The Global Crisis and the Philippine Mining Industry: Impact and Policy Responses
Executive Summary

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I. Impact of the Crisis on the Sector

There are two levels in which mining activities affected by the global slowdown will economically impact the Philippines – at the national and local levels. The channels in which the impact will be felt are through investments, exports, jobs and taxes. During its peak in the 1980s, it contributed a 2.10% to current GDP, 25% to total exports, and about 13% to government taxes. It also employed an average of 134,000 workers or less than half a percent of the country's employed labor force of 32.5-million. Furthermore, it contributes to national development through the development of its host communities by providing roads, churches, markets, schools, housing, utilities (electricity and water) and hospitals. In fact, mining has spurred the growth and development of towns and cities like Baguio, Sipalay and Toledo (Manuzo, 2002)

The favorable policy environment coupled with attractive global prices and heightened promotional efforts have rekindled once again the importance of mining activities. In 2007, mining activities account for 1.4% of current GDP, 5.4% of total exports, and about 153,000 or about .4% of total employment. Mining recorded its highest employment level in 1989, with about 168,000 workers—about 0.77% of the total work force then. The employment figures include operations from mining and quarrying activities and thus grossly overestimate the total employment contribution of large scale metallic mining companies. It is estimated that current employment generated by large scale mining companies is about 10,000 to 15,000 persons. The current majority of those employed in the industry belong to small-scale mines.

Mining activities contribute to the government coffers in four ways – fees and royalties charged by the MGB-DENR, excise taxes, taxes collected by the national government and taxes collected by the local government unit that has jurisdiction over the mining site. In 2006, the government collected from the mining activities close to P3.1-billion in taxes – up by more than two folds from the P1.4-billion collected in 2002. Recently, the government is able to generate over P10.4-billion in taxes and royalties in 2007 – up more than two folds from P3.5-billion collected in 2004.

A total of 62 mining projects at various stages of development identified by government as priority have infused a total of US$1.85-billion in investments during the period 2004 and the third quarter of 2008. Bulk of these investments went into construction and development stage of 8 companies infusing in the same period about US$835-million and another 12 companies at the operating and expansion stage injecting US$789-million.

From the last quarter of 2008 to 2013, the government projects an additional infusion of US$11.4-billion in investments from mining projects at various stages of development. All these investments are dispersed throughout the countryside where oftentimes poverty levels are high.

Government projections did not provide estimates of additional taxes as well as the exports these new mining projects will generate. However, if all these mining investments push through as projected especially those 8 mines at the development/commercialization and the 12 others at the expansion/operating stages, mineral export levels and taxes will substantially increase from mineral extraction, processing and sales.

Only during the commercial operation of a mine will the national as well as local government and communities fully enjoy the benefits of the mining activities. At the national level, the economic benefits derived from commercial operations are as follows:

- For MPSA: Excise tax on minerals of 2% of market value; 5% if in mineral reserve
- Corporate income tax of 5% or 3% of sales
- For FTAA: Net mining revenue option of 50% of gross output net of deductible expenses or profit-based option of 25% of excess profits (net profit after tax less 40% of gross output)/(1-income tax rate)
- Environmental management fee of 1% of capex during construction
- Mine wastes fee of P.05/MT and tailings fee of P.10/MT

For the LGUs that have jurisdiction over the claims, in addition to realty and business taxes and license permits, their sharing on the 40% excise taxes from a fully operating mine are as follows:

- 20% to the province
- 35% to the municipality
- 45% to the barangay

Other stakeholders can partake from the commercial operations of a mine are as follows:

- Social investment of 1% of direct milling cost of which 90% must be spent on SDMP which directly benefits the communities within and around the mining site and the remaining 10% must be spent on mining technology & geosciences
- If present within the site, indigenous communities get a royalty fee of 1% of gross output

The factors external to the Philippines that discourage investments in exploration and mine development and commercialization are the credit crisis and the softening of world prices and the presence of international anti-mining lobby groups against any form of mining activities. These factors are well-beyond the control of the Philippines.

Credit Crisis and Falling World Prices. In a 2008/2009 annual survey conducted by the Fraser Institute of 658 exploration and other mining-related companies around the world, more than 4 out of 5 believe that at least 30% of exploration companies will be forced out of business in the current economic downturn. The same survey indicated that over 90% of the respondents believe the exploration and development activities of exploration companies will be curtailed with 57% saying that the activity will decline a "great deal," and 85% say that the activities of production companies will be curtailed.

The implications can be adverse to the Philippine mining sector as most of the projects are still at the exploration and feasibility/financing stages. Postponements or outright cancellations of exploration activities can eliminate in the long term all prospects of the Philippines benefiting from mining activities.

The postponement of exploration and commercialization activities can lead to commodity shortages when the economy recovers. According to the same report, "the world may face a shortage of raw materials and sky rocketing commodity prices as the world economy moves past the recession and into renewed growth".

The report further states "the curtailment of development activity will hit in the short-term, likely during the opening phase of the recovery period. The gap between exploration and production typically span five years to ten years. This means that the negative impact from the lack of exploration on commodity supplies will begin to hit as the recovery matures." While it may augur well for existing mining operations, the report observed that "these problems could weaken the recovery and spark inflation fears"

Anti-mining lobby. The spotlight focused on Philippine mining has also rekindled fierce opposition from international and local environmental groups and other non government organizations who are seriously concerned about non-economic issues like the adverse impact on the environment and the violations of rights of indigenous people. The local networks and well-funded machinery against mining has already gained roots in the Philippines and have impeded a number of mining projects.

II. Competitiveness Issues

The global crisis has magnified the structural constraints in the Philippine mining sector. These are the following:

Lack of Formal Linkage between National Bodies and Affected Local Community Stakeholders. While the policy and the national laws are favorable to mining companies, the lack of formal linkage between national bodies and the local stakeholders has led to animosities. Since these local communities which include local government units, communities, academic and religious institutions, are the parties directly affected by either existing or future mining activities, they have limited say on the approval, monitoring as well as knowledge of the mining activities of a company. This lack of knowledge promotes distrust and enmity between the mining companies and the national government bodies that gave them their permits and the local stakeholders. That is why it is common to see LGUs in unity with their stakeholders passing mining moratoriums in their localities despite the presence of nationally approved mining tenements and operations in the area. Moreover, LGUs complain of the lack of transparency as well as delayed remittances of their rightful share on excise taxes of local mining operations. These problems occur because there is a lack of a formal and duly recognize forum or vehicle to bridge the gap between the national bodies, the mining companies and the local stakeholders. No wonder these problems have adversely affected the attractiveness of the Philippines to mining explorations and investors.

Table 1. Philippine Ranking in the Annual Survey of Mining Companies: Mineral Potential

	2008/2009	2007/2008	2006/2007	2005/2006
Mineral Potential				
Current policy potential index	59	60	61	60
Policy/mineral potential assuming no land use restrictions in place	24	1	35	28
Current mineral potential assuming current regulations & land use restrictions	50	52	47	40
Total Number of Countries Covered	71	65	65	64

Source: 2008/2009 Fraser Institute Annual Survey of Mining Companies

The ranking of the Philippines in terms of policy and mineral potential assuming no land use restrictions in place and current best practices are in place has deteriorated from being number rank number one to 24th place (Table 1). When the regulations are in place including land uses, there is a rapid deterioration in the attractiveness of the Philippines as an investment site. From a rank of 40th, the Philippines now ranks 50th in this category. In summary, the general ranking of the Philippines has remained almost unchanged as reflected by the Philippine ranking in terms of the current policy potential index which has hovered between 59th and the 60th. What are the factors contributing to the lack of improvements in this particular ranking? The 2008/2009 Fraser Annual Survey of Mining Companies can provide insights into the reasons why.

Other Internal Factors. Despite the Philippine Mining Law being adjudged by the World Bank as being the best in the world, uncertainties in their administration, interpretation and enforcement of existing regulations as well as uncertainties in aboriginal land claims, areas covering wilderness areas or parks, socioeconomic agreements and community development conditions and security cloud the bright mineral potentials of the country (Table 2).

Table 2. Philippine Ranking in the Annual Survey of Mining Companies: Factors that Determine the ability of a Jurisdiction to Attract Investments in Exploration

	Philippine Rank	"Best" Jurisdiction	"Worse" Jurisdiction
Uncertainty concerning the administration, interpretation & enforcement of existing regulations	55	Quebec	Venezuela
Environmental regulation	41	Chile	Washington
Regulatory duplications and inconsistencies	64	Quebec	Venezuela
Taxation regimes	32	Wyoming	Zimbabwe
Uncertainty concerning native/aboriginal land claims	62	Wyoming	Ecuador
Uncertainty concerning which areas will be protected as wilderness areas or parks	55	Kazakhstan	California
Infrastructure	53	Nevada	Kyrgyzstan
Socioeconomic agreements/community development conditions	59	Nevada	Ecuador
Political stability	57	Alberta	Zimbabwe
Labor regulations/employment agreements	50	Wyoming	Venezuela
Geological database	53	Norway	DRC (Congo)
Security	68	Utah	Zimbabwe
Supply of labor/skills	34	Nevada	DRC (Congo)
Current policy & mineral potential	38	Quebec	Guatemala

Source: 2008/2009 Fraser Institute Annual Survey of Mining Companies (Number of jurisdictions being ranked: 71)

Lack of Knowledge by Local Finance Institutions about Mining Operations. The conspicuous absence of substantial funds from the local finance institutions in the mining exploration and development stage can be traced to their lack of knowledge and appreciation about the mining activities. The Philippines continue to look up to foreign capital to fund exploration, feasibility and commercial development of its mines. Perhaps, in addition to mobilizing the excess liquidity in the financial system, active participation by the local financial institutions can be an effective and good signal to foreign investors about the degree of confidence the locals have on the country's mining sector.

Poor or Limited Monitoring of Mining Activities. The lack of manpower as well as resources by the national agencies to monitor each and every mining project and operation threatens the economic and non-economic well-being of the local communities and government units. Unrecorded or under-reported exports of minerals for instance deprive the government and the local communities their rightful share on the natural resource. Bad mining practices of some mining companies can also drag the good name and damage the reputation of other law-abiding mining companies.

III. Actionable Measures

It is an important strategy that any actionable measures to help the sector address its vulnerabilities must be founded on a private-public partnership framework. In order to make the Philippines an attractive area for mining exploration and commercialization, the following action programs are being recommended:

Enrolment in the Extractive Industry Transparency International. The government must enroll the Philippine mining industry as a member of the EITI – an organization that certifies and promotes transparency and best practices and standards in mining industry practices in a particular country.

To promote transparency, mining companies must be encouraged to waive the confidentiality of their tax payments to the government and to fully disclose all their tax payments.

Establish a Formal Linkage between the National Bodies, Companies and the Local Stakeholders of the Affected Communities. There is a need to formulate a locally-oriented, responsive and representative minerals protocol. This mineral protocol must provide the mechanism for representation, dialogue, consultation, education, monitoring, conflict resolution and capacity building of key representatives of the communities. It is envisioned that the local communities must be viewed as authentic partners by both the mining companies and the national government agencies. The mineral protocol must at the minimum ensure the following:

- Authentic human development of all members of the local communities;
- Come up with programs to de-couple economic activities of mining communities from mining activities overtime;
- Promote transparency in the operations and financial transactions;
- Establish a mechanism of engagement between the different stakeholders with adequate representation as early as the pre-exploration stage;
- Enhance the capability of local stakeholders to monitor and assess the different stages of mining activities;
- In coordination with the PNP and AFP, promote peace and order and security in the mining site
- Ensure consistency in the levying of tax laws by LGUs on mining operations
- Devolve at the local level monitoring and assessing the social and economic impact of a mine operation; and,
- Assist draft exit development plans for decommissioned mine sites.

Enhance the economic and non-economic impact of a mine operation. An organization must be in place preferably devolved at the local level with adequate representation from the appropriate government agencies and local communities (perhaps the same organization or group being proposed in the minerals protocol above) to strictly monitoring mineral production and exports, and help assist stakeholders draft their determined programs of spending or allocation of their share on mining operations. Another way to fully optimize the impact of the mine operation is to encourage other sectors to invest in downstream operations like mineral processing plants.

Timely recording and remittance of LGU share. LGU's in order to receive on a timely basis the mandated share of LGUs on the excise taxes collected from mineral operations the following programs must be in place:

- joint certification of tax collections by relevant agencies of government (i.e, DOF-BIR, DENR-MGB, DILG, DOE, DOF-BOC) on the total amount of taxes collected;
- specific timelines for the reconciliation, recording and sharing of all taxes collected by the relevant government agencies in which LGUs are entitled to share;
- Incorporate in the succeeding year's expenditure budget how the LGU intends to spend their share of the excise taxes

According to the latest information provided in the last consultative workshop, the different government offices are in the process of coming up with a memorandum of agreement aimed at streamlining and enhancing the process of recording, computing and informing and disbursing the rightful shares of the LGUs on the taxes from minerals.

Tap Local Financial Markets to Fund Mining Projects. There is a need to educate the local financial institutions about mining operations in order to encourage these institutions to fund mining projects. There are on-going proposals to offer a Mining 101 course in UP to other interested parties like lawyers, accountants, government officials, etc.

The participation of local financial institutions can lead to the mobilization of excess liquidity and to give a positive signal to investors about the commitment and confidence the locals have on mining prospects in the country. Lately, negotiations are on-going with the Philexim bank to extend credit guarantees on loans provided to mining projects.