

FORMALISATION OF THE ARTISANAL AND SMALL-SCALE MINING SECTOR OF THE PHILIPPINES

By

EDMUND M BUGNOSEN
73 Devonshire Road
London E17 8QH
United Kingdom

CASM AGM, Sri Lanka 2004

Formalisation of Philippine ASM

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IMPORTANCE OF PHILIPPINE ASM SECTOR

- **200,000 gold miners and panners and 100,00 miners involved in industrial minerals production**
 - > supporting over one million of the population of the country, or one in every 70 to 80 Filipinos
 - > most (about 80%) are into ASM for subsistence (poverty-driven), minority are in mining as a business enterprise (profit oriented)
- **Generates and/or supports as many as 50,000 formal and informal small businesses such as transport, retail, services, food stalls, repair and maintenance shops, etc.**
- **Produce almost all of the industrial mineral outputs of the country, apart from crushed aggregates & raw minerals for cement production.**
- **Contribute 40% to 50% of the total gold production of the country from 1990-99 but now could be as high as 80%**

CONTINUING CONCERNS AND ISSUES

- **ECONOMIC** - non-payment of taxes, loss of foreign investment, illegal trading/smuggling
- **ENVIRONMENTAL** - land degradation, deforestation, siltation, pollution (Hg), water source/shed denudation
- **HEALTH AND SAFETY** – accidents, disease, hazardous and congested dwellings
- **SOCIAL AND OTHERS** – crime, prostitution, child labour, labour exploitation, land occupancy/use conflicts (with local communities, large companies and among miners themselves)

FORMALISATION APPROACH

- **Legislation**
- **Institutional and administrative support**
- **Decentralized management/issuance of permits and licenses**

REGULATORY/LEGISLATIVE APPROACH

Mining Act (RA 7942) - licensing provisions for quarry resources, sand & gravel, guano, gemstone gathering and mineral processing & trading

Specific small-scale mining laws

- PD 1150 - Gold panning and sluicing permits
- PD 1899 – Development of small mineral deposits (SSM permits)
- RA 7076 - Identification and segregation of peoples ssm mining areas (SSM mineral production sharing contract)
- AO No. 97-30 - Small-scale mine safety rules

Special “reactionary” laws – Proclamations and Administrative Orders to address local issues - e.g. pebble picking, lahar extraction and government –control of gold rush area (Proc No 297)

Contract mining – registration and licensing of ssm mining contractors and encouraging mining right holders enter into agreements with them

GEMSTONE GATHERING PERMIT

Purpose	Extraction and disposition of loose stones used as gemstone
Who can apply	Filipino citizens or other legal person with at least 60% Filipino ownership
Term/duration	Not more than 1 year , renewable for the same period, or upon extraction of volume applied
Other provisions	<ul style="list-style-type: none"> • Permit is transferable • Removal and gathering shall be done manually without the aid of tools & machines • Use of explosives is not allowed

GOLD PANNING & SLUICING PERMITS

Purpose	Extraction of gold from creeks, rivers inside mining claims an in public and private lands
Who can apply	Individual Filipino citizens
Area	2,000 square metres
Duration	3 months, renewable for same period
Other provisions	<ul style="list-style-type: none"> • One permit per individual in any one town • Claim holders or land-owners have priority option to buy gold produced (provided they are licensed to buy gold) • Permit holder pay 12.5% of gross (2.5% to government and 10% royalty to claim holder and/or land-owner. • Restrictions: <ul style="list-style-type: none"> ➢ No employment of minors ➢ No panning/sluicing at night ➢ Use of machines prohibited

GUANO EXTRACTION PERMITS

ITEMS	COMMERCIAL GUANO PERMIT	GRATUITOUS GUANO PERMIT
Purpose	Extraction of guano and other organic fertiliser deposits in specific caves and/or confined areas for commercial disposition	Extraction of guano and other organic fertilisers for own use
Who can apply	Filipinos and companies with at least 60% Filipino ownership, and domiciled in the locality where deposit is located	Filipinos domiciled in the locality where deposit is located and government entities
Size/area	Not more than 5 hectares	Not more than 2 tons
Duration	One year, or upon extraction of quantity applied	Upon collection of volume allowed
Other provisions	<ul style="list-style-type: none"> • One permit issued per cave • Transferable • Use of explosives not allowed 	One permit per cave

SAND & GRAVEL PERMITS

	COMMERCIAL PERMIT	INDUSTRIAL PERMIT
Purpose	Extraction, removal and disposition sand & gravel and other materials used in their natural state without undergoing processing	Extraction, removal and disposition of and gravel and other loose materials that necessitates the use of mechanical process
Who can apply	Filipino citizens and companies with at least 60% Filipino ownership	Filipino citizens and companies with at least 60% Filipino ownership
Size	Not more than 5 hectares	5 to 20 hectares
Duration	One year renewable	5 years renewable 5 times only
Other provisions	<ul style="list-style-type: none"> • Transferable • Surety bond required to cover future damages 	<ul style="list-style-type: none"> • Transferable • Surety bond required to cover future damages

SSM PERMIT AND SSMCONTRACT

	SSM PERMIT (PD 1899)	SSM CONTRACT (RA 7076)
Purpose	Mining of metals and non-metals	Extraction of minerals in declared SSM areas.
Who may apply	Filipinos and companies with at least 60% Filipino ownership.	Filipino cooperatives or associations; local residents have priority.
Size/area	Not more than 50,000 tonnes of ore per year.	Not more than 20 hectares.
Duration	2 years renewable	2 years renewable
Other provisions	<ul style="list-style-type: none"> • Transferable right • License holder must start production within 12 months • Workings <u>up to 50 meters deep</u> • Permit to mine only, <u>separate permit to process ores needed</u> 	<ul style="list-style-type: none"> • <u>Non transferable right</u> • Limited extent of working (to be indicated in contract) • Permit to mine only, <u>separate permit to process ore needed</u>

INSTITUTIONAL SUPPORT

PROVINCIAL MINING REGULATORY BOARDS (PMRB, 1991)

- Composed of representatives from all stakeholders (national and local government, NGO sector, SSM community, large mining companies)
- Main functions
 - Identify, segregate and declare peoples small scale mining areas
 - Management and regulation of declared peoples' ssm mining areas
 - Settle disputes and conflicts that may arise

SMALL-SCALE MINING OFFICES (Mines & Geo-sciences Bureau)

- Regulatory functions (processing permits, enforcement of safety rules and regulations)
- Provide technical assistance and training to small-scale miners
- Assist PMRB (secretariat, leg work)

NATURAL RESOURCES DEVELOPMENT CORPORATION (NRDC,1982)

- Government company, corporate arm of DENR
- Control and manage gold-rush area (via service contract with ssm)

RESULTS - GENERAL OBSERVATIONS

- The concept of segregating and declaring specific locations as small scale mining areas (RA 7076) has not worked.
- The legislative approach (PD 1150) to legalize gold panning and sluicing inside existing mining claims (allowing two different mining rights over one area) is not successful.
- Restrictive provisions of the different permits and licenses available to miners hinder the development of viable and well planned small-scale mining operations
- Staggered licensing practices (one for mining, one for processing and another for marketing) is also not helpful
- The support institutions (ssm offices and PMRB) suffer from funding (some provinces have not even formed their boards, pioneering small-scale mining safety rules not implemented)

- Special “reactionary” laws seem to be working (government control of a major gold-rush have positive results in terms of tax collection and environmental protection; problematic pebble picking in one area along the coast now looks under control)
- There is emerging interest on contact mining, which is seen to be promoting better relations and partnerships between ssm and large mining companies
- Formalisation approach has addressed the rampant illegal sand and gravel operations, and almost all sand & gravel operations are now covered with permits

