters.

Special Private Land Timber Permit

The Special Private Land Timber Permit (SPLTP) is a permit issued to a landowner specifically for the cutting, gathering and utilization of premium hardwood species, both planted and naturally grown. The qualification requirements for grantees are similar with those for the PLTP.

All cutting permit applications shall be issued by the DENR RED for volumes not exceeding 10 cubic meters and by the DENR Secretary for volumes in excess of 10 cubic meters.

Special Tree Cutting Permit

The Special Tree Cutting Permit (STCP) is a permit for the purpose of tree cutting/pruning/thinning/ sanitation and other silvicultural treatments in reforestation areas, cutting of trees affected by development projects or cutting of naturally grown trees along banks of creeks, rivers or streams for public safety.

Foreshore Lease Agreement

The Foreshore Lease Agreement (FLA) covers foreshore lands, as well as marsh lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers for commercial, industrial or other productive purposes other than agriculture. The FLA shall be for a period of twenty-five (25) years, renewable for another twenty-five (25) years at the option of the lessor. Under the 1987 Constitution, an individual may lease not more than 500 hectares and a corporation may lease not more than 1,000 hectares.

The Foreshore Lease application or renewal thereof shall be filed with the DENR Community Environment and Natural Resources Office (CENRO) which has jurisdiction over the area.

Water Rights

A mining contractor is also granted water rights for mining operations upon approval of its application by the appropriate government agency in accordance with existing laws, rules and regulations.

Water rights pertain to the privilege granted by the government to appropriate and use water. Except as otherwise provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right which shall be evidenced by a document known as the water permit.

Approved applications shall be issued water permits subject to such conditions as the National Water Resources Board (NWRB) may impose. Such permit must bear the seal of the Board and the signature of the Executive Director. A copy of said permit shall be furnished the office where the application was filed. Disapproved applications shall be returned to applicants through the office where the same was filed, within 30 days of such disapproval, stating the reason therefor.

Water permits shall continue to be valid as long as water is beneficially used. However, the permit may be suspended on the grounds of non-compliance with approved plans and specifications or schedules of water distribution; use of water for a purpose other than that for which it was granted; non-payment of water charges; wastage; failure to keep records of water diversion, when required; and violation of any term or condition of any permit or of rules and regulations promulgated by the Board.

Incentives for Mining Investors

Incentives Provided by the Mining Act of 1995

Recovery of Pre-Operating Expenses

FTAA Contractors are allowed to recover their pre-operating expenses under the Implementing Rules and Regulations of the Mining Act of 1995, which states that the collection of government's share in the FTAA shall commence after the contractor has fully recovered its pre-operating, exploration and development expenses. The period of recovery, which is reckoned from the start of commercial operation, shall not exceed five (5) years or until the date of actual recovery, whichever comes earlier.

Pollution Control Devices

Pollution control devices are not subject to real property and other taxes or assessments except mine wastes and tailings fees.

Income Tax-Carry Forward of Losses

A net operating loss without the benefit of incentives incurred in any of the first ten years of operations may be carried over as a deduction from taxable income for the next five years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the five taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four years.

Income Tax-Accelerated Depreciation

Fixed assets may be depreciated as follows:

- i. To the extent of not more than twice as fast as the normal rate of depreciation, or at the normal rate of depreciation if the expected life is ten years or less; or
- ii. Depreciated over any number of years between five years and the expected life if the latter is more than ten (10) years. The depreciation thereon shall be allowed as deduction from taxable income.
- iii. Amortization of Exploration and Development Expenses – the contractor may deduct exploration and development expenditures accumulated at cost as of the date of the Exploration Permit as well as exploration and development expenditures paid or incurred during the taxable year, provided that the total amount deductible for exploration and development expenditures shall not exceed twenty-five percent (25%) of the net income from mining operations.

Investment Guarantees

A contractor is also entitled to the following:

i. Repatriation of investments. The right to repatriate the entire proceeds of the liquidation of the foreign investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation.

ii. Remittance of earnings. The right to remit earnings from the investment in the currency in which the foreign investment was originally made and at the exchange rate prevailing at the time of remittance.

iii. Foreign loans and contracts. The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from FTAA's.

iv. Freedom from expropriation. The right to be free from expropriation by the government, of the property represented by investments or loans, or of the property of the enterprise, except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance.

v. Requisition of investment. The right to be free from requisition of the property represented by the investment or of the property of the enterprise, except in case of war or national emergency and only for the duration thereof.

Just compensation shall be determined and paid either at the time or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance.

vi. Confidentiality - Any confidential information supplied by the contractor pursuant to the Mining Act shall be treated as such by the DENR and the government, and for the duration of the term of the project to which it relates.

Incentives Provided by the Board of Investments

Under the Omnibus Investments Code (Executive Order No. 226), an investor may enjoy certain benefits and incentives, provided he invests in preferred areas of investments found in the current Investment Priorities Plan (IPP), which is issued annually by the Board of Investments (BOI). The IPP is a list of promoted areas of investments eligible for government incentives. Sectors promoted under special laws, including mining, quarrying and minerals processing, also enjoy incentives under the IPP.

BOI-registered enterprises are given a number of incentives in the form of tax exemptions and concessions. These are:

Fiscal Incentives

Fiscal incentives include: income tax holiday; exemption from taxes and duties on imported spare parts; exemption from wharfage dues and export tax, duty, impost and fees; tax exemption on breeding stocks and genetic materials; tax credits; and additional deductions from taxable income.

Income Tax Holiday (ITH)

The following BOI-registered enterprises are exempt from the payment of income taxes, reckoned from the scheduled start of commercial operations:

- New projects with a pioneer status, for six years;
- New projects with a non-pioneer status, for four years;
- Expansion projects, for three years. As a general rule, exemption is limited to incremental sales revenue/volume;
- New or expansion projects in less developed areas (LDAs), for six years, regardless of status;
- Modernization projects, for three years. As a general rule, exemption is limited to incremental sales revenue/volume.

The ITH is limited in the following cases:

Export traders may be entitled to the ITH only on their income derived from the following:

- Export of new products, i.e. those which have not been exported in excess of US\$100,000 in any of the two years preceding the filing of application for registration, or
- Export to new markets, i.e., to a country where there has been no recorded import of a specific export product in any of the two years preceding the filing of the application for registration.

Mining Activities

- The exploration and development of mineral resources are not entitled to an ITH;
- Mining and/or quarrying w/o mineral processing is not entitled to an ITH;
- Mining and processing of aggregates is not entitled to ITH.

Newly registered pioneer and non-pioneer enterprises and those located in LDAs may avail themselves of a bonus year in each of the following cases:

- the indigenous raw materials used in the manufacture of the registered product must at least be fifty percent (50%) of the total cost of raw materials for the preceding years prior to the extension unless the BOI prescribes a higher percentage; or
- the ratio of total imported and domestic capital equipment to the number of workers for the project does not exceed US\$10,000 for every worker; or
- the net foreign exchange savings or earnings amount to at least US\$500,000 annually during the first three years of operation. In no case shall the registered pioneer firm avail of the ITH for a period exceeding eight years.

Exemption from Taxes and Duties on Imported Spare Parts - A registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes on its importation of required supplies/spare parts for consigned equipment or those imported with incentives.

Exemption from Wharfage Dues and Export Tax, Duty, Impost and Fees - All enterprises registered under the IPP will be given a ten-year period from the date of registration to avail of the exemption from wharfage dues and any export tax, impost and fees on its non-traditional export products.

Tax Credits. Tax credit on raw materials and supplies A tax credit equivalent to the national internal revenue taxes and duties paid on raw materials, supplies and semi-manufacture of export products and forming part thereof shall be granted to a registered enterprise.

Additional Deductions from Taxable Income

Additional deduction for labor expense (ADLE) for the first five years from registration, from taxable income equivalent to fifty percent (50%) of the wages of additional skilled and unskilled workers in the direct labor force. The incentive shall be granted only if the enterprise meets a prescribed capital-to-labor ratio and shall not be availed of simultaneously with the ITH. This additional deduction shall be doubled if the activity is located in an LDA.

Non-fiscal Incentives

Employment of foreign nationals. A registered enterprise may be allowed to employ foreign nationals in supervisory, technical or advisory positions for five years from the date of registration. The position of President, General Manager and Treasurer of foreign-owned registered enterprises or their equivalent are not subject to the foregoing limitation.

Simplification of customs procedures for the importation of equipment, spare parts, raw materials and supplies, and exports of processed products.

Importation of consigned equipment for a period of 10 years from date of registration, subject to posting of a re-export bond.

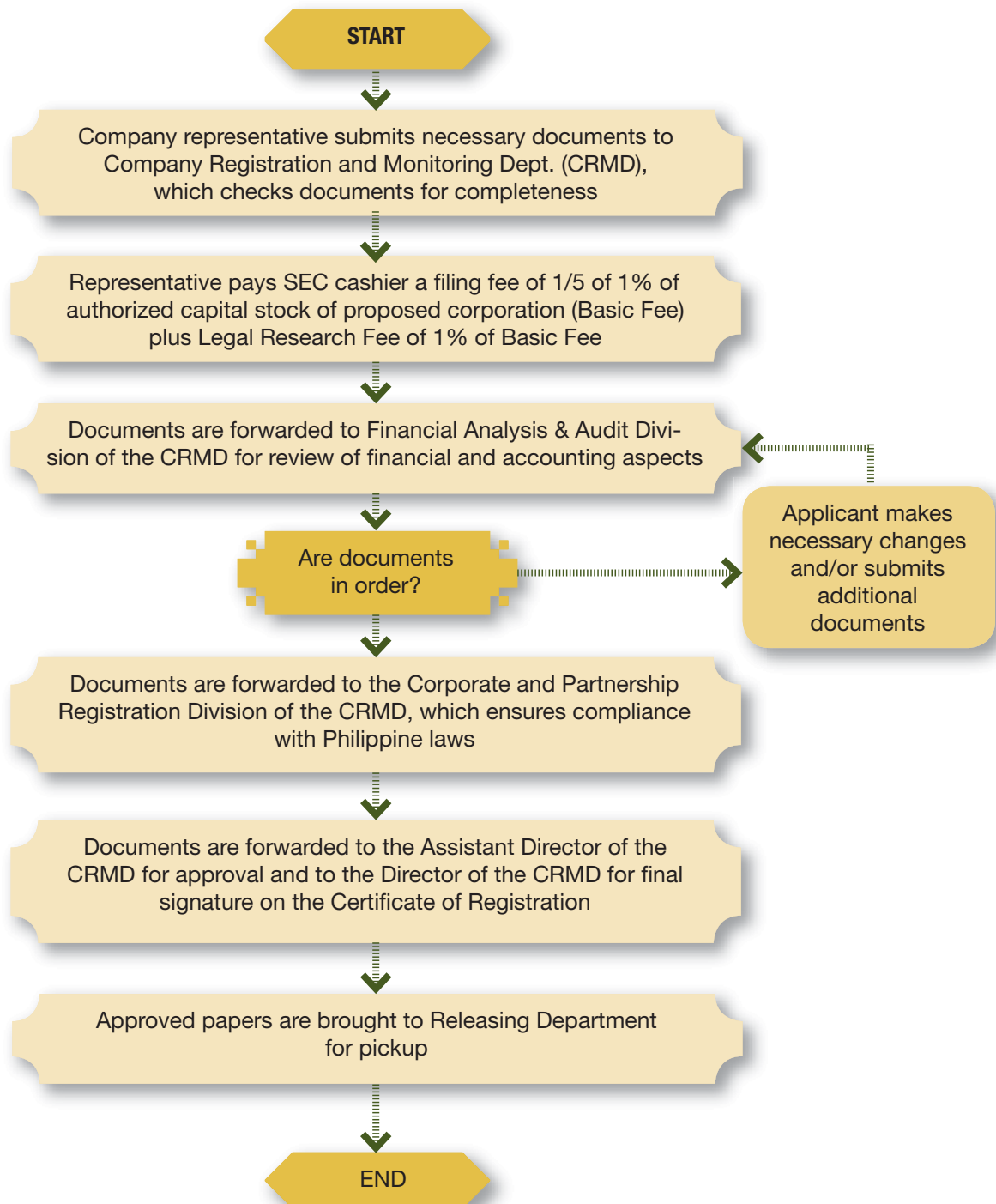
Privilege to operate a bonded manufacturing/trading warehouse subject to Customs rules and regulations.

A mining contractor may avail of either the incentive on Income Tax Carry Forward of Losses under the Mining Act or the Income Tax Holiday provided under the Omnibus Investments Code. If the contractor opts to avail of the Income Tax Holiday incentive, then it foregoes the incentive on Income Tax Carry Forward, and vice versa.

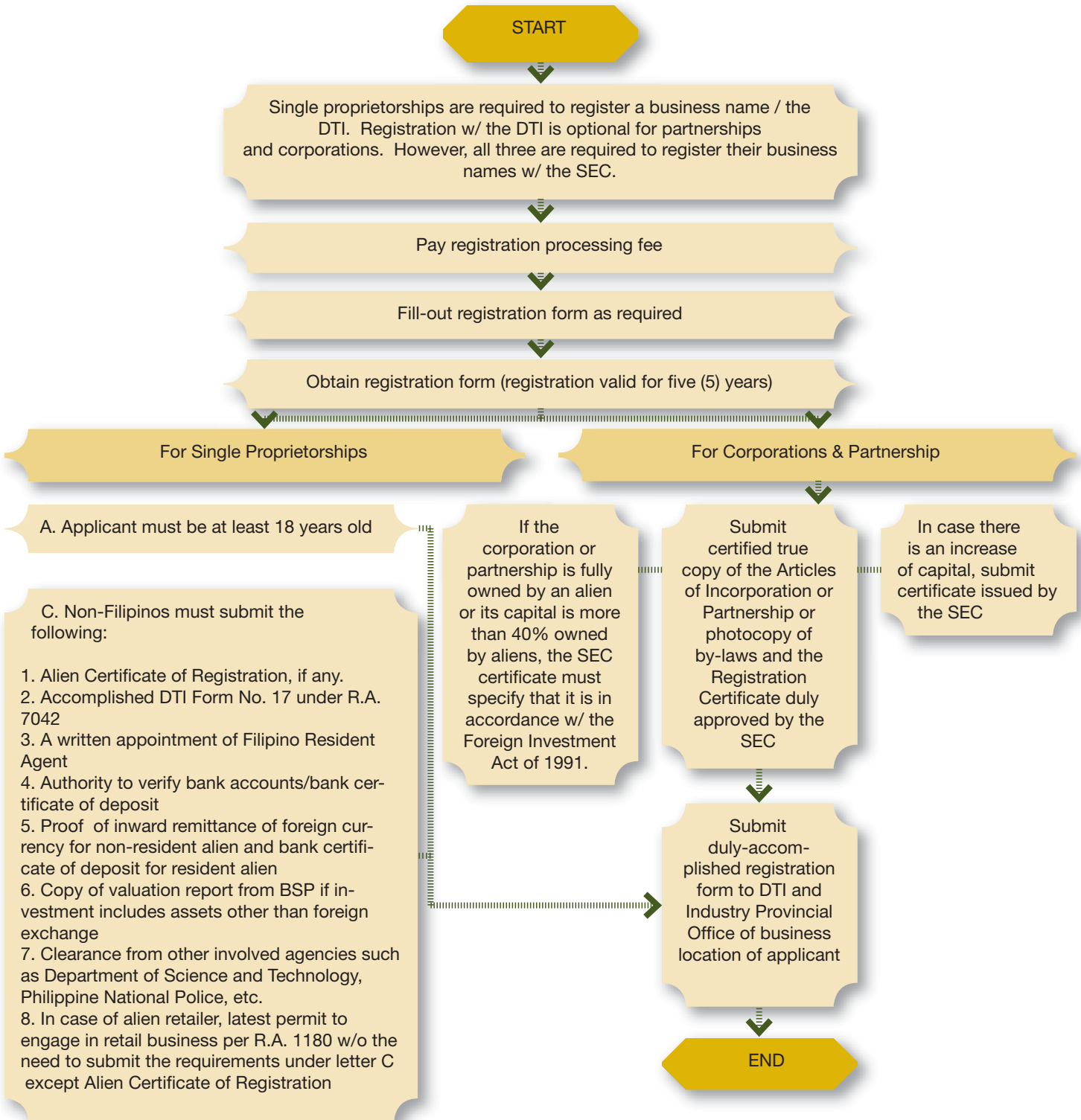
Incentives on Income Tax Accelerated Depreciation provided under the Mining Act may be availed of simultaneously with the Income Tax Holiday provided under the BOI registration.

Appendices

A. Registration with the Securities and Exchange Commission



B. Registration with the Department of Trade and Industry



C. Registration with the Board of Investments

Requirements needed to register with the BOI:

- a. Copy of Applicant's Articles of Incorporation/Partnership and By-Laws, SEC Certificate of Registration;
- b. Copy of company's Audited Financial Statements and Income Tax Return for the past three years or for the period the applicant has been in operation if less than three years;
- c. Copy of company's Board Resolution authorizing officer to sign in behalf of applicant enterprise; and
- d. Project Report:

NOTE: Proofs of financial capacity (Sworn Statement of Assets and Liabilities and latest Income Tax Return) of Principal stockholder may be required only for new projects and on a case-to-case basis.

STEPS	DETAILS	DURATION
1	<p>CHECKLISTING of application</p> <p>1.a Client submits to Project Evaluation & Registration Department (PERD) the application and documents for Checklisting</p> <p>1.b. Client pays the filing fee (if documents are complete)</p> <p>1.c. Client publishes the NOTICE of the filing of the application in a newspaper of general circulation.</p> <p>Note: Application is officially filed upon payment of filing fee</p>	Within 48 hrs
2	<p>EVALUATION</p> <p>2.a. PERD evaluates application</p> <p>2.b. PERD consults the Dep't of Finance (DOF) and waits for its comments</p> <p>2.c. PERD presents recommendation to the Board</p> <p>2.d. Client receives approval (disapproval or deferral) notice</p> <p>Note: Evaluation process starts when application is officially filed.</p>	Within 20 working days
3	<p>REGISTRATION</p> <p>3.a. Client submits pre-registration requirements (Minimum - 30 calendar days Maximum - 90 calendar days)</p> <p>3.b. Client pays Registration Fee</p>	Depends on client's submission of documents
4	Client receives the BOI Certificate of Registration	2 to 3 days after payment of registration fee

D. Registration of Mining Securities

Registration for purpose of exploration

1. Mining Rights

- a. List of all mining rights proposed to be explored, developed, and/or exploited;
- b. Mining lease contracts (if any);
- c. Mining patents (if any);
- d. Exploration permits (if any);
- e. Mineral agreements (if any);
- f. Transfer documents(s);
- g. Application for approval of the transfer document(s);
- h. Proof of approval of the transfer of the transfer document(s) by government authorities concerned;
- i. Proof of payment of annual rental;
- j. Proof of payment of occupation fee;
- k. Proof of payment of excise tax; and
- l. Proof of payment of royalties (if any)

2. Report on the Status of the Project

For companies that have started exploration works, a report of a duly licensed Geologist and/or Mining Engineer indicating the extent of prospecting and exploration works already introduced in the area. The report should indicate:

- a. Detailed prospecting and exploration works undertaken with corresponding expenses incurred including labor, supplies, fuel, oil, lubricants, timber, explosives, supervision and other expenses.
- b. Map of such scale sufficient to clearly indicate the relative location and dimensions of various such as tunnels, adit, trenches, test pits, drill holes, access roads, building and other structures.
- c. Pertinent plans, cross-sectional, longitudinal, and/or assay maps

3. Exploration Work Program

The exploration work program prepared and signed by a duly licensed Geologist and/or Mining Engineer should include the following:

- a. Detailed geologic report.
- b. Detailed program of the proposed exploration works indicating a yearly schedule of activities to be undertaken.
- c. Detailed estimate of financial requirements of each activity indicating basis of estimates.
- d. Map of such scale sufficient to clearly indicate the exploration works proposed to be undertaken.
- e. Technical personnel employed by the applicant to undertake the proposed work programme. Submit their names, bio-data, and employment contracts.

Registration for Purposes of Development

1. A technical, economic, financial and market feasibility study prepared by a duly licensed Mining Engineer in accordance with MGB guidelines.
2. Requirements under items A(1), and A(2) above.

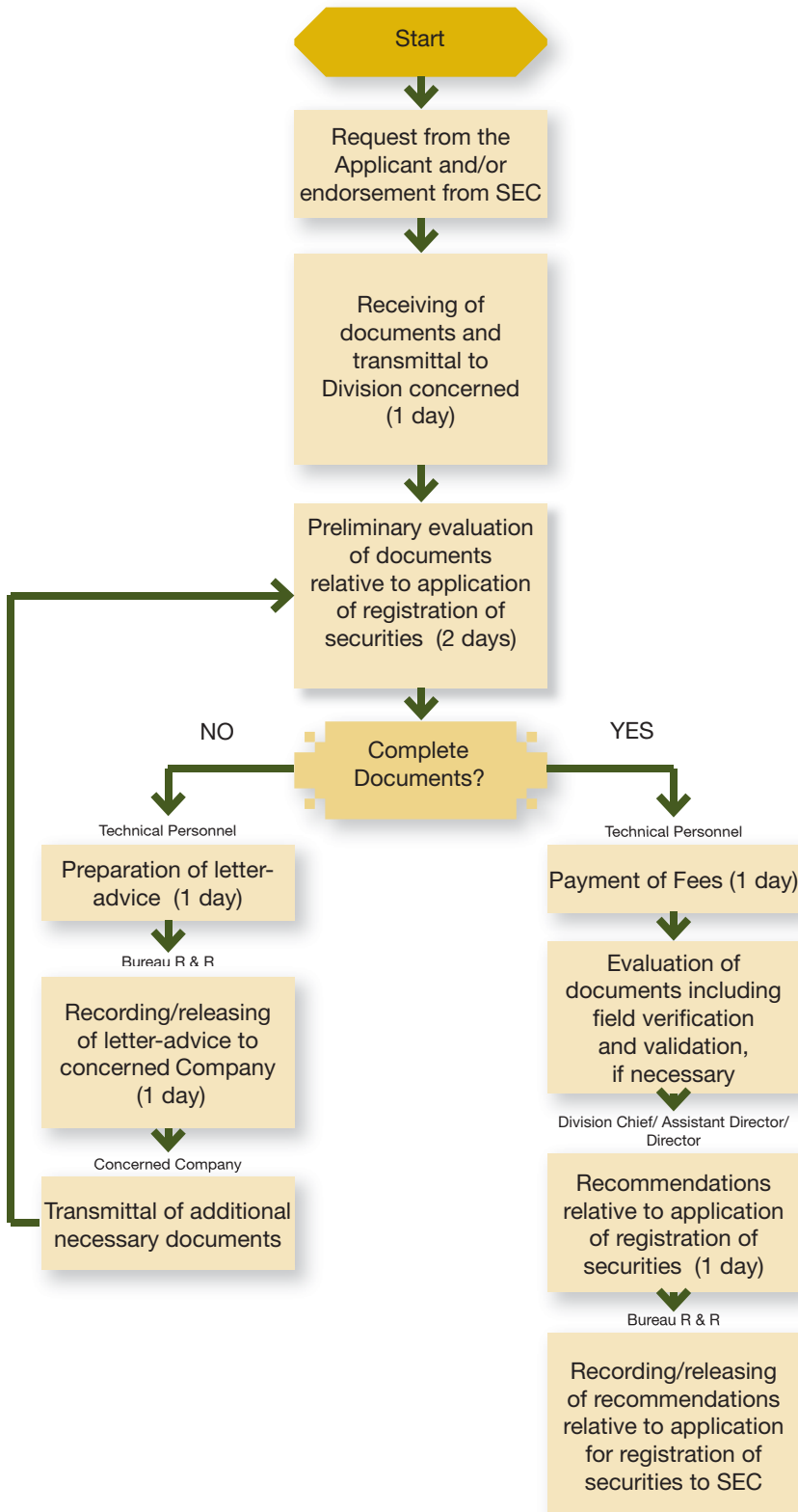
Registration for Purposes of Commercial Production

1. Three (3) years Development Work Program as per MGB guidelines.
2. ECC issued by DENR.
3. EPEP approved by MGB.

Proofs of Financial Capabilities

1. Summary of authorized, subscribed and paid-up capital as certified by a responsible officer of the applicant.
2. Latest Financial Statement and accompanying Long Form Audit Reports rendered by an independent Certified Public Accountant.

Diagram Flow of Evaluation of Application for Registration of Securities



E. Requirements and Flowcharts in Acquiring Mining Rights

1. Exploration Permit

An EP application shall be filed at the DENR-MGB Regional Office (RO) concerned using the prescribed form (MGB Form No. 05-1), with the payment of the filing fee and submission of five sets of each of the following mandatory requirements:

- a. Location map/sketch plan of the proposed permit area;
- b. Two-year Exploration Work Program;
- c. Proof of technical competence;
- d. Proof of financial capability to undertake the Exploration Work Program:
 - For an individual – copy of income tax return for the preceding year and proof of bank deposit or credit line in the amount of at least Two Million Five Hundred Thousand Pesos (PhP 2,500,000.00)
 - For a corporation, partnership, association or cooperative - latest audited financial statement and, where applicable, Annual Report for the preceding year, credit line(s), bank guarantee(s) and/or similar negotiable instruments
- e. Photocopy of Articles of Incorporation/ Partnership/Association, By-Laws and Certificate of Registration;
- f. Affidavit of Undertaking for corporation, partnership, association or cooperative declaring the list of applications filed and the mining permit(s)/contract(s) issued to the applicant and the list of other applicant(s)/contractor(s)/permittee(s) in which more than seventy percent (70%) of the authorized capital stock is held by the stockholders of the applicant;

For offshore applications, in addition to the above:

- a. Name, port of registry, tonnage, type and class of survey vessel(s) or platform(s).
- b. A certification from the Coast and Geodetic Survey Department of NAMRIA that the proposed Exploration Work Program was duly registered;
- c. An agreement to properly identify all installations, vessels and other crafts involved in exploration; notify the MGB 30 calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and allow the MGB's personnel, the Philippine Coast Guard and other authorized persons to board the vessel(s) while within the Exclusive Economic Zone.

Other Requirements:

The following requirements shall be required after the acceptance of the application but prior to the issuance of the EP:

- a. Certificate of Environmental Management and Community Relations Record or Certificate of Exemption;
- b. Environmental Work Program;
- c. Certification Precondition from the National Commission on Indigenous Peoples attesting that –
 - The proposed permit area does not overlap any ancestral land/domain claim in case of non-indigenous people area; or
 - The Free and Prior Informed Consent has been issued by the Indigenous Cultural Community/IP concerned.
- d. Other supporting documents that may be required by the MGB.

2. Mineral Production Sharing Agreement

An MPSA application shall be filed at the DENR-MGB Regional Office concerned using the prescribed form (MGB Form No. 06-1), with the payment of the filing fee and submission of five (5) sets of each of the following *mandatory requirements*:

For an individual:

- a. Location map/sketch plan of the proposed contract area;
- b. Three-year Development/Utilization Work Program;
- c. Proof of technical competence;
- d. Proof of financial capability;
- e. Mining Project Feasibility Study; and
- f. Complete and final exploration report pertaining to the area.

For a corporation, partnership, association or cooperative:

- a. Duly certified Certificate of Registration, Articles of Incorporation/Partnership/Association and By-Laws;
- b. Location map/sketch plan of the proposed contract area;
- c. Three-year Development/Utilization Work Program;
- d. Proof of technical competence;
- e. Proof of financial capability to undertake the activities pursuant to the Development/Utilization Work Program;
- f. Affidavit of Undertaking for corporation, partnership, association or cooperative declaring the list of applications filed and the mining permit(s)/contract(s) issued to the applicant and the list of other applicant(s)/contractor(s)/permittee(s) in which more than seventy percent (70%) of the authorized capital stock is held by the stockholders of the applicant;

- g. Mining Project Feasibility Study; and
- h. Complete and final exploration report pertaining to the area.

For holders of valid and existing mining lease contracts, operating agreements, Quarry Permits/licenses or unperfected mining/quarry claims, the following are additional requirement, whenever applicable:

- a. Certification from the MGB Regional Office concerned that the mining/quarry claims are valid and subsisting;
- b. Appropriate environmental report on the rehabilitation of mined-out and/or mine waste/tailings-covered areas and anti-pollution measures undertaken during the mining operations;
- c. Environmental Compliance Certificate for any new phase outside of the originally approved operation under the mining project;
- d. Mining Project Feasibility Study *provided*, that a Mineral Agreement applicant with existing mining operation may submit, in lieu of the Mining Project Feasibility Study, a Project Description and a detailed financial statement of its operations incorporating therein the social and environmental expenditures, taxes and fees paid; and
- e. Approved survey plan of the mining area.

Any application with incomplete mandatory requirements shall not be accepted.

Other Requirements:

The following additional requirements shall be submitted after the acceptance of the application but prior to the issuance of the Mineral Agreement:

- a. Environmental Compliance Certificate;
- b. Environmental Protection and Enhancement Program;
- c. Certificate of Environmental Management and Community Relations Record or Certificate of Exemption;
- d. Approved survey plan; and
- e. Certification Precondition from the National Commission on Indigenous Peoples attesting that –
 - The proposed contract area does not overlap any ancestral land/domain claim in case of non-Indigenous People (IP) area; or
 - The Free and Prior Informed Consent has been issued by the Indigenous Cultural Community/IP concerned.

For offshore applications, the following additional requirements shall be submitted:

- a. Name, port of registry, tonnage, type and class of survey vessel(s) or platform(s);
- b. A certification from the Coast and Geodetic Survey Department of NAMRIA that the proposed Exploration Work Program was duly registered;
- c. An agreement to properly identify all installations, vessels and other crafts involved in exploration; notify the MGB 30 calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and allow the Bureau's personnel, the Philippine Coast Guard and other authorized persons to board the vessel(s) while within the Exclusive Economic Zone.
- d. Other supporting documents that may be required by the MGB.

3. Financial or Technical Assistance Agreement

An FTAA application shall be filed at the DENR-MGB Regional Office concerned using the prescribed form, with the payment of the filing fee and submission of eight sets of the FTAA proposal and five sets of each of the following *mandatory requirements*:

Upon filing of the application:

- a. Duly certified Certificate of Registration, Articles of Incorporation and By-Laws;
- b. Location map/sketch plan of the proposed contract area;
- c. Two-year Exploration Work Program;
- d. Proof of technical competence;
- e. Proof of financial capability to undertake the activities pursuant to the Exploration Work Program; and
- f. Affidavit of Undertaking declaring the list of applications filed and the mining permit(s)/contract(s) issued to the applicant and the list of other applicant(s)/contractor(s)/permittee(s) in which more than seventy percent (70%) of the authorized capital stock is held by the stockholders of the applicant;

Any application with incomplete mandatory requirements shall not be accepted.

After the acceptance of the application but prior to the approval of the FTAA:

- a. Posting of financial guarantee/performance bond and letter of credit or other forms of negotiable instruments from any government-accredited bonding company or financial institution in such amount equivalent to the expenditure obligations of the applicant for any year;
- b. Certificate of Environmental Management and Community Relations Record or Certificate of Exemption;
- c. Environmental Work Program;
- d. Certification Precondition from the National Commission on Indigenous Peoples attesting that –
 - The proposed contract area does not overlap any ancestral land/domain claim in case of non-Indigenous People (IP) area; or
 - The Free and Prior Informed Consent has been issued by the Indigenous Cultural Community/IP concerned.
- e. Other supporting documents that may be required by the MGB.

For offshore applications, the following additional requirements shall be submitted:

- a. Name, port of registry, tonnage, type and class of survey vessel(s) or platform(s);
- b. A certification from the Coast and Geodetic Survey Department of National Mapping and Resource Information Authority that the proposed Exploration Work Program was duly registered;
- c. An agreement to properly identify all installations, vessels and other crafts involved in exploration; notify the MGB 30 calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and allow the Bureau's personnel, the Philippine

Coast Guard and other authorized persons to board the vessel(s) while within the Exclusive Economic Zone.

After the approval of the FTAA but prior to registration - An authorized capital of at least Four Million U.S. Dollars (US\$4,000,000.00) or its Philippine Peso equivalent; and

In support of the application for approval of the declaration of mining project feasibility:

- a. Mining Project Feasibility Study;
- b. Three-Year Development/Utilization Work Program;
- c. Complete and final exploration report;
- d. Proof of technical competence; and
- e. Proof of financial capability to undertake the activities pursuant to the Development/Utilization Work Program showing at least US\$ 50 Million or its Philippine Peso equivalent for infrastructure and development activities.
- f. Approved survey plan;
- g. Environmental Compliance Certificate;
- h. Environmental Protection and Enhancement Program; and
- i. Social Development and Management Program.

4. Mineral Processing Permit

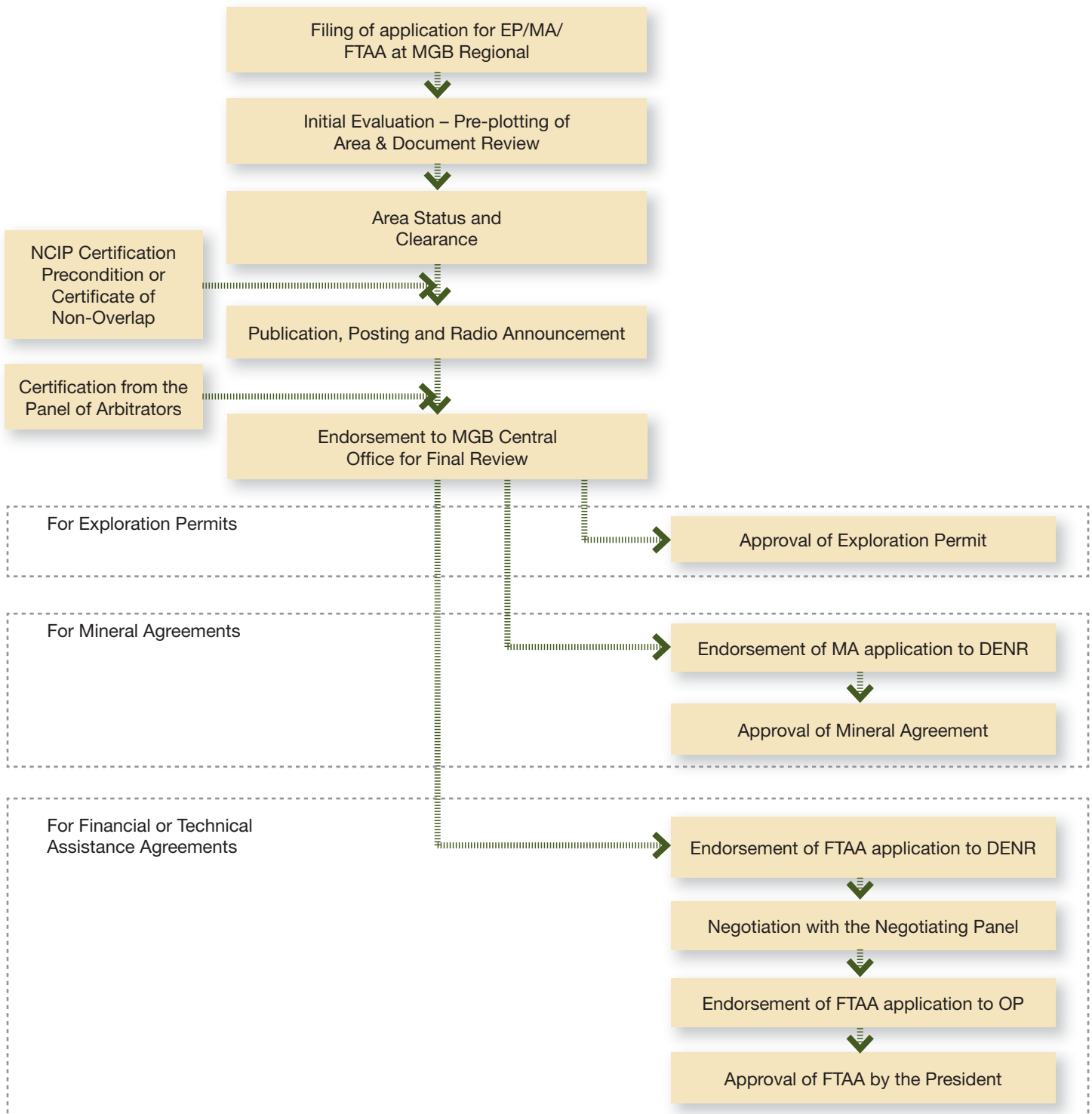
A Mineral Processing Permit (MPP) application shall be filed with the MGB Regional Office concerned using the prescribed application form (MGB Form No. 11-02) along with the mandatory requirements. Based on the project cost, the application for MPP is approved either by:

- The DENR Secretary, for applications with a project cost of more than Five Hundred Million Pesos;
- The MGB Director, for an application for MPP whose project cost ranges from more than Two Hundred Million Pesos to Five Hundred Million Pesos; or
- The MGB Regional Director for those whose project cost is Two Hundred Million Pesos or less.

An MPP application shall be received after payment of applicable fees and submission of the following mandatory requirements:

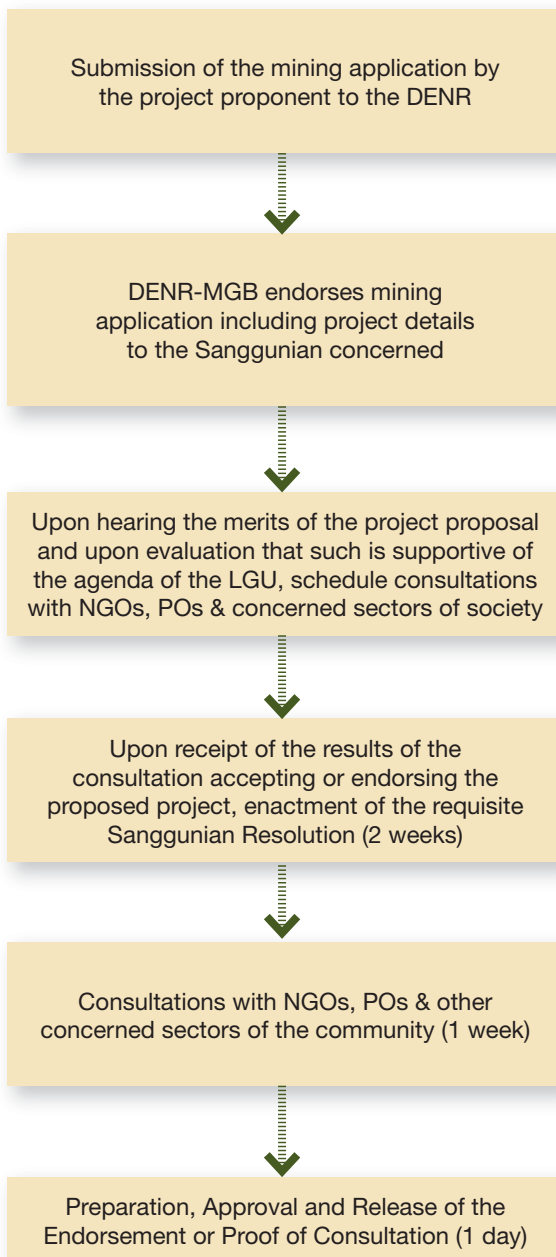
- a. Duly certified Certificate of Registration, Articles of Incorporation and By-Laws;
- b. Location map/sketch plan of the proposed processing plant;
- c. Feasibility Study including work programs, plant site, mill and plant layout/design, details of technology to be employed, anti-pollution devices, etc.
- d. Environmental Compliance Certificate;
- e. Environmental Protection and Enhancement Program;
- f. Certificate of Environmental Management and Community Relations Record or Certificate of Exemption;
- g. Proof of financial capability; and
- h. Proof of technical competence.

5. Flowchart for Mining Rights Applications

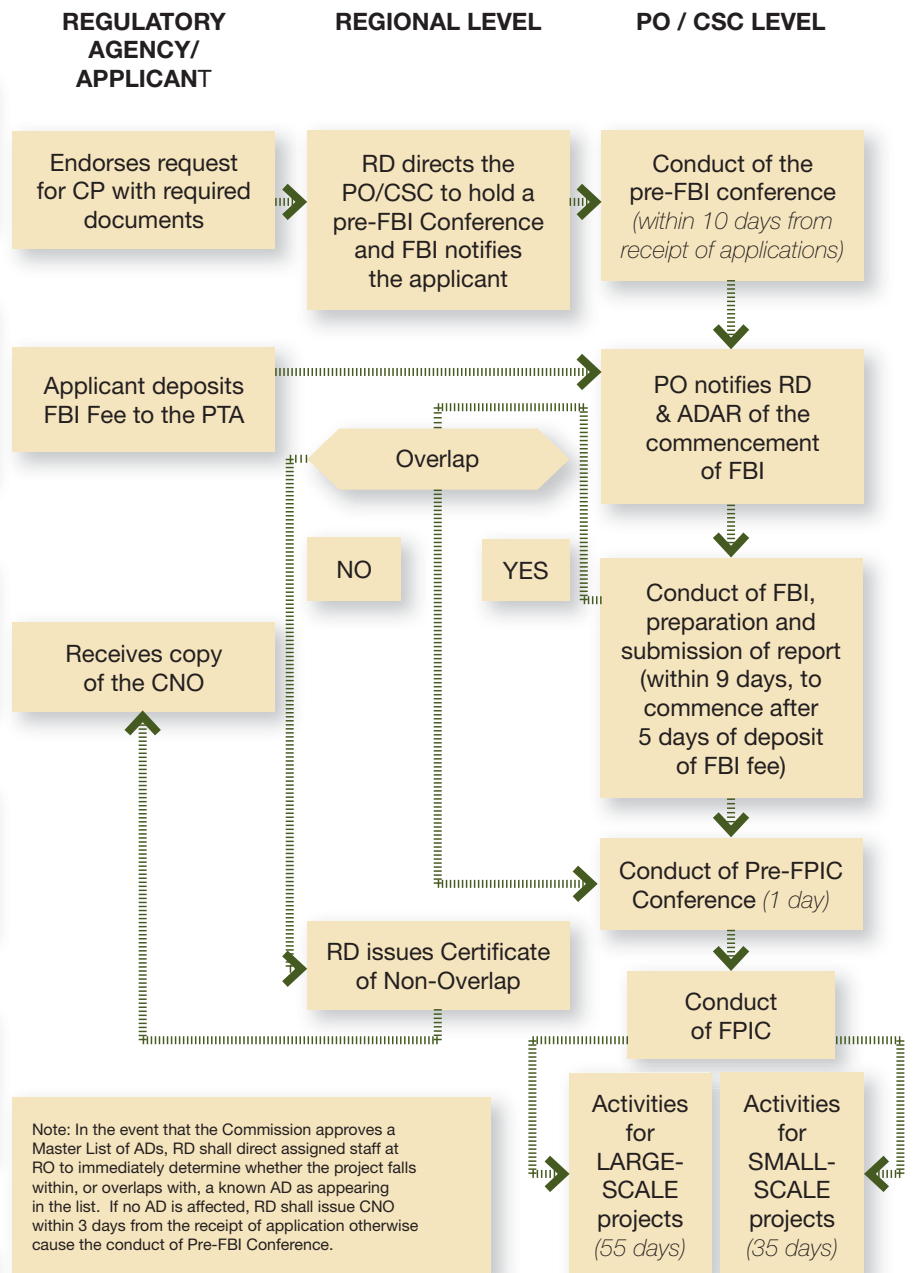


F. Procedures and Requirements for Other Related Documents

1. Social Acceptability Endorsements from Local Government Units



2. Basic Free, Prior and Informed Consent Process



Legend:
 RD - Regional Director CP - Certification Precondition ADAR - Ancestral Domain Area Representative
 PO - Provincial Officer FBI - Field Based Investigation FPIC - Free, Prior and Informed Consent
 CSC - Community Service Center CNO - Certificate of Non-Overlap

3. Environmental Compliance Certificate

Procedures in Applying for an ECC for Environmentally Critical Projects (ECPs)

- a. Proponent consults Environmental Impact Assessment Division (EIAD) of the EMB regarding the proposed project for screening.
- b. EIAD schedules scoping meeting
 1. A case handler is assigned to the proposed project
 2. The composition of the EIA Review Committee (EIARC) is determined and notified of the proposed project
 3. A meeting is conducted between the proponent, the case handler and members of EIARC for project scoping or requirements checklist
 4. Second level scoping or public consultation is conducted
- c. Proponent conducts EIA and prepares EIS based on the scoping or requirements checklist and second level scoping
 1. Deposits EIA review fund with the Natural Resources Development Corporation (NRDC)
 2. EIAD Case Handler determines completeness of documents

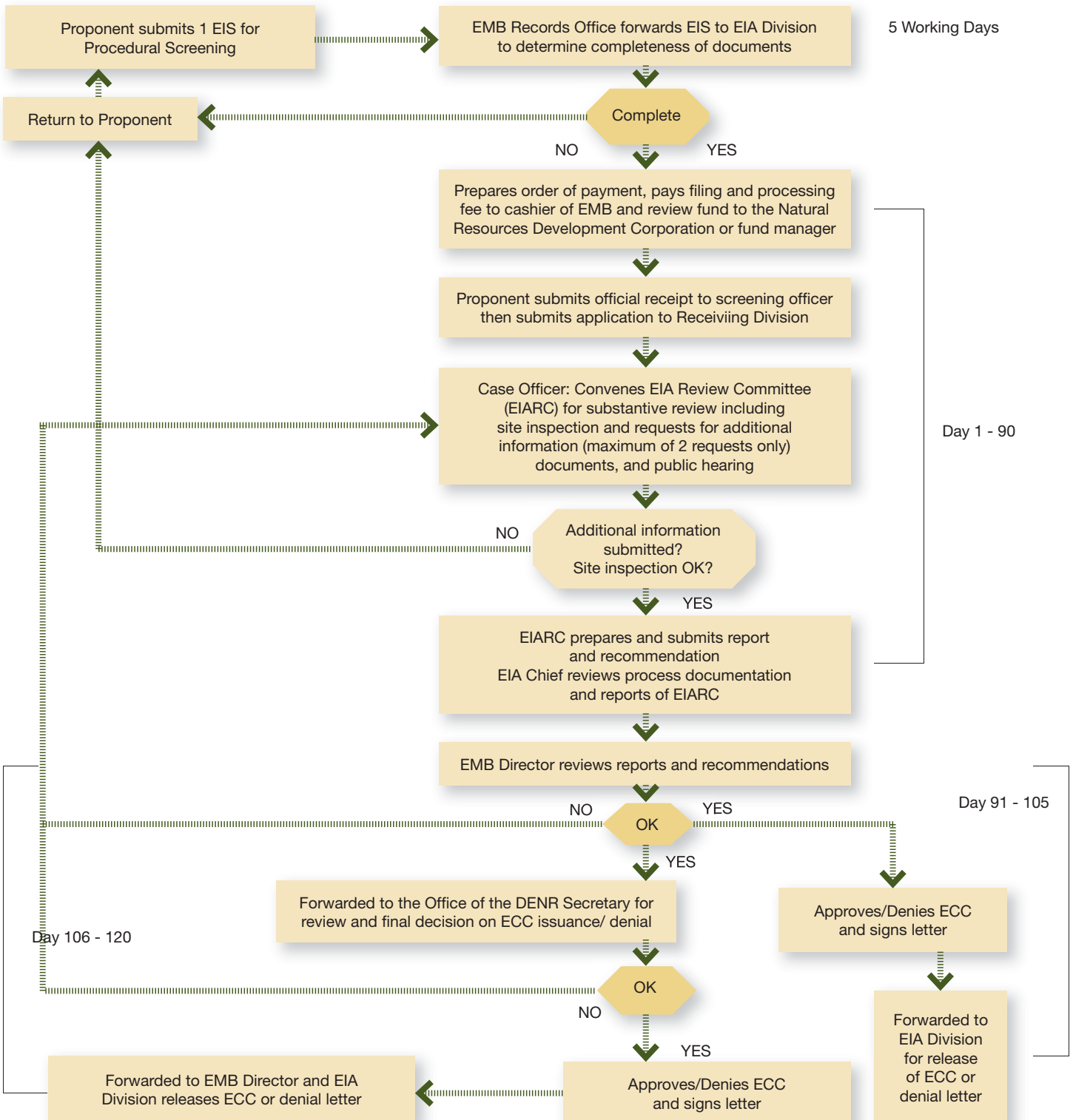
1. EIARC may request for additional information (up to 2 times) if believed that the submitted EIS is lacking in certain aspects
2. Conducts site inspection
3. Conducts public hearing
4. Prepares and submit final report and recommendation to EMB Director
- f. EMB Director reviews final report and recommendation
 1. If the report is not acceptable, it is returned to the EIARC
 2. If the report is acceptable:
 - i. Signs / Approves ECC or
 - ii. Recommends ECC to the Secretary for approval
- g. Secretary either approves or denies ECC within 15 days

Note: Processing time will be 120 working days

START OF ONE HUNDRED TWENTY (120) DAY PROCESSING PERIOD

- d. Proponent pays filing and processing fee with EMB Cashier
 1. Proponent submits complete, procedurally screened EIS together with supporting documents to EMB record and forwards to EIAD
 2. EIAD schedules Review Committee meeting
- e. EIARC meets to review EIS (Several meetings)

ECC Application Procedures for Environmentally Critical Projects



Document Requirements:

- Environmental Impact Statement (EIS) Report
- Accountability Statement from EIS Consultant and Project Proponent
- Department of Agriculture (DA) Certificate of Viability for Conversion (if in agricultural land and conversion is necessary)
- Land Title/Proof of Land Jurisdiction/Ownership
- Endorsement from the Protected Areas and Wildlife Bureau (if within protected area)
- SEC Registration
- National Water Resources Board Water Use Permit/Certificate of Water Availability
- Review Fund
- Electronic File of the EIS
- Environmental Track Record (for expansion projects)
- Photocopy of Transfer Certificate Title/Original Certificate of Title/ Certificate of Land Title
- Zoning/Certificate of Locational Viability
- Barangay/ Municipal/ City Council Resolution or Proof of consultation with LGUs

4. Timber Rights

Requirements in Securing a Private Land Timber Permit

- a. Letter application of landowner;
- b. Authenticated copy of land title/Certificate of Land Ownership Award (CLOA) with approved sketch map of the area;
- c. Development plan, if application covers ten hectares or larger with at least 50% of the area covered with forest trees;
- d. Endorsement from any of the following local government officials: Barangay Chairman, Municipal/City Mayor, or Provincial Governor concerned;
- e. Endorsement by Local Agrarian Reform Officer for areas covered by CLOA;
- f. Inventory based on existing regulations;
- g. Initial Environmental Examination; and
- h. Certification from the CENRO concerned that the land subject of PLTP/SPLTP application is within a certified alienable and disposable land.

Requirements in Securing a Special Private Land Timber Permit

- a. Letter application of landowner;
- b. Authenticated copy of land title/CLOA with approved sketch map of the area;
- c. Development plan, if application covers ten hectares or larger with at least 50% of the area covered with forest trees;
- d. Endorsement from any of the following local government officials: Barangay Chairman, Municipal/City Mayor, or Provincial Governor concerned;
- e. Endorsement by Local Agrarian Reform Officer for areas covered by CLOA;
- f. Inventory based on existing regulations;
- g. Initial Environmental Examination; and

- h. Certification from the CENRO concerned that the land subject of PLTP/SPLTP application is within a certified alienable and disposable land.

- g. Feasibility study stating among others the financial and technical capability to undertake the project.
- h. ECC, upon issuance of the Order/ Award;
- i. Development Plan and Cost Estimates/ Specifications of the proposed project.

5. Foreshore Lease Agreements

Requirements:

- a. Non-refundable filing fee of One Thousand pesos (P 1,000.00) for corporations, associations or partnerships and Five Hundred pesos (P 500.00) for individuals, plus documentary stamps;
- b. Certificate of naturalization (if the applicant is a naturalized Filipino);
- c. In case of corporation, association or partnership: Articles of Incorporation and Certificate of Registration from the SEC, and three copies of the Board Resolution authorizing the President or any representative/s to apply for the foreshore lease agreement.;
- d. If the applicant uses a name, style or trade name, other than his/its true name, three copies of the Certificate of Registration of such name, style or trade name from the DTI and the SEC;
- e. Approved plan and technical description of the land applied for;
- f. Certification from the following agencies that the area being applied for is not needed for public use:
 - Department of Tourism
 - Philippine Ports Authority
 - Municipal/District/City Engineer's Office, with the concurrence of the Regional Director of the Department of Public Works & Highways; and/or
 - Public Estates Authority
 - Metro Manila Development Authority, if the area is along Manila Bay

Processing Procedures:

- a. Filing and acceptance of application with complete requirements at the DENR Community Environment and Natural Resources Office, to include verification of records, numbering, foldering and recording;
- b. Referral to Land Investigator/DPLI for investigation and ocular inspection;
- c. Conduct of preliminary investigation and submission of report by the investigator to the Community Environment and Natural Resources Officer (CENRO);
- d. Survey of the land;
- e. Conduct and submission of appraisal report by the CENRO to the Provincial Environment and Natural Resources Officer (PENRO), Regional Executive Director (RED), or the Secretary, as the case maybe;
- f. Approval of appraisal and grant of authority to conduct public bidding by the PENRO, RED or the Secretary;
- g. Payment of publication expenses if the appraised value of the land is more than P 240.00;
- h. Publication of the notice of right to lease the land applied for in the Official Gazette and two newspapers of general circulation (in English and in the local dialect) once a week for six consecutive weeks and posting of the notice for six consecutive weeks at the bulletin boards of the CENRO office, Municipal/City Hall, Barangay Hall and on the land itself;

- i. Public auction and submission of report of bidding by the CENRO to the PENRO;
- j. Issuance of Order: Award and preparation of foreshore lease agreement by the CENRO upon payment of one year's rental;
- k. Signing of agreement by the awardee and approval by the officials concerned (PENRO, RED or the Secretary) upon receipt of the instrument;
- l. Notarization and transmittal of approved foreshore lease agreement to the applicant by the CENRO/Record Officer concerned.

Note:

The following are authorized to approve and sign for foreshore lease agreements:

- PENRO - 1 hectare and below
- RED - more than 1 hectare, up to 5 hectares
- DENR Secretary - more than 5 hectares.

6. Water Rights

All applications shall be filed in the prescribed form, sworn to by the applicant, and supported by the following requirements:

For a Water Permit for Hydraulic Power Development and Industrial Purpose or for a Permit to Dump Mine Tailings or Wastes:

- a. Location and conceptual plans on convenient scale showing the sources of water, layout of proposed works, and point of diversion determined graphically by its latitude and longitude;
- b. Brief description of project, including among others, how water will be used, amount of water to be needed for the purpose, power expected to be generated if applicable, amount of water to be discharged back to the source, measures to

- be taken to ensure that such waters are not polluted, and other relevant information;
- c. Articles of Incorporation or Articles of Partnership, in case the applicant is a private corporation or partnership, or certificate of registration, in the case of cooperatives; and
- d. When application is for industrial use of groundwater, the location and spacing of drilling well sites, instead of diversion point, should be indicated in the location plan.

For a Permit for Drainage Purposes:

- a. Brief description of project for which the drainage scheme is necessary;
- b. Location and layout maps of drainage works showing the area to be drained, route of drainage canal, and drainage outlet, which should be a natural body of water or a natural waterway;
- c. Articles of Incorporation or Articles of Partnership, in case the applicant is a private corporation or partnership, or Certificate of Registration, in the case of cooperatives.

In addition to the above requirements, the following are required in the specific instances indicated:

- a. For Well Drilling – except when manual well drilling will be employed, all applications involving extraction of groundwater shall include the name of a duly licensed well driller who will undertake the drilling. Except for manual well drilling, no person shall engage in the business of drilling wells for the purpose of extracting groundwater without first registering as a well driller with the National Water Resources Board.
- b. For Transfer of a Water Permit – Application for the transfer of a water permit from one person to another shall include the reasons for the transfer.
- c. For Lease of a Water Permit – Applications for the lease of a water permit to another person shall be accompanied by a duly executed contract of lease subject to the approval of the Board. No contract of lease shall be for a continuous period exceeding five years; otherwise the contract shall be treated as a transfer of permit in favor of the lessee.

G. Directory

MINERALS DEVELOPMENT COUNCIL (MDC)

Department of the Environment and Natural Resources (DENR)

DENR Building, Visayas Avenue,
Quezon City NCR 1100
Tel Nos. +63(2) 929-6626 or 928-0691 up to 93
Local 2003, 2134, 2182, 2147
Fax +63(2) 920-4301
Website: www.denr.gov.ph

Presidential Adviser for Multilateral Development (PAMD)

Embassy of the Republic of the Philippines
Uhlandstr. 97, D-10715 Berlin, Germany
Tel. Nos. (030) 864-9500
Fax (030) 873-2551

Chamber of Mines of the Philippines (CoMP)

Rm. 809, Ortigas Bldg., Ortigas Ave., Pasig City
Tel Nos. +63(2) 635-4123- 24
Fax +63(2) 635-4160
Website: www.chamberofmines.com.ph

Department of Agrarian Reform (DAR)

DLR Building, Elliptical Road,
Diliman, Quezon City NCR 110
Tel Nos. +63(2) 920 0380/ 929-3460
Fax +63(2) 929-3088
Website: www.dar.gov.ph

Department of Agriculture (DA)

Bureau of Soils and Water Management

Elliptical Road, Diliman, Quezon City NCR 1104
Tel Nos. +63(2) 923-0454
Fax +63(2) 920-4318
Website: www.da.gov.ph

Department of Finance (DOF)

DOF Building, BSP Complex,
Roxas Boulevard, Pasay City
Tel Nos. +63(2) 521 2948
Fax +63(2) 527-2421
Website: www.dof.gov.ph

Department of Interior and Local Government (DILG)

A. Francisco Gold Condominium II,
EDSA cor. Mapagmahal Street
Brgy. Piñahan, Diliman, Quezon City
Tel Nos. +63(2) 925-0330 up to 31
+63(2)925-0332/925-1130
Website: www.dilg.gov.ph_

**Department of Labor and Employment (DOLE)
Bureau of Local Employment (BLE)**

6/F BF Condominium, A. Soriano
Avenue, Intramuros Manila
Tel Nos. +63(2) 528-0083
Fax No. +63(2) 527-2421
Website: www.dole.gov.ph

Department of National Defense (DND)

Room 301, DND Building, Camp Aguinaldo
EDSA Quezon City NCR 1110
Tel Nos. +63(2) 911-9281/911-0488/911-1746
Website: www.dnd.gov.ph

Department of Trade and Industry (DTI)

Industry & Investments Building
385 Senator Gil Puyat Ave.,
Makati City NCR1200
Tel Nos. +63(2) 895-3611/890-9333/896-1166
Website: www.business.gov.ph

National Anti- Poverty Commission (NAPC)

3rd Floor, Agricultural Training Institute Building,
Elliptical Road, Diliman, Quezon City
Tel Nos. +63(2) 426-5028
Fax +63(2) 426-5249
Website: www.napc.gov.ph

National Commission on Indigenous Peoples (NCIP)

2/F N. dela Merced Bldg. (DELTA)
cor. West Ave, Quezon City
Telefax No.+63(2) 373-934
Website: www.ncip.gov.ph

National Economic and Development Authority (NEDA)

6/F NEDA Building, St. Josemaria Escriva Drive,
Ortigas Center Pasig City NCR 1605
Tel Nos. +63(2) 631-3716/631-3733/631-3752
Fax +63(2)631-3747
Website: www.neda.gov.ph

Philippine Information Agency (PIA)

Philippine Information Agency, Visayas
Ave., Diliman, Quezon City
Tel Nos. +63(2) 926-5123/920-1224/920-4386
Fax +63(2) 928-6917
Website: www.pia.gov.ph

Presidential Management Staff (PMS)

PMS Bldg. Arlegui St., San Miguel
Malacañang Compound, Manila
Tel Nos. +63(2) 734-2094/736-1198/734-2105
+63(2)734-3971 to 86
Loc. 173/130
Website: www.op.gov.ph

Minerals Development Council (MDC) Secretariat

2/^F Petrolab Building, Mines and
Geosciences Bureau
North Avenue, Diliman, Quezon City
Telefax +63(2) 920-9123
Email mdc_pilipinas@yahoo.com.ph

DENR- Mines and Geosciences Bureau (MGB)

2/F J. Fernandez Bldg., MGB Compound
North Avenue, Diliman, Quezon City
Tel. Nos. +63(2) 928-8642/ 920-9120
Fax No. +63(2) 920-1635
Website: www.mgb.gov.ph

DTI- Board of Investments (BOI)

Industry & Investments Building
385 Senator Gil Puyat Ave., Makati City
Tel. Nos. +63(2) 890-9332/ 895-3701
+63(2) 897-6682 loc. 308
Fax +63(2) 895-3980
Website: www.boi.gov.ph