

**PUBLIC CONSULTATION FOR THE DRAFT MINERAL ACTION PLAN FOR EXECUTIVE ORDER NO. 270**  
**UP Alumni Center, University of the Philippines, Diliman, Quezon City**  
**April 28, 2004**

**HIGHLIGHTS OF INPUTS AND COMMENTS FROM**  
**MINERALS INDUSTRY GROUPS, PROFESSIONAL GROUPS AND ACADEME**

**CLUSTER 1 – ECONOMICS AND INVESTMENT**

**POLICY AGENDA:** Government recognizes the critical role of investments in the minerals industry for national development and poverty alleviation and shall provide support mechanisms for a sustained mineral exploration program, responsive research and development priorities and capability-building for industry manpower.

**POLICY AGENDA:** Clear, stable and predictable investment and regulatory policies shall be instituted to facilitate investments in mining, leading to a prosperous minerals industry.

Inputs /Comments	Response / Agreement	Raised by
Issue No. 1: Tedious permitting process, etc. ?? <b>The original target under 1.1.3. “MGB to issue mining permits in accordance with the streamlined procedures.” should be placed back.</b> This was included in the earlier Draft disseminated by DENR-MGB.	?? The item was inadvertently missed. DENR agreed to put it back.	Mr. Art Disini, Chamber of Mines of the Philippines (CoMP)
?? A question/concern was raised on <b>the need for an MOU between DENR-DILG and the various Leagues of LGUs.</b>	?? USec Ignacio said the supervision and control over LGUs is a legal matter, thus the MOU is the only best option left for the DENR to improve the situation with LGUs when it comes to mining.  ?? RD Jasareno related that in the TWG discussions, DILG admitted that the DILG Secretary has no legal authority over the <i>Sanggunian</i> . The only avenue for discussion with the <i>Sanggunian</i> is through the different Leagues (i.e. Leagues of Provinces, Municipalities, Cities, Barangays etc.).	Mr. Art Disini, CoMP
?? <b>The MOU may be an avenue to simplify requirement for</b>	?? RD Jasareno said MGB proposed that the	Mrs. Annie Dee, PMSEA

<p style="text-align: center;"><b>Inputs /Comments</b></p> <p><b>Exploration Permits by doing away with the Proof of Consultation.</b></p>	<p style="text-align: center;"><b>Response / Agreement</b></p> <p>Proof of Consultation be removed as a requirement for projects under the exploration phase, however, DENR retained it on the premise that LGUs should be informed on any projects within their areas. USec Ignacio said DENR will review this.</p>	<p style="text-align: center;"><b>Raised by</b></p>
<p>Issue No. 2: Rapidly expanding NIPAS areas.. ?? The industry welcomes being part of consultations <b>“as long as its voice is really heard.”</b></p>	<p>?? RD Jasareno noted that MAP will not simply provide for consultation with the industry but makes the industry a member of the Body/Committee tasked to identify NIPAS areas as well as in establishing Land Use Plans/Reservations and other Land Reclassification.</p>	<p>Mr. Art Disini, CoMP</p>
<p>?? <b>The activity 2.1.1.b should be modified as “provide for rational and science-based valuation tool to determine the best land uses following the concept of multiple land use” since the term “best land use” connotes exclusivity-an-either-or selection of what land use shall be allowed over an area, which is not necessarily the intent of the EO. Likewise, Sec. 2.1.1.b shall be clarified and become consistent with the Policy Agenda on multiple land use framework.</b></p>		<p>Handwritten note submitted by Mr. Rey Villones of MGB Central Office during the consultation on April 28, 2004.</p>
<p>Issue No. 4: Insufficient data on mineral resources . . . ?? Proposed <b>the participation of the scientific community or the Academe and in the event that a separate Natural Resources agency is created, R&amp;D must be handled by a geological survey type of organization.</b></p>	<p>?? MGB Dir. Ramos welcomed the proposal to involve the academe in the “Conduct of systematic and comprehensive geological, geophysical and geochemical exploration.”</p>	<p>Dr. Vic Maglambayan, UP-NIGS</p>
<p>RD's Inputs/Comments</p> <p style="text-align: center;"><b>Inputs /Comments</b></p> <p>Under issue No. 1.1.1: There is a need to amend the NCIP AO to expedite the granting of the Certificate of Precondition.</p>	<p style="text-align: center;"><b>Response / Agreement</b></p> <p>RD Jasareno explained the issuance of one-time Precondition Certificate on Sand and Gravel Permit Applications, private lands, etc, shall be embodied</p>	<p style="text-align: center;"><b>Raised by</b></p> <p>RD Alburo (R8)</p>

Inputs /Comments	Response / Agreement	Raised by
Under issue No. 3: R&D priorities	<p>in the new proposal. This will be a detail of 1.1.1 in the amendment of NCIP AO.</p> <p>He said it also includes devolving the issuance of the certification from the NCIP central office to NCIP RD for areas with no IP.</p> <p><del>///</del> As suggested by Dr. Pablito Ong of MIT during the Consultation Meeting, IRON must be included in the list of priority commodities in R&amp;D.</p> <p><del>///</del> Asst. Director Domingo suggested that a comprehensive R&amp;D Program (applied or basic) should be maintained.</p> <p><del>///</del> The private sector should be included in the institutions involved.</p>	RD Juan (R5)
	R&D program in partnership with the private sector? Add private sector on the column: Institutions involved <i>Others</i> :	RD Juan (R5)

**POLICY AGENDA:** Value-adding as a measure of optimizing benefits from mineral shall be pursued through the development of downstream industries to achieve greater productivity and efficiency.

Inputs /Comments	Response / Agreement	Raised by
<p>Under Issue No. 1: Lack of information on mineral-based ..</p> <p>?? <b>In addition to the 1-year program defined, the MGB together with concerned agencies should set shorter time frame by arranging practical timetable for focused sectors.</b></p>	<p>?? The suggestion was well taken. A shorter timeframe is possible considering the ongoing studies being undertaken by the concerned agencies such as in the five (5) minerals initially selected. To be conducted, too, are studies on how to breach the gap in minerals value chain.</p>	Annie Dee, PMSEA

**POLICY AGENDA:** Efficient technologies shall be adopted to ensure the judicious extraction and optimum utilization of non-renewable mineral resources to enhance sustainability.

Inputs /Comments	Response / Agreement	Raised by
Issue No. 1: Minimal technical skills/capability . . . ?? <b>Activity 1.1.1 must be modified to include “iron”</b>	?? Dir. Ramos concurred with the input.	Dr. Pablito Ong, MIT
Issue No. 2: Weak linkages/cooperation among academe. . . ?? <b>Activities under 2.1 must be expanded to consider the following:</b> <del>///</del> <b>PCIERD must take an active role and review its policies in R&amp;D</b> <del>///</del> <b>A policy requiring for counterpart funding from the government for R&amp;D works must also be set.</b>	?? Engr. Vicente Madamba, who represents MGB with PCIERD, said these matters have already been brought up with the agency.	Dr. Pablito Ong, Mapua Institute of Technology
?? Since R&D funding has been part of regular concern for the minerals sector, <b>it is important to define the level of R&amp;D that government and private sector must undertake.</b>		DBM Representative
?? As the research arm of the DENR, the ERDB should be part of the institutions that will be involved in the R&D-related activities as soon as science-based validation tool are formulated. ERDB also has the experience in the formulation of R&D processing including establishment and operation of R&D networks. Thus, it is <b>proposed to include ERDB in the institutions involved in the following:</b> <del>///</del> <b>Policy Agenda 1; Issue No. 2, Strategy 2.1</b> <del>///</del> <b>Policy Agenda 1; Issue No. 3, Strategy 3.2; Target 3.2.1</b> <del>///</del> <b>Policy Agenda 2; Issue No. 2.2; Strategy 2.2.3; Target 2.2.3.1</b>		ERDB Representative

**Policy Agenda 3; Issue No. 1; All Strategies; all Targets**

## CLUSTER 2. CLUSTER ON SOCIO-ECONOMIC

**POLICY AGENDA:** The economic and social benefits derived from mining shall be equitably shared by and among various units of government, as well as the affected communities.

Inputs /Comments	Response / Agreement	Raised by
<p>Item 1.3.4 why the DBM cannot extend its deadline unless the provision of the LGC is repealed and amended.</p> <p>Her explanations/clarification included the following:</p> <p>1. Section 286 of Local Government Code, made mention of automatic release of the shares of LGUs. Provisions on the automatic release have been one of the concerns raised by both Lower and Upper Houses of Congress.</p> <p>This means that the shares of each LGU shall be released, without any need for further action, directly to the Province, Municipalities or Barangay Treasurers and they shall not be subject to lien or holdback.</p> <p>The money will not go directly to the LGUs but it will be subject to a budget process. All expenditures have to be appropriated—a basic constitutional provision—and has to pass thru a budget process.</p> <p>The DBM has twice proposed the IRA as the automatic appropriation when the national expenditure program was forwarded to the Congress; it was disregarded and was reinstated back to the General Fund. It has to pass thru the Congress.</p> <p>The share released to the LGU without any reserves imposed. For National Government 5%, 10% is required.</p>		<p>Ms. EMIE DELANTAR, Department of Budget and Management</p>

<b>Inputs /Comments</b>	<b>Response / Agreement</b>	<b>Raised by</b>
<p>For IRA and Allocation for LGU (ALGU) are exempt from reserves.</p> <p>2. Section 293 of Local Government Code, the release the of share of the LGU will follow Section 286, however, the National share that is being produced, generated or derived by the National Government or GOCC will be released directly to the treasurers of the Provinces, Municipalities, and barangays.</p> <p>Except those national wealth derived, generated by the National Government and GOCC, all the rest will have to be released following the budget process. As suggested in issues and concerns – a direct release/remittance will not be possible unless the provision of the LGC is repealed and amended.</p> <p>3. No need for LGUs to submit any request, papers or documents.</p> <p>DBM does not require any request from the LGUs. The IRA and LGU share from the excise tax, tobacco tax, Epza, e-Vat, etc. are directly released to LGUs without any request. The legal basis for this is RA 2716, Sec. 290 and Sec. 291 of LGC with the existing IRR and guidelines.</p> <p>Circular No.7-97 dated March 1, 1997, which was jointly issued with DENR, pertains to the procedure on the release of the fund and the percentage of share of the LGUs. Percentage of share of the LGUs is anchored with Sec. 290 and Sec. 291 of LGC.</p> <p>A requisite document is the Certification of the Remittance Advice.</p> <p>The request for the Certification of the Remittance Advice</p>		

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<p>is made by the collecting agencies (BIR, MGB &amp; DOE). The basic request from the collecting agencies where they deposited/remitted the collection are either:</p> <ol style="list-style-type: none"> <li>1. Bureau of Treasury Remittance Advice</li> <li>2. Banks Remittance Advice</li> </ol> <p>General Procedure in the release: (MGB) BIR submits 2 types of certification to DBM: for purposes of Budget preparation and for actual year of execution</p> <p>March 15 deadline set by DBM, proceeds or collections will be submitted to DBM for the inclusion in the budget preparation of the National Expenditure Program for submission for Congress.</p> <p>Actual Certification from BIR, from the Provinces, Municipalities submitted to DBM-CO are validated at DBM-Regional Office since the release of share is decentralized.</p> <p>No expenditures can be considered unless covered by the General Appropriation Act.</p>		

**POLICY AGENDA:** Small-scale mining shall be promoted as formal sector of the mineral industry and as part of the development initiative for both downstream and upstream industries.

<b>Inputs /Comments</b>	<b>Response / Agreement</b>	<b>Raised by</b>
<p>Question: What is the role of the private sector and the academe in formalizing SSM as a formal sector?</p>	<p><i>EE</i> Provide technical assistance to SSM in proper mine management to minimize water and air pollution, siltation, land degradation; to prevent mine accidents; to improve mining and milling recovery.</p>	<p>Ms. Annie Dee, PMSEA</p>
<p>Issue No. 2: Lack of Information on mineralized area for SSM</p> <p><i>EE</i> Include the identification of minerals available, the mining</p>	<p><i>EE</i> All the specific activities to identify, evaluate and</p>	<p>Dr. Pablito Ong, MIT</p>

<b>Inputs /Comments</b>	<b>Response / Agreement</b>	<b>Raised by</b>
<p>technique suitable to use, and the market potential of minerals available. Include the non-metallic resources in allocation of potential SSM areas.`</p>	<p>allocate potential SSM areas for metallic resources, will also be undertaken for non-metallic resources.</p> <p>?? Commodities to be divided into:  <del>///</del> Precious metals  <del>///</del> Base Metals  <del>///</del> Ferro Alloy  <del>///</del> Industrial minerals  <del>///</del> Construction materials</p>	<p>Dir. Ramos</p>
<p>?? On Target/Specific Activity 2.2.2 – it was suggested that small scale miners and the mining permit holder should agree and come up with a MOA on cases when operation of the mining company is already suspended</p>		<p>RD Reynulfo Juan</p>
<p>?? On Target/Specific Activity 2.2.3 – it was suggested that the Government must exercise its option to declare mineral reservation for SSM operation.</p>		<p>RD Jose Madrona</p>
<p>?? On Strategy 2.2, it was suggested that an additional activity to Rationalize SSM operations should be added.</p>		<p>RD Alburo &amp; RD Juan</p>
<p>Issue No. 3- Unfamiliarity of SSM of the permitting process..          ?? PMRB/CMRB has to strengthen its power on issuance of permits through:  <del>///</del> Capacity-building  <del>///</del> Providing technical assistance from MGB to PMRB</p>		<p>RD Reynulfo Juan          Director Horacio Ramos</p>

### CLUSTER 3 : CLUSTER ON ENVIRONMENT

**POLICY AGENDA :** Protection of the environment shall be of paramount consideration in every stage of a mining operation ; mitigation and progressive rehabilitation measures shall be integral components of mining operation.

Inputs /Comments	Response / Agreement	Raised by
<p>On the listed policies/activities, it is suggested to highlight the following to facilitate discussion:</p> <ul style="list-style-type: none"> <li>- New/proposed policies</li> <li>- Benefits that can be derived in the MAP</li> <li>- Cost-Benefit evaluation of land-use to be conducted</li> </ul>	<p>?? USEC Ignacio said the new ones are progressive rehabilitation, environmental audit on mine expansion, and requirement of surety bonds to cover rehabilitation of the mine in case of premature closure.</p> <p>?? Mike Cabalda said the MAP also further strengthens the existing activities/policies and utilizes new technologies.</p> <p>?? Another feature of the MAP is the provision for rehabilitation of abandoned mine sites and packaging of priority areas for possible fund sourcing.</p>	<p>Mr. Art Disini, CoMP</p>
<p>Issue No. 1 - Physical impacts posed by mining...</p> <p>?? EIA Process and Requirements for mining projects</p>	<p>?? Since mining is a highly engineered project, a separate EGGAR is not needed since geohazards assessment forms part of the EIS wherein a Geologist and Mining Engineer are part of the Environmental Impact Assessment/Evaluation/Scoping team.</p>	<p>RD Rolly Pena (DENR-HEA)</p>
<p>?? Clarification on the term and intent of " Third Party Audit:"</p> <p><del>///</del> Who is the Third Party?</p> <p><del>///</del> What is the frequency on the conduct of audit ?</p> <p><del>///</del> Who decides a credible Third Party Audit/Auditor?</p>	<p>?? USEC Ignacio clarified that Third Party Audit shall only be "ENCOURAGED," NOT REQUIRED. It shall be voluntary on the part of the company.</p>	<p>Mr. Art Disini, CoMP Ms. Annie Dee, Teresa Marble/ PMSEA</p>

Inputs /Comments	Response / Agreement	Raised by
<p><del>///</del>The Third Party Audit would be an add-on expense to mining companies.</p>	<p>?? Citing the practice in Peru, where the mine audit by a third party is a required in the law, he said Third Party Audit shall serve as a seal of good housekeeping.</p> <p>?? A Third Party Mine Audit shall be conducted by an outsider. In Peru, mining companies undergo Third Party Audit on an annual basis.</p> <p>?? EMB and MGB will form a MOA so as to form a single mine audit team.</p>	
<p>?? Third Party Mine Audit seems to suggest that the government is passing on the responsibility, thus, the burden, to mining companies; and an admission that it is not capable of doing its job on this aspect.</p>	<p>?? Engr. Michael Cabalda (MGB) clarified that Third Party Mine Audit does not intend to hand over government's responsibilities to the companies. It rather intends to unburden the companies especially in cases that it decides to expand its operations. For example, if a mine opted to apply for mineral processing permit, then the conduct of Third Party Mine Audit will minimize the process since a simple Project Description or EIS together with the Third Party Audit Report will suffice the requirement.</p> <p>- The DENR also believes Third Party Mine Audit brings out the best in the mining operation. While usual monitoring conducted by the government on a more frequent mode, Third Party Audits are usually done on long-term basis, say 5 years, giving the company a different perspective of its condition and development.</p>	<p>- Philip Romualdez, COMP</p>
<p>Issue No. 4 - Need to amend and streamline MOU... ?? What is the position of EMB particularly on metallurgical plants, i.e. iPASAR;</p>	<p>?? There is a need to amend and streamline the EMB-MGB MOU on operationalization of the CLRF with respect to monitoring of mining projects.</p> <p>?? There is a need for conversion or streamlining of CLRF and EGF.</p>	<p>RD Loreto Alburo, MGB-8</p>

Inputs /Comments	Response / Agreement	Raised by
?? Under 1.1.1a , EGGAR for projects located in Environmentally Critical Areas (ECAs)	?? EGGAR must not apply to mining companies/projects (since mining projects require strict engineering design/standards)	RD Cabantog
?? Under 1.2.1, Third Party Audit for mining firms as an integral component of in-house monitoring.	?? Only encourage mining companies but there must be an incentive in exchange, or apply Third Party Audit for PMIEA, or such other recognitions. ?? Third Party Audit must apply only to ECC application for expansion and not as an integral component of in-house monitoring.	All RDs
?? Under 1.3.1: Review and strengthen existing guidelines and standards for Mine Waste and Tailings Management	?? Referred to DMO-99-32 on Tailings Management and add 1.3.1.e – Review of standard on cyanide (total, free, etc.)	All RDs
?? Under 4.0, amend and streamline the EMB-MGB Memorandum of Understanding (MOU) on the operationalization of the CLR F.	?? As agreed, MOU was amended and copies of the draft will be provided	All RDs
?? On Ecological Integrity: What document, guidelines, laws, rules, etc., will be used as a basis for decisions or to defend issues?	?? If the area is protected then it is not open for mining.	All RDs

#### GENERAL COMMENTS

Inputs /Comments	Response / Agreement	Raised by
?? The industry wants a Mineral Action Plan that will truly address the thrust for which it was made for: the revival of the minerals industry through encouragement of mining investments in the country so us to fuel economic growth and alleviate poverty. However, the industry feels that the <b>MAP failed to provide for factors that would truly entice investments</b> . Instead, the MAP seemed to have further tightened the noose on the industry by providing for more requirement.	?? Usec Ignacio welcomed the comment saying this will prompt a review of the MAP focusing on this consideration. ?? He, however, noted the non-financial incentives provided in the MAP that the government believes can adequately lay the groundwork for a revitalized minerals industry and prompt more investments in mining. These are: ?? Management of anti-mining sentiments: and ?? Clear, stable and science-based policies. ?? Dir. Ramos also stressed that revitalizing should not only be economics but should be guided with the principle of sustainable development and	Philip Romualdez, CMP

Inputs /Comments	Response / Agreement	Raised by
<p>?? <b>There is a need to resolve the structural problem in the DENR</b> a manner that will provide for check and balance mechanism between concerns on the environment and those of natural resources. <b>The Environment and Natural Resources functions of the DENR should be separated.</b></p> <p>?? Pending laws that would enable such reform, <b>it is suggested that the MAP reflect a Champion for the minerals industry with the designation of any of the following, as may be allowed by laws:</b></p> <ul style="list-style-type: none"> <li>/// <b>An Undersecretary for Mines</b></li> <li>/// <b>A Presidential Adviser on Mining Activities</b></li> <li>/// <b>Council of Agencies that will promote minerals development in the country.</b></li> </ul>	<p>entails a balance of the economic, social and environmental concerns. Restrictive environmental regulations should not be used in the MAP that shall serve as barriers to trade and investment.</p> <p>?? Usec Ignacio, recognizing the reminder, said it would be proposed that a separate section be added to delve on the DENR dismemberment.</p> <p>?? He noted that currently, the Undersecretary for Planning and Policy, which he holds, is the supervising undersecretary for mining and geosciences. The set up is adopted by the DENR in the absence of any law providing for special overseer for the sector.</p> <p>?? The proposal will, however, be forwarded for further discussion.</p>	<p>Art Disini, CMP Seconded by Mr. Vic Maglambayan, UP-NIGS</p>
<p>?? What actions will the government take if the Motion for Reconsideration for the Supreme Court Decision nullifying certain provisions of the Mining Act is DENIED.</p> <p>?? As a follow through, it was reiterated that if the government will amend the Mining Law, crucial issues raised in the MAP such as the establishment of a geological survey type of institution to take care of R&amp;D in exploration, and the separation of the Natural Resources function from the Environment function of the DENR.</p>	<p>?? MGB Dir. Ramos first stressed that in filing the MR the government is confident in winning the case.</p> <p>?? If an unfavorable decision is handed by the SC, the government has the following action plans to ensure order:</p> <ul style="list-style-type: none"> <li>/// Assures to protect investments and mining rights;</li> <li>/// Issue transition policies;</li> <li>/// Pursue to liberalized mining investments in the country in the following fronts: <ul style="list-style-type: none"> <li>o Amendment of the Mining Law</li> </ul> </li> </ul>	<p>Rene Rieza, GSP</p>

Inputs /Comments	Response / Agreement	Raised by
?? A point of clarification was raised: In EO 270 under letter F, what does the word “paramount” mean? Does this constitute a veto?	<ul style="list-style-type: none"> <li>o Charter Change, considering strong proposals by several quarters from the Administration.</li> </ul>	Rene Rieza, GSP
?? A MAP must be attractive to both local and foreign investors and it should address the issue of poverty.	?? In revitalizing the minerals industry, the long term effects are provided, not purely the economic incentives.	All RDs

### Position Papers

Inputs /Comments	Response / Agreement	Raised by
<p>In a position-letter submitted by the League of Cities of the Philippines on 30 April 2004, the following were proposed <b>for inclusion on the Targets and Specific Activities under Issue No. 1:</b></p> <p>1.2.4 BIR to annually inform DILG and the LGU Leagues (League of Provinces, League of Cities, League of Municipalities, and League of Barangays) of total excise tax collection and the share of all concerned LGUs.</p> <p>BIR to annually inform the LGU Leagues of total excise tax collection and encourage LGUs to actively collect information to enable them to validate their legal share based on list provided by the BIR and that LGUs provide feedback information to BIR and MGB.</p>		<p>Atty. Fernando Cruz Executive Director League of Cities of the Philippines</p> <p>For and by authority of LCP National President Mayor Francis N. Tolentino Cebu City</p> <p>Note: This recommendation was raised by LCP's Mr. Francis Balitaan, who attended the MAP Consultation on April 28, 2004.</p>