

## Annex C.

### Selected Examples of Public Sector Roles being used by the government of the Philippines to Strengthen CSR in the Mining Sector

CSR Themes	Examples of Public Sector Roles
<b>ECONOMIC</b>	<p><u>EXAMPLE 1: Tax Incentives</u></p> <p>To encourage CSR, the government gives tax incentives to corporations engaged in business or in the practice of profession who donate to public or private institutions. Mining corporations qualify for tax incentives when they comply with the procedural requirements imposed by the TX Code of 1997: the Corporate Code of the Philippines. The Tax Code of 1997 provides two basic incentives for corporations:</p> <ul style="list-style-type: none"> <li>• Exemption from the donor's tax</li> <li>• Deduction from taxable income</li> </ul> <p>Other special laws which provide tax benefits to corporations engaging in certain forms of CSR:</p> <ul style="list-style-type: none"> <li>• Republic Act 7686 (Dual Training System Act of 1994). Deduction of 50% of actual system expenses paid to the TESDA accredited institution.</li> <li>• Republic Act 8525 (Adopt-a-School Act of 1998). Deduction from taxable income Of 50% of actual expenses</li> <li>• Republic Act 6791 (Productivity Incentives Act of 1990). Deduction from taxable income equivalent to 50% of the total productivity bonuses over and above the total allowable; Deduction from taxable income equivalent to 50% of the total productivity bonuses over and above the total allowable.</li> </ul> <p>Other Incentives:</p> <ul style="list-style-type: none"> <li>• Incentives for Pollution Control Devices: All pollution control devices and facilities acquired, constructed or installed by the mining firm will not be subjected to real property tax and other taxes or assessments.</li> <li>• Incentives for Income Tax Carry Forward of Losses: During the first ten years of its operation, a mining firm can carry over its net losses as a deduction from taxable income for the succeeding 5 years immediately following the year of such loss.</li> <li>• Incentives for Income Tax Accelerated Depreciation: All fixed assets invested by the mining firm in the contract area can be depreciated up to twice the normal rate of depreciation.</li> </ul>
	<p><u>EXAMPLE 2: Presidential Mineral Industry Environment Award</u></p> <p>Recognizes outstanding levels of dedication, initiative and innovation in the pursuit of excellence in environmental management by exploration, mining and other related entities involved in various aspects of mineral utilization. The scope of the environmental management includes among others programs/projects being implemented for the environmental protection and enhancement of mining areas, development of the host and neighboring communities, land use improvement, exploration and mining site rehabilitation and final decommissioning. The PMIEA was established under Executive Order No. 399 on February 1997. The award has six categories: mineral exploration, quarry operation, surface mining operation, underground mining operation, mineral processing and research and development. The award uses the following criteria:</p> <ul style="list-style-type: none"> <li>• Mine rehabilitation</li> </ul>

## ENVIRONMENT

- Pollution Control
- Community Development
- Information, Education and Communication Campaign
- Provision for the Development of an Effective Safety and Health Program and an Environmental Management System
- Reforestation
- Other Initiatives

Evaluation is guided by the following:

- Extent to which environmental/social management tools are applied to address potential environmental/social impacts;
- Development and application of new or innovative technique, systems or practices in environmental/social management;
- Cost effective, quality, sustainability and significance of environmental/social management tools
- Adaptability and transferability of mining operations to other sectors of the mineral industry and beyond

### EXAMPLE 3: Adopt a Tree and Adopt a Mining Forest Program.

The objectives of the program are:

- to accelerate the vegetation/re-greening of the country's denuded/degraded mountains and range lands so as to improve water yield capacity and timber production;
- to promote effectively the protection of the remaining and/or available natural forest as source of potential endemic species for educational and scientific research purposes;
- to promote voluntarism among the residents in the rehabilitation and protection of forest lands;
- to promote the "bayanihan" spirit or camaraderie and self-reliance among marginal sectors towards the improvement of ecosystem.

Sites for reforestation include mined-out areas, slopes, decommissioned tailings ponds, causeways and waste dumps and vacant lots within mining communities.

### EXAMPLE 4: Presidential Decree 463 and 1198

Provisions on how to deal with environmental and social aspects of mining operations. Social obligations under PD 463 include the allotment of 10% of the annual work obligation for the "protection and enhancement of the environment"; the allocation of 1/2 of 1% of the budgeted operating cost for socio-economic development and the posting of a performance bond for every hectare of active mining area to be utilized for mine rehabilitation.

PD 1198 which requires mining companies to "the fullest extent possible, restore, rehabilitate, and return the lands, rivers, and the natural environment subject thereof (mining, quarrying, etc) or affected thereby to their original conditions as of before such operations of the mine".

### EXAMPLE 5: Executive Order 279

Passage of Executive Order 279 (1989) which ushered the shift from the leasehold system to production sharing agreement, co-production, joint venture and financial and technical assistance agreements with foreign owned corporations. The EO contained provisions for progressive rehabilitation, environmental protection and industrial health as well as the development of mining communities and geosciences and mining technology.

### EXAMPLE 6: Republic Act 7942

Passage of Republic Act 7942 or the Philippine Mining Act of 1995 which provides, among others, (1) built-in protection for the indigenous peoples through the "prior informed consent" requirement; (2) life-of-mine environmental and social provisions; (3) competitive fiscal regime including incentives; (4) equitable sharing of the benefits of mining among the stakeholders including the national and local government, the community.

Programs for Environmental Protection and Enhancement Programs (EPEP) and Final Mine Rehabilitation/ Decommissioning Plan have been identified. Expenditure commitments for environmental and social responsibilities were mandated such as 10% of capital expenditures for initial environment-related expenses and 3% to 5% of direct mining and milling costs for annual

## ENVIRONMENT

environmental programs. The 1% of the annual direct mining and milling costs would be utilized to implement the Social Development and Management Program (SDMP) for the development of the host and neighboring communities and development of mining technology and sciences. An additional 1% of the gross output is given if the mining project is located in ancestral domain lands and shall be utilized for the socio-economic well-being of the concerned indigenous peoples group (IP).

### EXAMPLE 7: DENR - Department Administrative Order (DAO) 95-23

Department Administrative Order (DAO) 95-23 (1995) stipulates that mining companies shall:

- Progressively rehabilitate mine impact areas through an Annual Environmental Protection and Enhancement Program (AEPEP)
- Establish a Mine Rehabilitation Fund (MRF) as an environmental deposit to ensure satisfactory compliance with the EPEP and AEPEP: Monitoring Trust Fund (MTF) of P50,000 and the Rehabilitation Cash Fund (RCF) maintained at 10% of the total cost to implement the EPEP or P5 million, whichever is lower.
- Establish a Mine Environment Executive Office (MEEEO)
- Submit a final Mine Rehabilitation/Decommissioning Plan five (5) years before decommissioning with financial requirements
- Create incentives for pollution control devices
- Conduct an environmental monitoring and audit through a Multipartite Monitoring Team (MMT)
- Develop mining communities, sciences and mining technology transfer
- Seek prior consent from Indigenous Peoples groups
- Adhere to the Mine Safety and Health Program (SHP) requirements from operating mines

### EXAMPLE 8: Department Administrative Order (DAO) 96-40

Department Administrative Order (DAO) 96-40 stipulates that mining companies shall:

- Establish a Contingent Liability and Rehabilitation Fund (CLRF) incorporating the MRF and the Mine Waste and Tailings Fee Reserve Fund (MWTRF). The MRF remains divided into the RCF and the MTF. An Environmental Trust Fund (ETF) also established to pay for damages other than those caused by mine wastes and tailings (e.g. blasting)
- Pay a penalty per metric ton for unauthorized discharge of mill tailings
- Adhere to Mine Safety & Health Standards through the establishment of a Safety & Health Program and Emergency Response Programs

DAO 96-40 also created the Philippine Mineral Industry Environmental Award (PMIEA)

### EXAMPLE 9: Republic Act 39-31

The Republic Act 3931 or the Pollution Control Law declares that the "national policy to maintain reasonable standards of purity for the waters and air of this country with their utilization for domestic, agricultural, industrial and other legitimate purposes".

### EXAMPLE 10: Presidential Decree 1152

Presidential Decree 1152 or the Philippine Environment Code contains a direct reference to mining, "the production, utilization, storage and distribution of hazardous, toxic and other substances such as radioactive materials, heavy metals, pesticides, fertilizers, and oils and disposal, discharge and dumping of untreated wastewater, mine-tailings and other substances that may pollute any body of water of the Philippines resulting from normal operations of industries, water-borne sources, and other human activities, as well as those resulting from accidental spills and discharges shall be regulated by appropriate agencies pursuant to their respective charters and enabling legislations".

### EXAMPLE 11: Presidential Decree 1586

Presidential Decree 1586 which established the Environmental Impact Statement (EIS) for "environmentally critical projects" that needed Environmental Compliance Certificate (ECC) prior to the development and operational stage. The EIS prepared by the company is subject to (1) procedural review to determine completeness of information and compliance with prescribed format and (2) substantive review by a multi-disciplinary Environmental Impact Assessment Review Committee (EIARC) composed of experts from technical and scientific fields relevant to the project. Public participation and social acceptability are integral in the substantive review.

	<p>One of the important features of the EIS is the scoping intended to define the range of issues, actions, alternatives, and impacts that should be included in the study. It also aims to determine whether a proposed project requires the conduct of an Environmental Risk Assessment (ERA) which is a process of analyzing and describing the risks associated with a project to ecosystems, human health, and welfare. The proponent, DENR, and the stakeholders undertake this activity.</p> <p><b><u>EXAMPLE 12: Local Government Code of 1991</u></b></p> <p>Local Government Code of 1991 which mandates local government units to take part in the planning and implementation of any program or project that may cause pollution, climatic change, depletion of non-renewable resources and consult with the NGOs and other sectors concerned to explain the goals and objectives of the project, its impact upon the people and the community in terms of ecological balance and to undertake measures to minimize the adverse impacts thereof. Specific to mining, projects that are progressing to development and extraction stage must secure the prior approval from any two of the concerned provincial, municipal, or barangay support for its application. The proof of prior approval, endorsement, consultation shall be in the form of a formal Resolution or Certification by the concerned local government units.</p> <p><b><u>EXAMPLE 13: Industry Associations</u></b></p> <p>The government has combined resources with industry associations and organizations in the area of research and continuous improvement of mining sciences and technologies in the Philippines as well as to promote health and safety. Such organizations include the Chamber of Mines of the Philippines, the Philippine Mine safety and Environment Association, the Marble Association of the Philippines, Federation of Non-metallic Mines of the Philippines, Miners Association of the Philippines, Philippine Society of Mining Engineers, Philippine Institute of Mining, Metallurgical and Geological Engineers, Inc. Society of Metallurgical Engineers of the Philippines, Geological Society of the Philippines and the Philippine Cement Manufacturers Corporation.</p>
<p><b>SOCIAL</b></p>	<p><b><u>EXAMPLE 14: Stakeholder Dialogue</u></b></p> <p>Local government units and MGB act as facilitator of dialogue process at the community level to help the community reach an informed decision on the social acceptability of a mining project as requirement for securing an Environmental Compliance Certificate (ECC).</p> <p><b><u>EXAMPLE 15: Raising Awareness on Health and Safety</u></b></p> <p>Public sector agencies have collaborated with private sector agencies in raising awareness on the health and safety aspects of the mining operation. These private sector agencies are the Philippine Mine Safety and Environment Association (PMSEA), the Safety Organization of the Philippines and the International Loss Control Institute based in USA.</p> <p><b><u>EXAMPLE 16: Community Technical Working Group</u></b></p> <p>The voluntary establishment of the CTWG is considered as the primary tool for the development and implementation of community programs and projects in consultation and in partnership with the host and neighboring communities within an exploration site. The objective of the group is organize communities, local government units, and other stakeholders to actively participate in the monitoring of environmental performance of the exploration project and to facilitate discussion within and among stakeholders on issues pertaining to community resource use.</p> <p><b><u>EXAMPLE 17: Partnering with Government Agencies</u></b></p> <p>Public sector agencies such as TESDA, DECS, DOH, DOLE, and DTI are partnering with the companies in the delivery of training programs on skills enhancement, health projects, human resource development, and educational projects.</p> <p><b><u>EXAMPLE 18: Indigenous Peoples Rights Act</u></b></p> <p>Recognizes the rights of Indigenous Peoples to their ancestral domains and provides for the recognition of customary laws and traditional practices in indigenous cultural communities (ICC). It gives Indigenous People the right to explore, develop, and utilize the natural resources within. This law provides more security to Indigenous People and addresses the aspiration of tribal peoples for</p>

greater self-determination and self-governance. The concept of free and prior informed consent' (FPIC) and the procedures for obtaining it are in the Rules and Regulations Implementing the IPRA. The FPIC is expressly defined as an instrument of empowerment whereby Indigenous Peoples are enabled to exercise their right to self-determination. The inclusion of the word "free" in the FPIC is distinct from the Mining Act's "prior and informed consent".

#### EXAMPLE 19: ILO Convention 176

ILO Convention No. 176 ratification by the Philippine Senate and integrated into DENR Administrative Order 2000-99, Mine Safety and Health Standards of 2000 which provides (1) that safety and health be a priority in the design, operation and maintenance of mines; (2) a right to know provision requiring the government or the employer to provide workers with information on any workplace health and safety hazards; (3) the right of workers representatives to take part in investigations, to be involved in the development of safety policies and procedures to monitor safety and health practices and to seek independent advice and (4) the right of mineworkers to "remove themselves from any location of the mine when circumstances arise which appear with reasonable justification to pose serious danger to their safety and health", among others.

The Mine Safety and Health Standards of 2000 also require the submission of an annual Safety and Health Program and Emergency Response Program (ERP).

#### EXAMPLE 20: Safest Mines and Quarries and Best Mine Personalities

A private sector collaboration under the leadership of the Philippine Mine Safety and Environment Association (PMSEA), the award recognizes mining companies and employees with the best mine safety performance. The categories are safest underground block caving operation, safest underground stopping operation, safest surface operation, safest quarry operation, safest cement operation, safest combined surface and underground operation, safest concentrator and most improve safety record award.