

Diagnostic study of the Corporate Social Responsibility (CSR) activities of large scale mining companies in the Philippines and the respective public sector roles that strengthen CSR

BACKGROUND

Following a series of meetings in January 2003, it was agreed that the [Corporate Social Responsibility Practice](#) of the World Bank Group would commission a diagnostic study into CSR mining practices of companies operating in the Philippines. This report would frame the technical assistance program of the CSR Practice which is aimed at supporting the Philippine governments' engagement with corporate social responsibility (CSR) in the mining sector.

The CSR Practice aims to ensure that developing countries' investment climates promote social responsible corporate behavior, ensuring that more of the benefits of investment reach the poorest of the people and lead to sustainable development. The CSR Practice therefore provides technical assistance to developing countries on their potential roles and by supporting implementation activities led by private sector companies that are pioneering sustainability for strategic business.

For the fiscal year 2003, the work of the CSR practice has been focused on four countries including the Philippines. In the case of the Philippines, the objective of the program is to provide technical assistance to the government of the Philippines, in particular, the Mines and Geosciences Bureau (MGB) of the Department of Environment and Natural Resources and the Board of Investment of the Department of Trade and Industry on the roles and instruments they can most usefully deploy to encourage CSR, with particular reference to the mining sector.

The proposed technical assistance will help the government raise issues associated with mining and CSR, get the facts debated, better understand domestic and international good practice and establish how the local and central government units can best encourage responsible business practices by the mining sector.

Subsequently, a consultant specializing in CSR has been recruited to contribute to these tasks and prepare the set of deliverables. The consultant met with public officials, company representatives, NGOs and other development organizations as well as examined secondary sources to build a "CSR Diagnostic of the Mining Industry". Using the World Bank Group's "Diagnostic and Appraisal Tool (Version 1.0)" the following report presents the current CSR initiatives in the Philippines mining sector, its potential alignment with public sector priorities, and the roles and instruments available to public sector bodies in maximizing CSR. The report consists of five sections:

- Section 1 provides an introduction to key issues facing the mining sector.
- Section 2 explores the extent of alignment of CSR with public sector priorities, specifically with the governing principles of the National Minerals Policy;
- Section 3 provides an overview to Annex B on the current CSR practices and activities specific to the mining sector and examines its business status;
- Section 4 provides an overview to Annex C on of current public policy and instruments that support CSR in the minerals industry; and
- Section 5 presents potential ways in which public sector roles could be strengthened, including where appropriate any technical assistance that could support such efforts.

The table below lists the sources for the material for this diagnostic report:

Primary Data/Interviews

1. Philex Mining Corporation
2. Lepanto Mining Corporation
3. Silangan Mining Exploration Company (joint venture between Philex and Anglo-American)
4. Apo Cement (operated by Cemex)
5. Rio Tuba Mining Corporation
6. Mines and Geosciences Bureau Regional Directors and staff
7. National Economic and Development Authority staff
8. Legal Rights and Natural Resources Center
9. Lafayette Philippines
10. Control Risks Group Philippines
11. Indophil Resources
12. Chamber of Mines of the Philippines
13. University of the Philippines faculty members
14. University of Asia and the Pacific faculty members

Secondary sources

Various publications from Philippine Business for Social Progress, University of Asia and the Pacific, Institute of Corporate Directors, Asian Development Bank, and civil society organizations (Ibon, FDC, church-based, etc.)

1. INTRODUCTION

The Philippines has been known to have abundant mineral deposits, with gold and copper as its major reserve. In a survey of mining prospects in the Asia-Pacific, the country was ranked second only to Indonesia in terms of geological prospectivity.¹ Yet despite its enormous mineral wealth, the mining industry in the country has barely reached its full potential. It is this potential that could attract foreign mining companies to invest large amounts of capital in exploration and prospecting activities for mineral deposits.

Current mining operators in the country can be categorized into two groups: large and small-scale. Large-scale mining is capital intensive and highly mechanized. It can produce commercial quantities to satisfy the requirements of the export market and large industries on a regular basis.² Small-scale mining however, relies heavily on manual labor (almost 10 times over than those required by large scale mining) and employs simple tools and technology. Its annual production does not exceed 50,00 metric tons.³ Based on the Directory of Philippine Producing Mines and Quarries in 2001, there are 2,529 producers of non-metallic - sand and gravel, limestone, cement, marble, silica, phosphate, clay, feldspar, ceramic materials and the likes. On the other hand, there are 12 metallic mines engaged in the production of gold, silver, copper, nickel, and chromites.⁴ Among them, Padcal Copper Mine (Benguet), Victoria Gold Mine (Benguet), Rio Tuba Nickel Mine (Palawan), Cagdianao Nickel Mine (Surigao), Taganito Nickel Mine (Surigao), Krominco Mine (Surigao del Norte), and Masinloc Chromite Mine (Zambales). The country's mineral industry is basically export oriented and its main market is Japan. Its other markets include the U.S., Taiwan, South Korea, China, Indonesia, Singapore and Thailand.⁵

¹ Clark, Allen, "Mineral Prospectivity of the Philippines", Mining Philippines Conference, Manila (1997).

² Tujan, Antonio and Guzman, Rosario, Globalizing Philippine Mining (Revised Edition), Ibon Foundation, 2002, p. 42.

³ Liberalization of the Philippine Mining Industry, A Road to Industrial Development, Center for Environmental Concerns, 1997.

⁴ Mines and Geosciences Bureau.

⁵ Mining Investment Opportunities in the Philippines, 1991, Office of the President.

1.1 Government Policy to Promote the Mining Sector

The industry's share to economic development has declined over the years from 20% of exports in the early 80s to 2% in 2001. In terms of GDP, it used to account for 2% of GDP but in 2001, it was just 1% of GDP.

⁶ This decline can be attributed to a number of factors including: a soft international market; low world prices for principal metal products; and general lack of investments in the global mineral industry.

| Table 1. Economic Contribution (CY 2001) | |
|--|--|
| Source: consolidation of data from Wallace Philippine Mining Report (2003) | |
| Production Value | P 26.3 Billion |
| Value-Added Contribution | P 10.0 Billion or 1.1% of Philippine GDP |
| Exports | US\$ 537 million or 1.6% of total Philippines exports |
| Paid-up Investments | P 261 Million |
| Direct Employment | 104,000 |
| Wages and Benefits | P 4 to 5 Billion |
| Taxes and Fees | P 2.2 Billion |
| Multiplier Effect | For each mining job, 4 to 10 allied jobs created upstream and downstream |

But the most significant local factor in the decline of mining industry in the Philippines can be attributed to increasing stakeholder activism of various civil society groups and the Catholic Church. Many groups have been very vocal with their engagement with the government and mining companies over the issue of social acceptance and sustainability of mining practices. Indeed, they have succeeded in blocking the entry of foreign players by challenging the constitutionality of the financial and technical application agreement (FTAA) as well as raising a legal issue on the potential conflict between the Mining Act of 1995 and the Indigenous Peoples Reform Act (IPRA). This activism, is present at every step from service delivery to policy development and political mobilization. It has developed into coalitions and has managed, to a large degree, in securing a “mining ban” in the country.

In a bid to resuscitate the ailing industry, the government of President Gloria Arroyo has changed its policy towards mining, from one of “tolerance” to “promotion”. This policy change can be seen in the new draft of the National Minerals Policy (NMP) that aims to encourage sustainable mining and greater reporting and transparency. The draft NMP is aimed at strengthening further Republic Act 7942 or the Philippine Mining Act of 1995 to attract foreign mining investors back into the country ⁷ and address pressing policy gaps and stakeholder issues and concerns. If the mining sector is revived, the government is expecting to get an average of US\$380 million worth of mining investments annually over the next 10 years. Table 2 below shows the potential benefits that would accrue to local and national governments.

⁶ Peter Wallace, The Philippine Mining Situation Report, 2003.

⁷ In terms of foreign investment attractiveness, the Philippines (32%) is at the bottom end of the investment attractiveness index in a survey released by the Fraser Institute (Canada) of Mining companies in 2002/2003.

| Table 2. Benefits Stream During the Life Cycle of the Mine | | |
|--|---|--|
| Source: Mindanao Association for Mineral Industry | | |
| Exploration/Development/ Construction Phase | Operating Phase | |
| Pre-Operating | Recovery Period | Post-Recovery Period |
| Expenditures and Benefits | Expenditures and Benefits | Expenditures and Benefits |
| <ul style="list-style-type: none"> • Exploration • Development and Construction • Local Taxes • Indirect Taxes • Direct Employment • Indirect Employment • Social Infrastructures • Environmental Improvements • Development of Geosciences and Mining Technology | <ul style="list-style-type: none"> • Local Taxes • Indirect Taxes • Direct Employment • Indirect Employment • Social Infrastructures • Environmental Improvements • Development of Geosciences and Mining Technology | <ul style="list-style-type: none"> • National taxes • Additional Government Share • Local Taxes • Indirect taxes • Direct Employment • Indirect Employment • Social Infrastructures • Environmental Improvements • Development of Geosciences and Mining Technology |

1.2 Policy Responses to Stakeholders Concerns: The Mining Act and NMP

The Mining Act of 1995 and its implementing rules and regulations have addressed some gaps in establishing a sustainable mining regime in the Philippines. The Act was designed to transform the “environmental and social responsibilities of mining operators as major cost centers”.⁸ Specifically, the mining companies are obliged to allocate:

- 10% of capital investments for environment-related structures;
- 3% to 5% for annual environmental programs;
- 1% of direct mining and milling costs for social and community development;
- 1% of annual gross revenues as royalty to Indigenous Groups, if present in mining area;
- Cost of Final Mine Rehabilitation and Decommissioning, including costs of ten year maintenance and monitoring period; and
- Monitoring fund of the multi-partite monitoring committee (DENR, LGU, mining company, host community and accredited NGO).

Indeed, the Mining Act generated a remarkable change in the way mining is conducted in the country. The strong environmental component of this Act, which was largely driven by the negative impacts of previous mining activities, addresses some of the concerns of the stakeholders. However, stakeholder groups have increasingly tied environmental concern to social justice issues and organizations in which ethnic, class and gender politics are central themes. Among the issues tied to environment and social justice are worker rights, economic justice and gender discrimination. Also, recent incidents involving mining firms such as Marcopper and Manila Mining have most especially affected public perception and contributed to the poor image of the industry.

⁸ Cabalda, et. al., Sustainable Development in the Philippine Minerals Industry: A Baseline Study, IIED (UK), 2002, p. 6.

The government has drafted a new National Minerals Policy that aims to address the interlinked issues of the environmental and social impacts and “promote sustainable development through responsible mining practices”.⁹ The current draft has four major policy thrusts:

- i. Protection and rehabilitation of the environment
- ii. Promotion of social and community stability
- iii. Preservation of options for future generations
- iv. Establishment of a competitive and prosperous minerals industry

Each policy thrust consists of specific policy objectives that address specific issues relating to the Precautionary Principle; the Polluter Pays Principle; Free and Prior Informed Consents in Ancestral Domain Areas; the Role of NGOs and LGUs; Community Development; Consensus Building; and Mine Rehabilitation. The draft NMP also aims to address some of the barriers to the growth of mining in the country. Among them:

- High production costs associated with labor intensive practices, rising labor costs and growing trade union militancy;
- Higher taxation levels than other host nations with the Philippine complex royalty, excise, realty, capital goods, income and value-added taxes; and
- High interest rates as a result of foreign financial bodies not willing to provide long term loans due to fears of policy instability.

1.3 Current Situation

At the time of writing this report, the draft National Minerals Policy (NMP) is being discussed with various stakeholder groups in a series of consultations managed by the Mines and Geosciences Bureau (MGB) of the Department of Environment and Natural Resources (DENR) and the Philippines Working Group (PWG) headed by Father Peter Walpole of the Ateneo de Manila University. MBG is tasked to conduct stakeholder consultations on the draft NMP in thirteen regions and draft the comprehensive NMP document and framework that could serve as the guidance document for the signing of an Executive Order (EO) by President Gloria Arroyo later this year. The PWG is tasked to conduct constructive engagement with stakeholders to gather their recommendations on “unresolved” mining issues and input the same to the draft NMP comprehensive document in order to come-up with an affirmative action plan on mining.

Both the final NMP comprehensive document and the Action Plan on Mining will feed into the World Bank supported regional consultations to be held in the Cordillera Administrative Region (CAR) for Luzon, Cebu in the Visayas, and CARAGA region in Mindanao. The regional workshops will include mine visits and will highlight best practices in modern mining in the country. International best practice examples will be presented by practitioners around the world. Following the workshop, study tours are being proposed in Canada, Australia and Peru to raise the awareness of stakeholders on best practices in modern mining abroad. The whole process will culminate in a National Mining Conference in November 2003 that will involve the signing of the DENR Administrative Order adopting the NMP comprehensive document and adoption of the Action Plan to address outstanding mining issues.

⁹ Director Horacio Ramos of MGB in a speech before the Philippine Minerals Exploration Association (February 2003).

2. EXTENT OF ALIGNMENT BETWEEN CSR ACTIVITIES AND THE PRIORITIES IN THE DRAFT NATIONAL MINERALS POLICY

Applying the Diagnostic Tool, the researcher selected the boundary of the exercise to be industry-wide to include only large-scale mining operators in the country. He then applied the public policy approach that was then applied as the pathway for aligning public sector priorities and those aspects of the CSR inventory of categories.

There are at least 22 CSR categories divided into four CSR themes – economic, environmental, social and corporate governance, that have been identified in the Diagnostic Tool (Version 1.0). For each CSR category a series of *sub-categories* are described to capture some of the main activities currently engaging different types of corporations and their affiliates around the world. Their purpose is to provide a starting point for discussion with public sector officials about the business perspective on corporate social responsibility. In the case of the Philippines, the 22 categories were examined and analyzed and have been found to be practiced by large-scale mining operators.

These CSR activities divide broadly into two types: those driven by laws and regulation, and those driven by some strategic business objective that goes beyond legal compliance. In either case the result of business exercising its corporate social responsibilities is often some type of public good relating either to government policy or agencies discharging their public and statutory responsibilities. The Diagnostic Tool (Version 1.0) indicated thirteen types of public sector responsibilities and and/or policy arenas as follows:

- Trade and foreign Investment
- Fiscal and monetary policy
- Private sector development and industrial policy
- Infrastructure development
- Decentralization and local government
- Employment and manpower
- National institutions and reform
- Health Care Services
- Education and youth development
- Poverty reduction
- Environmental protection and rehabilitation
- Food security
- Political stability

The 22 CSR categories and the 13 public sector priorities provide a starting point for applying possible areas of alignment between each of the CSR categories in the framework and the above public sector responsibilities and policy arenas. The intention is to recognize that government officials will be based in particular ministries or departments and may wish to rapidly identify the relevance of the broad CSR agenda to their own public and policy mandate – in this case the draft National Minerals Policy.

Table 3 highlights the alignment between CSR and public sector responsibilities and policy arenas in the context of the draft National Minerals Policy.

Table 3: Alignment of Public Sector Priorities with CSR

| CSR Category | Public Sector Responsibilities and Policies | | | | | | | | | | | | |
|--|---|----------------------------|--|--------------------------------|---------------------------------------|-------------------------|----------------------------------|----------------------|---------------------------------|-------------------|--|---|--------------------------------|
| | Competitive & Prosperous Minerals Industry | | | Social and Community Stability | | | | | | | Protection & Rehabilitation of Environment | | Preservation of Future Options |
| | Trade & Foreign Investment | Fiscal and Monetary Policy | Private Sector Development and Industrial Policy | Infrastructure Development | Decentralisation and local government | Employment and Manpower | National Institutions and Reform | Health Care Services | Education and Youth Development | Poverty Reduction | Political Stability | Environmental Protection and Rehabilitation | Food Security |
| ECONOMIC | | | | | | | | | | | | | |
| Monetary flows to the public sector | | | | | | | | | | | | | |
| Employment and human resource development | | | | | | | | | | | | | |
| Procurement and supply chain management | | | | | | | | | | | | | |
| Technology transfer and intellectual property rights | | | | | | | | | | | | | |
| ENVIRONMENT | | | | | | | | | | | | | |
| Environmentally safe production, products and services | | | | | | | | | | | | | |
| Environmental impact assessment and management | | | | | | | | | | | | | |
| Environmental reporting and management systems | | | | | | | | | | | | | |
| SOCIAL | | | | | | | | | | | | | |
| Health and safety of employees | | | | | | | | | | | | | |
| Labor standards | | | | | | | | | | | | | |
| Corruption and Bribery | | | | | | | | | | | | | |
| Human Rights | | | | | | | | | | | | | |
| Violence and Conflict | | | | | | | | | | | | | |
| Social impact assessment management | | | | | | | | | | | | | |
| Community and stakeholder engagement (non-commercial) | | | | | | | | | | | | | |
| Charitable giving | | | | | | | | | | | | | |
| Social investment | | | | | | | | | | | | | |
| Social reporting and management systems | | | | | | | | | | | | | |

| CSR Category | Public Sector Responsibilities and Policies | | | | | | | | | | | |
|---|---|----------------------------|--|--------------------------------|---------------------------------------|-------------------------|----------------------------------|----------------------|---------------------------------|--|---------------------|---|
| | Competitive & Prosperous Minerals Industry | | | Social and Community Stability | | | | | | Protection & Rehabilitation of Environment | | Preservation of Future Options |
| | Trade & Foreign Investment | Fiscal and Monetary Policy | Private Sector Development and Industrial Policy | Infrastructure Development | Decentralisation and local government | Employment and Manpower | National Institutions and Reform | Health Care Services | Education and Youth Development | Poverty Reduction | Political Stability | Environmental Protection and Rehabilitation |
| CORPORATE GOVERNANCE | | | | | | | | | | | | |
| Rights and treatment of shareholder | | | | | | | | | | | | |
| Governance policies and business principles | | | | | | | | | | | | |
| Responsibilities of the Board | | | | | | | | | | | | |
| Information Disclosure and Reporting | | | | | | | | | | | | |
| Customer/end-user care | | | | | | | | | | | | |

3. BUSINESS LEVEL OF ATTAINMENT IN CSR

The Diagnostic Tool provides guidance on how to make a nominal judgment on the current state of a particular sector with regard to its progress in adopting different *CSR activities*. One aim of this particular exercise is to establish a simple baseline against which government can make a more informed choice about which public sector options are practicable in the business context.

Four simple levels of business attainment of CSR are used:

R – resisting – companies consistently failing to meet minimal legal and regulatory compliance requirements and/or resisting higher standards of corporate and social responsibility when there is no clear argument that commercial interests would be compromised;

L – compliance (legal) – companies that limit their corporate and social responsibilities to meeting the minimum legal and regulatory requirements of the host country;

C – Compliance (corporate) – companies that have established and published their own business principles, and who have, or are progressing with the establishment of, management, reporting and independent auditing systems for corporate governance and environmental and social risk and impact management; and

I - Innovation – companies experimenting with novel approaches to exercising social responsibilities that attempt to optimize the business and developmental benefits.

The application of this diagnostic tool results in an approximate baseline of large scale mining company's CSR activities in the Philippines. The results of this exercise can be seen in the left hand columns (in blue)

of Annex A. Annex B then presents detailed examples of corporate social responsibility activities of large scale mining companies operating in the country according to each classification.

4. STATUS OF PUBLIC SECTOR CSR INSTRUMENTS AND INTERVENTIONS

The next step in the diagnostic exercise is to consider the current types of instruments and interventions that public sector authorities in the Philippines are taking to encourage the business and development benefits of CSR activities. Working with one CSR category at a time, the researcher identified from the menu of the 'types' of instruments and interventions public sector authorities can take to encourage the business and developmental benefits of CSR activities. The result is a crude measure of the current status of government engagement with CSR.

The types of interventions provided in the generic diagnostic tool are not a prescribed set of recommendations for government, nor are they prioritized in any way. They are a collection of known public sector instruments and interventions, some standard in many countries, others more innovative. The instruments are classified into four groups:

- i. **Mandating** – laws, by laws, regulations and penalties pertaining to the control of some aspect of business investment or operations;
- ii. **Facilitating** – incentives, non-binding guidance and codes, endorsements and deterrents, such as market stimulation, tax incentives, awareness raising, processes of stakeholder dialogue and publicity and praise.
- iii. **Partnering** – combining public resources with those of business to leverage complementary resources, realize economies of scale and cross-fertilize best practices;
- iv. **Endorsing** – showing public political support for CSR performing companies and facilitating civil society organizations in the form of publicized praise or awards; involving leadership companies in the public policy arena; endorsing specific metrics, indicators, guidelines and standards; and “leading by example” through public sector procurement practices.

The results of applying this stage of the diagnostic exercise to the mining sector in the Philippines can be seen in the four right hand columns of Annex A. The reader can see in red text the type of roles and instruments that are currently practiced by the Philippine government that affect the enabling environment for CSR activities of the mining sector, while those in black are the types of interventions that are not yet being utilized. Annex C provides the detail on selected examples of the roles and instruments currently being used by the government of the Philippines to strengthening CSR in the sector, while Annex D presents selected examples of public sector roles being used in other developing countries to strengthening CSR

5. CONCLUSIONS AND RECOMMENDATIONS FOR TECHNICAL ASSISTANCE

The conclusions presented in this section refer to the outcome of the CSR diagnostic exercise, the joint MGB/BOI Philippine Mineral Industry Roadmap and the revised schedule of activities being proposed between project partners that lead up to the National Mining Conference in November 2003.

The draft diagnostic report clearly demonstrates that CSR activities are directly relevant to achieving public sector objectives. The key challenge is how to increase this alignment and strengthen the government case

for CSR as a key investment objective. The diagnostic exercise demonstrates that large scale mining operations in the country are making significant contributions to these objectives, though their CSR activities are further advanced or progressive in some areas rather than others. The public sector roles being played by the government of the Philippines have, according to this study, largely been focused on 'mandating' and 'endorsing' corporate behavior.

The diagnostic identifies that the **partnering and facilitating roles** of government could be strengthened. The CSR Practice's technical assistance could help support the government fulfill these roles:

i) Case Studies of Best Practice in the Philippines

Following government interest in utilizing local best practice examples in its dialogue with stakeholders, the CSR Practice commissioned consultant Mr. Colin Legarde Hubo, faculty member of the University of Asia and the Pacific (UA&P) in Manila to prepare a draft report for MGB detailing three local examples of mining companies' approaches to CSR. The Technical Working Group (a multi-stakeholder group which includes BOI and MGB) then managed the final process of verifying the information with each of the companies. The case studies will be published in early October 2003 and will be used in a number of different stakeholder consultations.

ii) Comparative Analysis of Mining Company Codes of Conduct

The CSR Practice commissioned Foley Hoag, a law firm in Washington DC that specializes in CSR, to prepare a comparative analysis of mining company codes of conduct. The report is presented in the form of a series of matrices and includes approximately 30 different company and industry association codes (including those of a few domestic mining companies) broken down into key CSR themes: Labor and Human Rights, Environmental Issues, and Socio-Economic Issues. The report will have many uses within government (both central and local) and could potentially be used by other stakeholders as well.

The Philippine government is considering the usefulness of a subsequent piece of work to compare these codes with national legislation requirements on these issues.

iii) Regional Workshops and Study Tours

The Mining and Geosciences Bureau recently held three regional workshops in the key mining regions. The purpose of these workshops was to share best practice in sustainable mining. The CSR Practice will contribute to efforts to bring practitioners in best practice to the workshops so that stakeholders can hear first hand of their experiences.

iv) Stakeholder Training

Local government actions and initiatives can contribute to social acceptance of sustainable mining in the country. Stakeholders at the local level should have access to instruments for greater participation in CSR activities. The Natural Resources Cluster of Business Partners for Development developed a set of training modules to create awareness for a tri-sector partnership approach to the management of social issues in the extractive industries. The modules build

capacity and skills of participants to navigate the complex task of exploring, building and maintaining this new type of partnership.

The CSR Practice has agreed to support the government in its facilitation role by commissioning the adaptation of the [Natural Resources Cluster training modules](#) so that they directly relate to stakeholder issues in the three key mining areas. The modules will incorporate some of the concerns expressed in the regional consultation workshops held in September 2003 and will later be offered to stakeholders at each of the key mining areas as part of the implementation program that will follow the National Mining Conference.