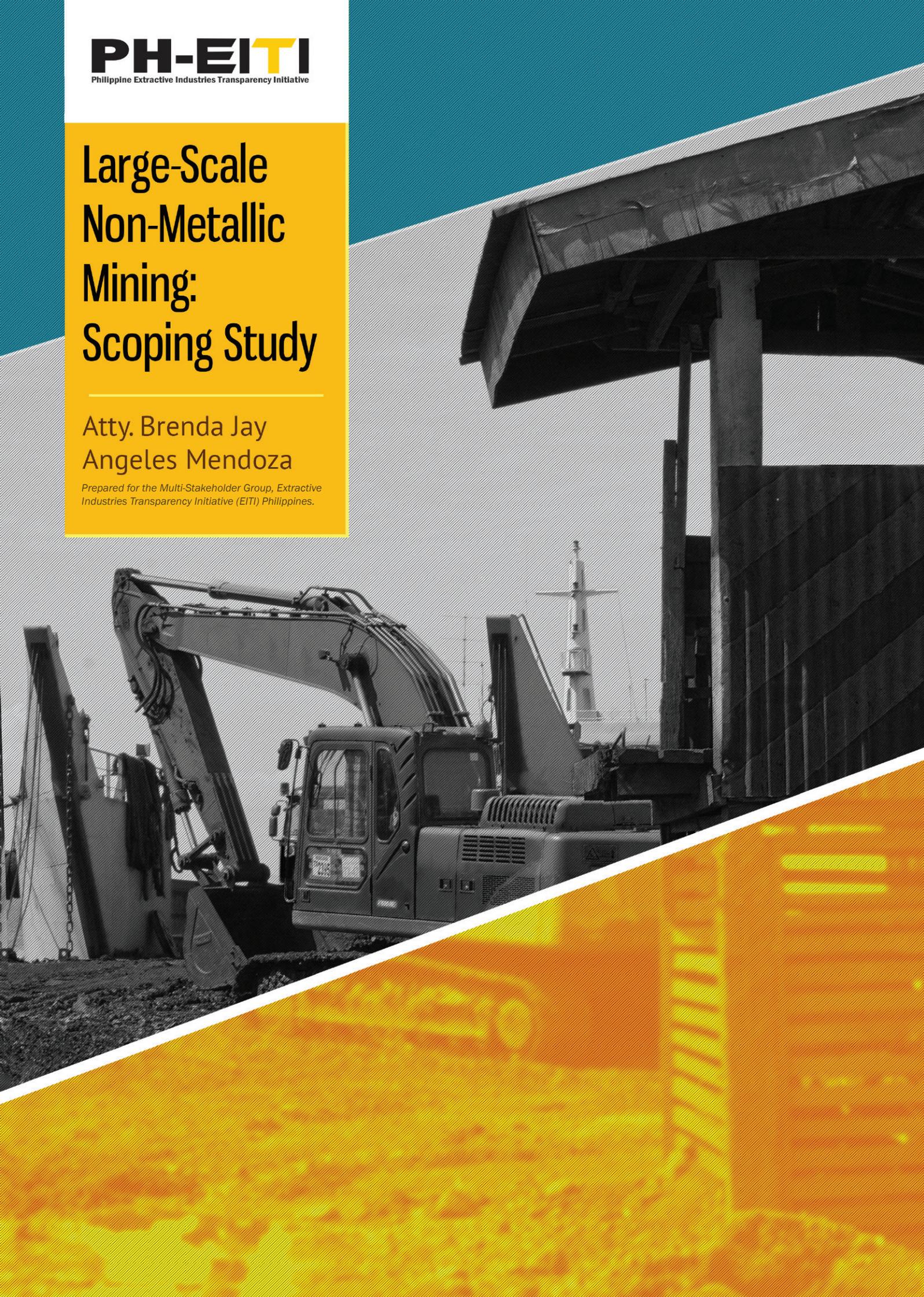


# Large-Scale Non-Metallic Mining: Scoping Study

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# INTRODUCTION

In pursuit of its commitment to the Extractive Industries Transparency Initiative (EITI), the Philippines submitted its first EITI country report in December 2014. The value of the report to local stakeholders has been evident from the forums and consultation meetings that ensued following the publication of the report. One important concern that has been raised, however, is the need to include non-metallic mining in future EITI reports in order to provide a complete picture of the mining industry. It is observed, especially by some members of local communities, that a large percentage of non-metallic miners remain unregulated, thereby making it difficult for local government units to track the volume of production and payments made by this sector to the government.

To respond to this issue, the Philippines EITI Multi-Stakeholder Group (PH-EITI MSG) has agreed to include information on non-metallic mining in future EITI reports.

This study aims to provide contextual information on large-scale non-metallic mining with the objective of including this information in the 2015 EITI country report. Specifically, this provides the following information:

1. Legal and regulatory framework for large-scale non-metallic mining, including applicable laws and administrative issuances; as well as government agencies and other bodies mandated to regulate large-scale non-metallic mining and their specific roles.
2. Revenue streams and financial arrangements in the sector, including payment, collection, distribution, and expenditure.
3. List of all areas and companies in the country with large-scale non-metallic mining operations.
4. A discussion of three (3) areas hosting large-scale non-metallic mining operations, focusing on their respective situation (citing relevant local ordinances and contracts of selected companies), the problems and challenges in regulating operations, including problems in regulating compliance with ENR laws, monitoring environmental performance, and dynamics relating to socio-political issues, as well as recommendations to address the same.

# CHAPTER 1

# LEGAL & REGULATORY FRAMEWORK

## Applicable Laws and Regulations

Premised on the same provisions of the 1987 Constitution of the Republic of the Philippines,<sup>2</sup> the laws and regulations governing large-scale metallic mining also apply to large-scale non-metallic mining and quarrying. These laws and regulations are as follows:

1. *Republic Act (RA) No. 7942 (1995)*, otherwise known as the Philippine Mining Act of 1995, and its implementing rules and regulations
  - a. *Department of Environment and Natural Resources (DENR) Administrative Order (DAO) No. 2010-21*, or the Revised Implementing Rules and Regulations of RA 7942
2. *Executive Order (EO) No. 79 (2012)*, entitled “Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources”
  - a. *DAO 2012-07* on the implementing rules and regulations of EO 79
  - b. *DAO 2013-10* on increasing fees for mining applications
  - c. *DAO 2013-11* on the procedural guidelines in
3. *Executive Order No. 192 (1987)*, which provides for the reorganization of the Department of Environment, Energy, and Natural Resources, renaming it as the DENR
  - a. *DAO 2015-06*, providing for the revised organizational structure and functions of the Mines and Geosciences Bureau (MGB) pursuant to its approved rationalization plan
  - b. *DAO 2015-02* on the harmonization of the implementation of the Philippine Environmental Impact Statement (EIS) system and the Philippine Mining Act of 1995 in relation to mining projects
4. *Republic Act No. 7160*, otherwise known as the Local Government Code of 1991, which provides for the role of the local government units with respect to quarry and mineral resources.

Considering that the legal framework for the mining industry has been extensively discussed in the 2014 EITI country report, this study will focus on the major distinctive features of the laws and regulations that are uniquely applicable to the large-scale non-metallic mining sector. However, in some instances, comparisons are inevitably made between the large-scale metallic and non-metallic mining sectors in order to highlight such distinctions.

<sup>2</sup> 1987 Constitution of the Republic of the Philippines. Art. XII, Sections 2 and 3.

Section 3 of RA 7942 distinguishes quarry resources from non-metallic minerals. A *quarry resource* refers to “any common rock or other mineral substances” declared as such by the MGB Director and which “do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities.” Examples of a quarry resource include andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clay, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic glass.

On the other hand, *non-metallic minerals* are those declared by the MGB Director to be “of economically workable quantities,” such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semi-precious stones, and other non-metallic minerals that may later be discovered and declared to be so.

For purposes of this study, *quarry resources* and *non-metallic minerals* are regarded as a single sector (separate only from the large-scale metallic mining industry and small-scale mining), unless a distinction needs to be made. It is so considered because available data, particularly from the DENR-MGB, do not disaggregate these resources; at the same time, the commodities being explored or developed by some companies involve both quarry resources and non-metallic minerals.

In allowing the exploration, development, and use of natural resources, including of quarry and non-metallic mineral resources, two constitutional rights are considered:

1. *Article XII, Section 5* on the protection of the rights of indigenous cultural communities to their ancestral lands to ensure their economic and social being; and
2. *Article II, Sections 16 and 15* on the protection and advancement of the people’s right to a healthful and

balanced ecology and the promotion of the people’s right to health.

RA 7942 and DAO 2010-21 provide the allowable modes of exploration, development, utilization, transport, sale, and processing of large-scale non-metallic mining and quarry resources in the country. These are allowed through the issuance of an exploration permit, mineral agreement, special mines permit, foreign or technical assistance agreement, industrial sand and gravel permit, mineral processing permit, and ore transport permit.

1. *Exploration Permit*. This permit gives the right to explore minerals in specified areas<sup>3</sup>. The term of an exploration permit is two years, renewable for the same periods. However, the total period must not exceed a stipulated term. In the case of metallic minerals, the total term set by law is 6 years; while a total of 4 years is specified for non-metallic minerals. During this period, the permittee must be able to show, by filing a declaration of mining project feasibility, if mineral deposits economically and technically feasible for mining operations are present in the area. Otherwise, a further renewal of two years may be granted for the limited purpose of preparing or completing the feasibility studies, and filing the declaration of mining project feasibility and the pertinent mineral agreement application.

The law does not make a distinction with respect to the maximum areas for exploring metallic and non-metallic minerals.

2. *Mineral Agreement for Non-Metallic Minerals*. This grants to the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area<sup>4</sup>. This may be in the form of a mineral production-sharing agreement (MPSA), joint venture agreement, or co-production sharing agreement. Given for a term not exceeding 25 years, renewable for another 25 years, the maximum areas for non-metallic minerals are as follows:

	Individual	Corporation
Onshore, in any province	810 ha.	2,000 ha. per final mining area <sup>5</sup>
Onshore, in entire country	1,620 ha.	5,000 ha. per final mining area
Offshore, in entire country, beyond the 500 meters from the mean low tide level	4,050 ha.	40,500 ha. (if within the exclusive economic zone, larger area to be determined by the DENR Secretary)

<sup>3</sup> RA 7942, Chapter IV.

<sup>4</sup> RA 7942, Chapter V.

<sup>5</sup> Under RA 7942 and its implementing rules and regulations (IRR), a final mining area means the “contract area or portion(s) thereof properly delineated and surveyed by the mining applicant/contractor for development and actual quarrying/mining operation, including sites for support/ancillary facilities.”

A relatively larger maximum area of 5,000 ha. per final mining area is allowed for metallic minerals under this agreement when onshore mining is undertaken by a corporation in any province. In all other cases, the maximum areas for extracting metallic and non-metallic minerals under this agreement are the same.

The standard terms and conditions of a mineral agreement covering metallic or non-metallic minerals are also similar, except on two points:

*First*, on the full exploration period. A typical mineral agreement provides an exploration period of up to 2 years from date of issuance, renewable for similar periods. However, this should not exceed a total term of 6 years for non-metallic minerals or 8 years for metallic minerals exploration. Such renewal is also subject to the annual review and approval of the MGB Director. The exploration period may be further renewed by the MGB when it is verified that the contractor has substantially

implemented its exploration and environmental work programs.

*Second*, on the relinquishment area. The agreement requires a stipulation that each mining area after relinquishment shall not be more than 5,000 ha. for metallic minerals and 2,000 ha. for non-metallic minerals. In both cases, the MGB Director, with the Secretary's approval may allow the contractor to hold a larger mining area depending upon the nature of the deposit and the contractor's technical or financial capability.

3. *Mineral Agreement for Large-Scale Quarry Operations.* This agreement may be entered into by the government and a qualified person for large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates.<sup>6</sup> The law explains that large-scale quarry operation, including sand and gravel operation, during the development, construction or operating period, involves a mechanized operation and a final mining area not exceeding the following for specific commodities:

	Individual	Corporation
Sand and gravel, including lahar	40 ha.	100 ha.
Marble, granite, construction aggregates	200 ha.	500 ha.
Cement raw materials (e.g., limestone, shale, and silica)	1,000 ha.	2,000 ha.

The law allows the filing of more than one final mining area in its applied area, but the aggregate of all final mining areas for all mineral agreements shall not exceed the maximum limits set by law for such agreements. For sand and gravel, specifically, each additional final mining area requires the approval by any two of the *Sanggunian* through a resolution. Furthermore, the mineral agreements for sand and gravel/lahar deposits shall exclude the exploration period, in which case, the contractor shall immediately proceed to the development and operation periods.

However, the foregoing must be distinguished from the provisions allowing for the issuance of a quarry permit, which is issued by the provincial governor or city mayor for extracting quarry resources covering a smaller area of not more than 5 hectares, with an annual production rate of not more than 50,000 tons, and/or project cost of not more than PHP10 million.<sup>7</sup>

Large-scale quarry operations requiring a mineral agreement thus contemplate areas exceeding 5 hectares. Existing quarry permits at the effectivity of DAO 99-57 having a production rate of more than 50,000 tons every year and/or whose project cost is more than PHP10 million shall no longer be renewed. Instead, these will be given preferential right to apply for a mineral agreement.

In addition, the term for quarry permits is limited to just 5 years, which may be renewed for like period but not to exceed a total term of 25 years; whereas mineral agreements for large-scale quarrying cover a maximum term of 25 years, renewable for another 25 years.

The law finally provides that quarry permits are not allowed to be granted on areas covered by a mineral agreement, except only when the contractor has given its written consent.<sup>8</sup>

4. *Special Mines Permit.* This permit is given to a Mineral Agreement applicant which has been given an area status and clearance, a National Commission on Indigenous Peoples (NCIP) precondition certification, an endorsement from the concerned Sanggunian, and has no pending mining dispute or conflict before the Panel of Arbitrators or Mines Adjudication Board of the MGB.<sup>9</sup> The permit is given for a period of one year, renewable once. Yet, it may be further renewed upon the approval of the DENR Secretary who takes into consideration the following: (a) nature of the deposit; (b) propriety of the mining operation; (c) environmental and community relations track record of the applicant; (d) faithful compliance with the terms and conditions of the permit; and (e) diligence of the applicant in pursuing the mineral agreement application.

5. *Financial or Technical Assistance Agreement (FTAA).* In general, an FTAA may be entered into for the exploration, development, and utilization of gold, copper, nickel, chromite, lead, zinc, and other minerals.

However, the law explicitly prohibits the granting of FTAA's with respect to cement raw materials, marble, granite, sand and gravel, and construction aggregates.<sup>10</sup>

As the prohibition enumerates specific materials or commodities, it may be stated that other non-metallic minerals and quarry resources that are outside the purview of the prohibition may be the subject of an FTAA.

6. *Industrial Sand and Gravel Permit.* This pertains to the extraction, removal, and disposition of sand and gravel and other loose and unconsolidated materials that (a) necessitates the use of mechanical processing; and (b) covers more than 5 ha. but not exceeding 20 ha. at any one time.<sup>11</sup> The permit, issued by the MGB, has a term of 5 years, renewable for like periods but not to exceed a total term of 25 years.

Hence, if the area is not more than 5 ha., the application is no longer submitted to the MGB, but to the provincial governor or city mayor through the Provincial/City Mining Regulatory Board (PC/MRB).

7. *Mineral Processing Permit and Work Program for Contractors and Industrial Sand and Gravel Permit Holders.* In general, any person who intends to engage in processing minerals is required to obtain a mineral processing permit (MPP). Such permit lasts for a term of 5 years, renewable for like periods but not to exceed a total term of 25 years.

By way of exception, contractors and Industrial Sand and

Gravel Permit holders with an approved Work Plan for the production period are no longer required to secure the processing permit. The law regards the approved Work Plan as a sufficient requirement for them to process their minerals in lieu of a processing permit.<sup>12</sup>

The DENR Secretary has the overall authority to issue this permit. However, this authority may be delegated at the first instance depending on the project cost. The Secretary approves an application if the project cost is more than PHP 500 million. If the project cost is within the range of PHP 200 million and PHP 500 million, the Secretary approves it through the MGB Director; and through the concerned regional director when the project cost is less than PHP 200 million.<sup>13</sup>

8. *Ore Transport Permit.* This permit is issued by the MGB regional director or his authorized representatives to all permit holders, contractors, accredited traders, retailers, processors and other mining rights holders for the transport of all minerals, mineral products, and by-products.<sup>14</sup>

The transport of sand and gravel is required to be covered by a Delivery Receipt.

For MPSA and FTAA contractors, the ore transport permits are already issued under the pertinent agreement. The law merely requires that a written notice prior to shipment or transport of ores is given to the relevant MGB regional office. The purpose of such notice is to enable the government to monitor mining activities in the contract area.

It bears to note that Exec. Order No. 79 (2012) has imposed a moratorium on the grant of new mineral agreements pending the passage of a legislation rationalizing mining revenue sharing schemes and mechanisms.<sup>15</sup> The moratorium, however, does not include expansion of existing contract areas that do not exceed the maximum area per province as set forth under RA 7942, as well as the grant and issuance of exploration permits and other forms of mining permit.<sup>16</sup>

Finally, within the context of the provisions of the law on exclusive sand and gravel permit,<sup>17</sup> a mineral agreement or FTAA contractor has the right to extract and remove sand and gravel and other loose and unconsolidated materials without need of this permit within the area covered by its agreement. The extraction referred to in this case, however, is meant for the exclusive use of the materials in the mining operations and not for commercial disposition. Such right is also coterminous with the expiration of the mineral agreement or FTAA.<sup>18</sup>

<sup>6</sup> RA 7942, Sec. 43; DAO 2010-21, Chap. VIII.

<sup>7</sup> RA 7942, Sec. 43; DAO 2010-21, Sec. 71.

<sup>8</sup> *Id.*

<sup>9</sup> DAO 2010-21, Sec. 48.

<sup>10</sup> *Id.* Sec. 50.

<sup>11</sup> RA 7942, Sec. 47 and DAO 2010-21, Sec. 72b.

<sup>12</sup> DAO 2010-21, Sec. 109.

<sup>13</sup> *Id.* Sec. 111.

<sup>14</sup> *Id.* Sec. 116.

<sup>15</sup> EO 79 (2012), Sec. 4.

<sup>16</sup> DAO 2012-07, Sec. 7.

<sup>17</sup> RA 7942, Sec. 48 and DAO 2010-21, Sec. 71 (c). An exclusive sand and gravel permit is issued by the provincial government when the extraction is for the permittee's own use only and not for commercial disposition.

<sup>18</sup> *Id.*

## Government and other bodies mandated to regulate large-scale non-metallic mining & quarry resources

The Department of Environment and Natural Resources (DENR) is the primary government agency that is mandated to conserve, manage, develop, and use the country's natural resources.<sup>19</sup> At the same time, it is also in charge with the licensing and regulation of natural resources exploration, development, and utilization. The DENR Secretary promulgates relevant rules, regulations, and other issuances to carry out its mandate.<sup>20</sup>

Among the various bureaus and offices of the DENR, the

Mines and Geosciences Bureau (MGB) is tasked with the administration and disposition of mineral lands and mineral resources, including of non-metallic minerals and quarry resources. In 1995, with the passage of the Mining Act, MGB became a line bureau, effectively having the power to directly implement mining-related programs of the DENR. The MGB Director now exercises direct supervision and control over all its units, including its regional offices, establishes policies and standards for its operations, and promulgates rules and regulations needed to perform its functions.<sup>21</sup>

DENR Secretary	MGB Director	MGB Regional Office / Director
Enter into mineral agreements on behalf of the government	Recommend approval of mineral agreements to the Secretary	Receive all proposed mineral agreements, filed with its office
Promulgate rules and regulations to implement RA 7942	Monitor compliance of contractor of terms and conditions of mineral agreement	
Delegate such authority to the MGB Director	Deputize, when necessary, any member of the Philippine National Police, NGOs, to police mining activities	
Charge reasonable filing fees and other charges		
Ensure that environmental standards in mining are enforced		

Within the DENR lies another bureau, the Environmental Management Bureau (EMB), which administers all activities related to preventing or controlling pollution as well as managing the environment, including of the Philippine Environmental Impact Statement (EIS) System.<sup>22</sup> Large-scale mining, metallic or otherwise, is considered an environmentally

critical project and thus covered by the Philippine EIS system. In order to clarify the authority of the MGB and EMB in regulating large-scale metallic and non-metallic mining, particularly concerning the environmental aspects of its activities, DAO 2012-07 and DAO 2015-02 were issued. In essence, the following regulatory tasks were delineated:<sup>23</sup>

MGB Director/Regional Office	EMB Director/Order
Require contractors to undertake remediation for affected areas, including communities involved.	Enforce in mining projects different environmental laws, rules and regulations, esp. the PEISS as provided under PD 1586, RA 6969, RA 9275, and RA 8749. <sup>24</sup>
Issue suspension order for a mining operation, in cases of illegal mining, exploration, and transport of minerals, imminent danger to life/property due to mine accidents and incidents.	Issue notices of violations (NOV) and cease-and-desist orders (CDO), and impose fines and penalties upon proponent's violation of its ECC, PD 1586, DAO 2003-30, and other environmental laws. <sup>25</sup>

Similar to the metallic mining industry, the large-scale non-metallic mining sector is also regulated by other government agencies. These agencies, along with their respective mandate and roles, are described in the following table:

<sup>19</sup> EO 192 (1987).

<sup>20</sup> *Id.* Sec. 4 and Sec. 7 (c).

<sup>21</sup> *Id.* Also, RA 7942 (1995).

<sup>22</sup> PD 1586 (1978), which establishes the Philippine EIS system (PEISS), requires proponents of environmentally critical projects and projects within critical areas to secure an environmental compliance certificate (ECC) from the DENR.

<sup>23</sup> DAO 2012-07 and DAO 2015-02.

<sup>24</sup> RA 6969 or the Toxic Substances and Hazardous Wastes Act; RA 9275 or the Clean Water Act; and RA 8749 or the Clean Air Act.

<sup>25</sup> This refers to the Philippine EIS system and its implementing rules and regulations.

Agency	Mandate	Role	Basis
DENR-MGB	Promulgate rules and regulations pertaining to mineral resources exploration, development, and utilization.	Collect payment of royalty in mineral reservations <sup>26</sup>  Allocate 10% share of all royalties and revenues derived from the development and utilization of the mineral resources within mineral reservations to special projects and administrative expenses related to the exploration and development of other mineral reservations.  Collect annual occupation fees from contractor or permit holder on public or private lands.	EO 192 (1987); RA 7942 (1995); DAO 2010-21
DOF <sup>27</sup>	Manage the financial resources of the government	Institutionalize and administer fiscal policies in coordination with other government agencies.  Generate and manage the financial resources of the government.  Supervise the revenue operations of all LGUs.  The DOF Secretary, in consultation with the DBM Secretary: promulgate the necessary rules and regulations for a simplified disbursement scheme for the speedy and effective enforcement of the internal revenue allotment provisions of the Code.	EO 292 (1987)     RA 7160 (1991), Section 288
DOF-BIR <sup>28</sup>	Assess and collect all national internal revenue taxes, fees, and charges; enforce all related forfeitures, penalties, and fines, including execution of judgments in cases decided in its favor by the Court of Tax Appeals and ordinary courts.	Obtain information from any person or entity other than the person whose tax liability is subject to audit or investigation, summon any person, examine any data relevant to the inquiry, and take testimony of persons in ascertaining the correctness of any return, or in making a return, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance.  Make assessments of correct amount of tax due and prescribe additional requirements for tax administration and enforcement.  Conduct inventory of goods to determine tax liability and place business under surveillance if with reason to believe that income, sale, or receipt is not correctly declared for tax purposes.  Prepare an annual report containing detailed statement of the collection of the BIR and specifying sources of revenue by type of tax, manner of payment, by revenue region and by industry group and its disbursement by classes of expenditures.  Notwithstanding Section 270 of the Code (on confidentiality of tax information), upon request of Congress and in aid of legislation, furnish the appropriate Committee pertinent industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns. Provided that, if the return information can be associated with or identify a particular taxpayer, the information shall be furnished only to the Committee when sitting in an executive session, unless taxpayer otherwise consents in writing in such disclosure.	National Internal Revenue Code of 1997, Sections 5, 6, 19, 20

<sup>26</sup> "Mineral reservations" are areas established and proclaimed as such by the President of the Philippines upon the recommendation of the MGB Director through the DENR Secretary, including all submerged lands within the

contiguous zone and Exclusive Economic Zone. [Sec. 5 (bg), DAO 2010-21]

<sup>27</sup> Department of Finance.

<sup>28</sup> DOF-Bureau of Internal Revenue.

Agency	Mandate	Role	Basis
DOF-BOC <sup>29</sup>	Collect customs duties, taxes, and corresponding fees, charges, and penalties, account for all customs revenues collected, exercise police authority for the enforcement of tariff and customs laws, prevent and suppress smuggling, pilferage and all other economic frauds within all ports of entry, supervise and control exports, imports, foreign mails and clearance of vessels and aircrafts in all ports of entry administering all appropriate legal requirements, prevent and prosecute smuggling and other illegal activities in ports under its jurisdiction, exercise supervision and control over its constituent units.	<p><i>Its Collection Districts</i> are tasked to:</p> <p>Collect duties, taxes, fees, charges, penalties and fines accruing to the Government under the Tariff and Customs Code and related laws.</p> <p>Exercise police powers conferred by the Code which include enforcement of penalties and fines.</p> <p>Examine goods, assess duties, fees, charges, penalties, and fines accruing to the Government under the Code.</p> <p><i>Its Customs Revenue Collection Monitoring Group</i> is tasked to:</p> <p>Maintain an updated accounting of all Customs revenues collected;</p> <p>Provide the Commissioner with accurate and timely information and analysis of collection statistics.</p>	EO 127 (1987), Sections 33, 36, 37
DOTC-PPA <sup>30</sup>	Establish, develop, regulate, manage, and operate a rationalized national port system in support of trade and national development.	<p>Collect all dues, fees, and rates collectible under Title VII but excluding Part VII of the Tariff and Customs Code, as amended, regardless of the port or place of call of the vessel, whether government or private port.<sup>31</sup></p> <p>Supervise, control and regulate all matters and affairs pertaining to the operation of and issuance of permits or licenses to construct ports, port facilities, warehouses, and other facilities within port districts.</p> <p>Exercise all powers pertaining to all matters concerning port facilities, port operations or port works.</p> <p>Exact reasonable administrative fines in specific amounts for specific violations arising out of the use of the port.</p> <p>Note: all revenues of the PPA generated from the administration of its port or port-oriented services and from whatever sources shall be used exclusively for the operations of the PPA, as well as for the maintenance, improvement, and development of its port facilities, upon approval of the PPA Board of Directors of its budget requirements, as exemption to PD 1234 and the budgetary processes in PD 1177, as amended.</p>	EO 513 (1978), which amended PD. 857 (1975), Sections 8 and 9. EO 159, as amended (1987)
DTI-BOI <sup>32</sup>	Regulate and promote investments in the country	Prepare investments priority plan (IPP), promulgate rules and regulations to implement law, approve applications for registration (including refund and limit of incentives), inspect books and compliance, cancel or suspend enjoyment of incentives, regulate investment/doing of business by foreigners or business organizations owned in whole or in part by foreigners.	EO 226 (1987), Chap. III

<sup>29</sup> DOF-Bureau of Customs.

<sup>30</sup> Department of Transportation and Communications – Philippine Ports Authority.

<sup>31</sup> Title VII, Parts I-VI of the Code deals with harbor fees, wharfage due, berthing charge, storage charge, arrastre charge, and tonnage due. This modified and amended the provisions of the Tariff and Customs Code to the extent that all the powers, duties, and jurisdiction of the Bureau of Customs concerning these matters were transferred to and vested with the PPA.

<sup>32</sup> Department of Trade and Industry – Board of Investments.

Agency	Mandate	Role	Basis
NCIP <sup>33</sup>	Formulate and implement policies, plans, and programs to promote and protect the rights and well-being of the indigenous peoples and indigenous cultural communities (IPs/ICCs), including recognition of their ancestral domain as and rights thereto.	<p>Through its Ancestral Domains Office, issue, upon the free and prior informed consent (FPIC) of the ICCs/IPs concerned, appropriate certification prior to any grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs.<sup>34</sup></p> <p>Promulgate rules and regulations to implement the provisions of the law.</p> <p>Register the indigenous people’s organization that will be authorized to receive and manage the royalties.</p> <p>Give its concurrence to the release of royalties to the IP organization or its trustee bank to check on the use of the funds.</p> <p>Direct financial and management audits of IP organizations managing its royalties and other benefits, or exercise visitorial powers as provided for by law.</p>	RA 8371 (1997), Sections 44, 46  NCIP Admin. Order No. 3 (2012), Part VIII
LGUs <sup>35</sup>	Exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the Local Government Code, consistent with the basic policy of local autonomy.  Exercise its right to receive a just share in the national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, and to share the same with their inhabitants by way of direct benefits.	<p>Through an appropriate ordinance, impose tax, fee, or charge or generate revenue under the Local Government Code.</p> <p>Collect local taxes, fees, and charges (to be done by its city, municipal, or barangay treasurer, or their duly authorized deputies)<sup>36</sup></p> <p>Observe process for the approval of local tax ordinances and revenue measures, and conduct public hearings prior to its enactment.</p> <p>Publish all local tax ordinances or revenue measures in full for 3 consecutive days in a newspaper of local circulation, or if no such local newspaper, post the same in least two conspicuous and publicly accessible places.</p> <p>Furnish all tax ordinances and revenue measures to their respective local treasurers for public dissemination.</p> <p>Note: Revenue collected shall inure solely to the benefit of, and subject to the disposition by, the LGU levying the tax, fee, charge or other imposition, unless otherwise specifically provided.</p> <p>Receive their share in the national internal revenue taxes (IRA) and in the proceeds from the development and utilization of national wealth, and share the same with the local inhabitants by way of direct benefits.</p>	RA 7160 (1991), Sections 129, 130, 132, 170, 186, 188, 189; Sections 3, 18  RA 7160, Title III, Chapters I-II

<sup>33</sup> National Commission on Indigenous Peoples.

<sup>34</sup> The phrase free and prior informed consent is defined under the Act as the “consensus of all members of the ICCs/IPs, to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.”

<sup>35</sup> Local Government Units.

<sup>36</sup> Sections 133–141 of the Local Government Code of 1991 provides the scope of and limitations to the local taxing authority of the LGUs.

# CHAPTER 2

# REVENUE STREAMS AND FINANCIAL ARRANGEMENTS

## Context for the Large-Scale Non-Metallic Mining Sector (Focus on the Cement Industry)

While the applicable laws and regulations for the metallic mining sector are similar to those that govern the large-scale non-metallic sector, it is observed that the latter, the cement industry in particular, has noticeably distanced itself from the former. This observation can be gleaned from the annual industry reports of the cement industry and the country's investment priorities plan.<sup>37</sup>

The Cement Manufacturers' Association of the Philippines (CeMAP), for instance, declares that it has successfully urged the government to see its industry in a different light. According to its 2012 annual report, the industry's exemption from the general provisions of EO 79, which imposed a moratorium on new mining agreements until a new mining revenue legislation is passed, was attributed to its ability "to identify the difference between metallic and non-metallic mining, as well as the strategic importance of cement for the government's critical infrastructure programs."<sup>38</sup> It has also claimed success in identifying strategic industries that were qualified to receive Board of Investments (BOI) incentives in 2013, with cement qualifying as a strategic industry.<sup>39</sup> The association finally noted its success in convincing the government to exempt non-metallic mining (including cement) from proposed tax increases.<sup>40</sup>

The Investments Priority Plan (IPP) 2014-2016 regards the cement industry as "an industry with strong backward (mining and quarrying) and forward linkages (construction sector)."<sup>41</sup> It is viewed to be a promising industry, given that the increase in infrastructure improvements necessarily triggers an increase in the demand for cement, even beyond 2016. Cement plants around the country are also widely considered as a major source of livelihood and employment in communities.<sup>42</sup>

It is within this context that the existing revenue and financial schemes equally applicable to the metallic and non-metallic mining industry should be explained. It is also within this context that the policy changes being proposed by the large-scale non-metallic mining sector (including cement) should be understood.

<sup>37</sup> See, for example, the *Investment Priorities Plan (IPP) (2014-2016)* and the *Cement Manufacturers Association of the Philippines (CeMAP) Annual Industry Reports (2012 and 2013)*.

<sup>38</sup> *CeMAP Annual Industry Report (2012)*.

<sup>39</sup> *Id.*

<sup>40</sup> *CeMAP Annual Industry Report (2013)*

<sup>41</sup> *IPP, 2014-2016*.

<sup>42</sup> *Id.*

## Payments to the National Government

Large-scale non-metallic mining companies are required to make the following payments to the national government:

1. *Income Tax.* This is paid by domestic corporations at the rate of 30% upon taxable income derived during each taxable year from all sources within and outside the Philippines; foreign corporations pay the same rate upon taxable income derived from all sources within the country.<sup>43</sup>

Based on the Mining Act, these taxes are paid after the lapse of the income tax holiday (ITH) as provided for in the Omnibus Investments Code.<sup>44</sup> However, the ITH granted to mining companies has been suspended by the BOI in 2012.<sup>45</sup>

In the 2013 IPP, the incentives for the exploration and development of mineral resources, mining or quarrying, and the processing of metallic and non-metallic minerals did not include ITH and were limited to the zero-duty on import of capital equipment, spare parts & accessories by BOI-registered enterprises.<sup>46</sup> Similarly, in the 2014-2016 IPP, mining or quarrying and mineral processing projects were given capital equipment incentives only.<sup>47</sup>

The position of the non-metallic mining industry (cement) to be granted the ITH is premised on the following parameters used by the BOI in granting incentives and priority to projects that bring substantial benefits to the economy: (a) project's net value added; (b) job generation; (c) multiplier effect; and (d) measured capacity.<sup>48</sup>

2. *Excise Tax.* This refers to the tax on goods manufactured or produced in the country for domestic sale or consumption or for any other disposition.<sup>49</sup> Specifically for mineral products involving non-metallic minerals and quarry resources, the tax is 2% based on:

a. Actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or

b. Value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation.<sup>50</sup>

The same tax rate is imposed on metallic minerals. The only difference is that the law provides a separate schedule for importing copper and other metallic minerals, and for gold and chromite.<sup>51</sup>

<sup>43</sup> *Beginning in 2000, the President upon the recommendation of the Finance Secretary may allow corporations the option to be taxed at 15% of gross income after satisfaction of certain conditions. RA 9337 (2005); RA 8424 (1997), Secs. 27 and 28, as amended by RA 9337 (2005).*

<sup>44</sup> *RA 7942, (1995), Sec. 83; DAO 2010-21, Sec. 217.*

<sup>45</sup> *K. Manlupig, Mining income tax holiday suspended – BOI Chief. Rappler. Sept. 17, 2012. <http://www.rappler.com/business/special-report/whymining/whymining-latest-stories/12579-mining-income-tax-holiday-suspended-boi-chief> Accessed: 5 November 2015.*

<sup>46</sup> *2013 Investment Priorities Plan.*

<sup>47</sup> *2014-2016 Investment Priorities Plan.*

<sup>48</sup> *Id.*

<sup>49</sup> *RA 7942 (1995), Sec. 84; DAO 2010-21, Sec. 217 (b).*

<sup>50</sup> *RA 7229, amending Sec. 151 (e) of the National Internal Revenue Code.*

Mining companies are obliged to file a return and pay such excise tax within 15 days after the end of the calendar quarter when such products are removed, subject to conditions that may be prescribed by the Secretary of Finance, upon the recommendation of the BIR Commissioner.<sup>52</sup>

It should be noted that the excise tax on mineral products is already the government share under an MPSA.<sup>53</sup>

3. *Mine Wastes and Tailings Fees.* This is paid semi-annually to the MGB based on the amount of mine waste and mill tailings that companies generate for the period. At present, this is pegged at PHP0.05/MT of mine waste produced and PHP0.10/MT of mill tailings generated.<sup>54</sup> These fees may be increased by the DENR, upon the recommendation of the MGB Director, when public interest so requires.<sup>55</sup>

The law, however, makes certain exceptions that may be relevant to the large-scale non-metallic mining sector. These are:

a. When the mine waste and mill tailings are used, under certain conditions, as filling materials for underground or surface mine openings, engineered tailings, dams, roads, and housing areas; for concreting and manufacture of concrete products; or, are impounded for future use;

b. When the mine waste and tailings disposal systems use zero-discharge of materials or effluent and/or with wastewater treatment plants consistent with DENR standards.<sup>56</sup>

The fees collected accrues to a reserve fund and deposited in a government depository bank for the exclusive purpose of paying compensation for damages caused by the operations of the mine.<sup>57</sup> The implementing rules, however, added that the reserve fund can also be used for duly approved research projects that are needed to further the objectives of the fees.<sup>58</sup>

4. *Customs Duties and Fees.* These are paid on imported articles, upon each importation, even though previously exported from the country. For large-scale non-metallic mining companies, relevant customs duties on imported capital equipment vary depending on the article, such as whether these are chemicals, explosives, mechanical and electrical equipment, vehicles, aircraft or vessels.<sup>59</sup>

<sup>51</sup> *Id.*

<sup>52</sup> *RA 8424 (1997), Sec. 130.*

<sup>53</sup> *RA 7942 (1995), Sec. 84; DAO 2010-21, Sec. 217 (b).*

<sup>54</sup> *Id. Sec. 85; also, DAO 2010-21, Sec. 189-191.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id., Sec. 190.*

<sup>57</sup> *Id. Sec. 85. These damages refer to those that cause damage to personal lives and safety; lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and infrastructure and the re-vegetation and rehabilitation of silted farms and other areas devoted to agriculture and fishing caused by mining pollution.*

<sup>58</sup> *DAO 2010-21 (2010), Sec. 189-190.*

<sup>59</sup> *RA 1937, as amended.*

5. *Value-Added Tax (VAT)*. This tax is paid on every sale, barter or exchange of goods or properties, on the sale of services, and on the importation of goods in the country. The standard VAT rate is 12% of the gross selling price or gross receipts.<sup>60</sup>

6. *Documentary Stamp Tax*. This is paid upon any document subject to tax under the Tax Code. Its rate also varies depending on the type of document.<sup>61</sup>

7. *Capital Gains Tax*. A tax rate of 6% is paid by domestic corporations on gains presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in its business and are treated as capital assets, based on the real property's gross selling price or fair market value, whichever is higher.<sup>62</sup>

All corporations also pay this tax upon the net capital gains realized from the sale, barter or exchange of shares of stock in a domestic corporation not traded through the local stock exchange. The rate is 5% if the net capital gains are not over PHP 100,000 and 10% on any amount in excess of PHP 100,000.<sup>63</sup>

A return on capital gains tax from the sale of shares of stock not traded in the local stock exchange must be filed within 30 days after each transaction and a final consolidated return of all transactions during the taxable year on or before the 15th day of the fourth month following the close of the taxable year.<sup>64</sup>

8. *Harbor Fees, Wharfage Dues, Berthing Charge, Storage Charge, Arrastre Charge, Tonnage Dues*. These are paid on vessels and cargoes, regardless of the port or place of call of the vessel, whether on government or private port.<sup>65</sup>

9. *Filing Fees and Other Charges*. The DENR Secretary is authorized by law to prescribe reasonable filing fees and other charges, which the implementing rules qualify as fees and charges for services rendered by the MGB and/or its Regional Offices.<sup>66</sup>

In 2013, the DENR has increased the filing fees for the following applications:<sup>67</sup>

Type of Permit/ Agreement	Filing Fees
Exploration Permit	PHP300/ha but not less than PHP200,000/application
Mineral Agreement	PHP300/ha but not less than PHP300,000/application
FTAA	PHP300/ha but not less than PHP500,00/application

The DENR has also imposed the payment of clearance fees if the proposed contract area is open for mining applications; and processing fees for the issuance of a Certificate of Environmental Management and Community Relations Record (CEMCRR).<sup>68</sup>

In addition, the DENR charges administrative fees on documents relating to applications for mineral agreements, FTAA's, and exploration permits, among others. These are required to be paid before any such documents can be registered.<sup>69</sup>

The DENR also charges fees for the performance or accomplishment of the following work or service by the MGB and/or its regional offices for interested parties:<sup>70</sup>

- Surveys of mining claims and other mineral lands, etc.
- Office and field investigations of conflicting mining locations
- Geological, geophysical and geochemical surveys
- Investigate mineral discoveries and locations, exploration & development work
- Drafting or projection work
- Blue/white prints of survey/sketch plans
- Other work and services to interested parties as may be requested and within the scope of the functions of the MGB

The payments collected from the foregoing accrue to a Mines Survey & Investigation and Monitoring Fund.<sup>71</sup>

<sup>60</sup> RA 8424, as amended (1997), Sec. 106-108.

<sup>61</sup> *Id.*, Sec. 200 and Title VII.

<sup>62</sup> *Id.*, Sec. 27.

<sup>63</sup> *Id.*, Sec. 27, Sec. 28 (7).

<sup>64</sup> *Id.*, Sec. 52.

<sup>65</sup> *Tariff and Customs Code*, Sec. 2800-3202.

<sup>66</sup> RA 7942 (1995), Sec. 89; DAO 2010-21 (2010), Sec. 221.

<sup>67</sup> DAO 2013-10. Prior to this, the filing fees for an exploration permit and mineral agreement is PHP 60/ha. or PHP50,000 per application; for FTAA, the fee is PHP 60/ha or PHP 100,000 for every application.

<sup>68</sup> DAO 2010-21 (2010), Secs. 37,167-A.

<sup>69</sup> *Id.* Sec. 263.

<sup>70</sup> *Id.* Sec. 252-260.

<sup>71</sup> *Id.* Sec. 253.

Payments made by large-scale non-metallic mining companies to the national government are summarized below:

Type of Payment	Collecting Agency	Rate
Corporate income tax	BIR	30% of taxable income
Excise tax	BIR	2% on actual market value of gross output at time of removal
Mine wastes and tailings fee	MGB	P0.05/MT of mine wastes and P0.10/MT of mine tailings generated from mining operations
Customs duties and fees	BOC	Rate depends on type of article
Value-added tax	BIR	12% of gross selling price or gross receipts
Documentary stamp tax	BIR	Rate depends on type of transaction
Capital gains tax	BIR	6% of gross selling price or fair market value of real property, whichever is higher (domestic corporations) 5-10% of value of shares (all corporations)
Harbor fees, wharfage dues, berthing charge, storage charge, arrastre charge, tonnage dues	PPA	Rate varies
Filing fees and other charges	DENR-MGB	Rate varies

## Payments to the Local Government Units

Apart from the payments made to the national government, large-scale non-metallic mining companies also need to consider the payments required under the Local Government Code of 1991 and those that may be imposed by the concerned LGU in the exercise of its revenue-raising power. Under the Local Government Code, the following payments are required:

1. *Local Business Tax*. This tax is paid to the municipal government for the conduct of one's business either as manufacturers, processors, wholesalers, distributors, dealers, exporters, millers, producers, or retailers of any article of commerce of whatever kind or nature. The tax amount is based on a schedule that pegs the rate on the gross sales or receipts for the preceding calendar year.<sup>72</sup>

However, a lower tax amount not exceeding ½ of the rates generally prescribed is imposed on exporters, manufacturers, millers, producers, wholesalers, distributors, dealers, or retailers of *essential commodities*.<sup>73</sup>

Under the Code, cement is considered an essential

<sup>72</sup> RA 7160 (1991), Sec. 143.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*, Sec. 232-233.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* This is cited based on a consideration of the current profile or list of entities engaged in large-scale non-metallic mining and quarrying in the Philippines.

commodity along with rice and corn; most agricultural, marine and freshwater products; cooking oil and cooking gas; laundry soap, detergents, and medicine; agricultural implements, equipment and post-harvest facilities, fertilizers, insecticides, herbicides, and their farm inputs; poultry feeds and other animal feeds; and school supplies.<sup>74</sup>

2. *Real Property Tax*. This is an annual ad valorem tax paid on real property (land, building, machinery, and other improvements), which should not exceed 1% and 2% of the assessed value of the property in case of a province and of a city or municipality, respectively.<sup>75</sup>

It should be noted that the Code provides for certain exemptions from the payment of real property tax.<sup>76</sup> One exemption that may be relevant to large-scale non-metallic mining is when the real property is owned by a duly registered cooperative provided under RA 6938, otherwise known as the Cooperative Code of the Philippines.<sup>77</sup>

3. *Occupation Fees*. These fees are paid on public or private land. The amount of fees to be paid yearly depends on the type of agreement or contract and whether the land is within or outside mineral reservations.<sup>78</sup> The amount

<sup>78</sup> For areas outside mineral reservation, the occupation fee for an exploration permit is PHP10 per hectare or a fraction thereof per year; for mineral agreements and FTAA, PHP50 per hectare or a fraction thereof per year. In areas inside mineral reservation, regardless of the type of mineral agreement, the amount of the occupation fee is PHP100 per hectare or a fraction thereof per annum. (DAO 2010-21, Sec. 218)

may be increased by the DENR Secretary, upon the recommendation of the MGB Director, when national interest and public welfare so requires.

The fees are paid on the date that the mining agreement has been registered and on the same date every succeeding year to the municipal or city treasurer where the onshore mining areas are located, or to the MGB director for offshore mining areas. Should the fees remain unpaid on the specified date, the amount of occupation fees shall be increased by 25%.<sup>79</sup>

The law mandates that the proceeds from the collection of occupation fees accrue to the concerned LGUs. Of the total occupation fees collected from contractors in onshore mining areas, 30% must be allocated to the province, and 70% to the municipality in which the mining area is located. In a chartered city, the full amount accrues to the city concerned.<sup>80</sup>

4. **Community Tax.** This tax is paid regardless of the nature of the organization and the manner of its organization in the place where its principal office is located. This consists of an annual community tax of PHP500 and an annual additional tax set forth in a schedule.<sup>81</sup>
5. **Toll fees or Charges.** These fees or charges are paid when the concerned LGU prescribes the terms and conditions for the use of any public road, pier, or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the LGU.<sup>82</sup>
6. **Other Local Taxes.** These are paid to the concerned LGU when it exercises its power to impose a tax, fee, or charge or to generate revenue through a local ordinance, including fees and charges for services rendered.<sup>83</sup> The extent of the LGUs' local taxing powers is however limited by Section 133 of the Code.<sup>84</sup>

## Expenditures

Large-scale non-metallic mining companies are required by law to allocate funds to be spent for specific purposes, such as for local community development or environmental management.

These expenditures do not directly go to the coffers of the national or local government, but are reported to it to ensure that companies allocate these for the benefit of those that may be affected by their operations.

### 1. Expenditures for the Development of Mining Communities, Mining Technology, and Geosciences.

These expenditures are meant to develop mining communities, promote the general welfare of its inhabitants, and to develop science and mining technology.<sup>85</sup>

Operating mines are required to allot every year a minimum of 1.50% of the operating costs needed to implement their respective *Social Development and Management Program (SDMP)*.<sup>86</sup> Of this amount, 1.125% (75% of 1.50%) shall be allocated for the development of host and neighboring communities; 0.150% (10% of 1.50%) for the development of mining technology and geosciences; and 0.225% (15% of 1.50%) for the implementation of information, education, and communication (IEC) programs.<sup>87</sup>

For new mining operations, the initial SDMP shall be based on the operating cost estimates found in the approved mining project feasibility study.<sup>88</sup>

On the other hand, holders of an exploration permit, or mineral agreement or FTAA in the exploration stage, are not required to set up an SDMP. Instead, the permit holder or contractor is required to develop and implement a Community Development Program (CDP), which is supported by funds equivalent to a minimum of 10% of the budget of the approved Exploration Work Program. The CDP is also developed in consultation and in partnership with the host communities within the area subject of active exploration and may include the foregoing activities.<sup>89</sup>

It should be emphasized that these expenditures should not be credited to the royalty payment for IP/ICCs.<sup>90</sup>

<sup>79</sup> RA 7942 (1995), Secs. 86-87.  
<sup>80</sup> *Id.*, Sec. 88.  
<sup>81</sup> RA 7160 (1991), Sec. 158.  
<sup>82</sup> *Id.*, Sec. 155.  
<sup>83</sup> *Id.*, Secs. 132, 147, and 153.  
<sup>84</sup> The local tax authority of LGUs does not extend to the levy of certain taxes, e.g., income tax, documentary stamp tax, estate and inheritance tax, customs duties, taxes, fees or charges on goods carried into or passing through territorial jurisdiction of LGUs in the guise of toll fees or charges for wharfage dues, taxes on certified pioneer or non-pioneer business enterprises, excise taxes, VAT, etc.  
<sup>85</sup> RA 7942 (1995) Sec. 57.  
<sup>86</sup> SDMP is defined in the implementing rules as "a comprehensive 5-year plan towards the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects and activities in a manner consistent with the principle of people empowerment.

<sup>87</sup> DAO 2010-21 (2010), Sec. 134. "Operating cost" under this provision refers to the "specific costs of producing a saleable product on a commercial scale incurred in the calculation of the net income before tax, as confirmed by the Bureau/Regional Office. This shall include costs and expenditures related to mining/extraction and treatment/processing (inclusive of depreciation, depletion, and amortization), exploration activities during operation stage, power, maintenance, administration, excise tax, royalties, transport and marketing, and annual progressive/environmental management."

<sup>88</sup> *Id.*, Sec. 134.

<sup>89</sup> *Id.*, Sec. 136-A.

<sup>90</sup> *Id.*

### 2. Expenditures for the Protection, Management, and Rehabilitation of the Environment.<sup>91</sup>

a. **Environmental Protection and Enhancement Program/Annual Environmental Protection and Enhancement Program (EPEP/AEPEP).** This expenditure enables the mining contractor to undertake an environmental protection and enhancement program during the period of the mineral agreement or permit. The EPEP is part of the environmental work program (EWP) that is submitted to the DENR as part of a company's application for a mineral agreement or permit.

For a company's initial environment-related capital expenditures, the contractor is required to allocate an approximate amount of 10% of the total capital/project cost or such other amount depending on the environmental or geological condition, nature and scale of operations, and technology employed.<sup>92</sup>

For its annual environment-related expense, a percentage based on the AEPEP is allocated which may approximate a minimum of 3-5% of its direct mining and milling costs depending on the environment/geologic condition, nature and scale of operations and technology employed.<sup>93</sup>

*Direct milling costs* generally refer to "expenditures and expenses directly incurred in the mechanical and physical processing and/or chemical separation of the ore from the waste to produce marketable mineral products."<sup>94</sup> However, for *cement plant operations*, the implementing rules qualify that these are limited only to "expenditures and expenses directly incurred from raw materials crushing and grinding up to ground raw meal homogenizing, prior to clinker manufacturing."<sup>95</sup>

b. **Environmental Work Program (EWP)** during exploration. This is required for exploration permits as well as mineral agreements and FTAA's that will go through exploration activities. The EWP details the environmental impact control and rehabilitation activities proposed during exploratory period, including the costs needed to enable sufficient financial resources to be allocated to meet the

<sup>91</sup> RA 7160 (1991), Sec. 158.

<sup>92</sup> *Id.*, Sec. 155.

<sup>93</sup> *Id.*, Secs. 132, 147, and 153.

<sup>94</sup> The local tax authority of LGUs does not extend to the levy of certain taxes, e.g., income tax, documentary stamp tax, estate and inheritance tax, customs duties, taxes, fees or charges on goods carried into or passing through territorial jurisdiction of LGUs in the guise of toll fees or charges for wharfage dues, taxes on certified pioneer or non-pioneer business enterprises, excise taxes, VAT, etc.

<sup>95</sup> RA 7942 (1995) Sec. 57.

<sup>96</sup> SDMP is defined in the implementing rules as "a comprehensive 5-year plan towards the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities

environmental and rehabilitation commitments.<sup>96</sup>

c. **Contingent Liability and Rehabilitation Fund (CLRF).** The law requires mining companies to technically and biologically rehabilitate excavated, mined-out, tailings covered, and disturbed areas to the condition of environmental safety. For this purpose, contractors are obligated to create this fund (a) to implement physical and social rehabilitation of areas and communities affected by mining activities; and (b) to research on the social, technical and preventive aspects of rehabilitation.

The CLRF, a collective term for all environmental guarantee fund (EGF) mechanisms allocated for this purpose, is based on the contractor's approved work program and is deposited as a trust fund in a government depository. It takes the following forms:<sup>97</sup>

(1) **Mine Rehabilitation Fund (MRF).** This is in the form of a Monitoring Trust Fund (MTF) that is used exclusively to implement a monitoring program approved by the MRF Committee; and Rehabilitation Cash Fund (RCF) which is used to ensure compliance with the approved rehabilitation activities.<sup>98</sup>

The amount of the MTF is determined by the MRF Committee, which shall not be less than the amount of PHP 150,000. The RCF, on the other hand, is equivalent to 10% of the total amount needed to implement the EPEP or PHP5 million, whichever is lower.

(2) **Final Mine Rehabilitation and Decommissioning Fund (FMRDF).** This fund ensures that the full cost of the approved Final Mine Rehabilitation and Decommissioning Plan (FMRDP) or mine closure plan is accrued before the end of the operating life of the mine. This is estimated based on the costs of having such rehabilitation and decommissioning work done by third party contractors, on an annual basis.<sup>99</sup>

capable of developing, implementing and managing community development programs, projects and activities in a manner consistent with the principle of people empowerment.

<sup>97</sup> DAO 2010-21 (2010), Sec. 134. "Operating cost" under this provision refers to the "specific costs of producing a saleable product on a commercial scale incurred in the calculation of the net income before tax, as confirmed by the Bureau/Regional Office. This shall include costs and expenditures related to mining/extraction and treatment/processing (inclusive of depreciation, depletion, and amortization), exploration activities during operation stage, power, maintenance, administration, excise tax, royalties, transport and marketing, and annual progressive/environmental management."

<sup>98</sup> *Id.*, Sec. 134.

<sup>99</sup> *Id.*, Sec. 136-A.

3. *Expenditures for the Socio-Economic Well-Being of Indigenous Peoples/Indigenous Cultural Communities (IP/ICC)*. Also known as royalty payments to the IP/ICC, these are provided to the concerned IP/ICC when they have agreed, through the FPIC process, that their ancestral land may be opened for mining operations.<sup>100</sup> The royalty, made upon the use of the minerals within ancestral lands, is construed as a trust fund for the socio-economic well-being of the IP/ICC community. The concerned IP/ICC is expected to manage and use the royalty payment.<sup>101</sup>

While subject to negotiations and consequent agreement between the concerned parties, the implementing rules state that such royalty payment must not be less than 1% of the gross output.<sup>102</sup> Expenses for community development may also be credited or charged against the said royalty.

## Collection

The total share of the government in a Mineral Production Sharing Agreement (MPSA) is the excise tax on mineral products.<sup>103</sup> With respect to other mineral agreements, the government's share is negotiated by the government and the contractor based on the following considerations: (a) project's capital investment; (b) risks involved; (c) its contribution to the economy; and (d) other factors that will provide for a fair and equitable sharing between the parties.<sup>104</sup> The government further collects taxes, duties, and fees provided under existing laws.<sup>105</sup>

MPSAs granted under EO 279 (1987)<sup>106</sup> remain valid and existing mining/quarrying rights thereon cannot be impaired. However, the 1995 Mining Act provisions on government share in MPSA immediately govern such MPSAs, unless the contractor indicates in writing to the DENR secretary its intention not to avail of the new provisions.<sup>107</sup>

In the case of FTAA, the government's share is also negotiated by the parties. In addition to the factors considered in other mineral agreements, the parties also take into account the technical complexity of the project in their negotiations. At the minimum, the government's share in FTAA consists of the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders, arising from dividend or interest payments to said foreign stockholders, in case of a foreign national, and such other taxes, duties, and fees provided under existing laws.<sup>108</sup>

However, the collection of the government's share in FTAA commences after the contractor has fully recovered its pre-operating, exploration, and development expenses, inclusive. The recovery period, counted from the date of commencement of commercial operation, shall not exceed 5 years or at a date when the aggregate of the net cash flows from the operations is equal to the aggregate of its pre-operating expenses, whichever comes earlier. This period may be extended upon negotiation with the FTAA negotiation panel and subject to approval by the DENR Secretary in case of projects determined by the MGB as incurring huge investments with high production rate and extensive mine life. After the recovery period, additional government share shall be paid by the contractor pursuant to separate guidelines on the matter.<sup>109</sup>

Notwithstanding the grant of incentives by other government agencies to mining contractors, the payment of the government share is expressly guaranteed.<sup>110</sup>

In almost all the foregoing cases, the government share is paid to the nearest BIR office where the mining/contract area is located and in accordance with BIR rules and regulations.<sup>111</sup> The following table is a summary of the types of payments and the corresponding collecting agencies:

Type of Payment	Collecting Agency
Corporate Income Tax	BIR
Excise Tax	BIR
Mine Wastes and Tailings Fee	MGB
Customs Duties and Fees	BOC
Value-Added Tax	BIR
Documentary Stamp Tax	BIR
Capital Gains Tax	BIR
Harbor Fees, Wharfage Dues, Berthing Charges, Storage Charges, Tonnage Dues	PPA
Filing Fees and Other Charges	MGB

<sup>105</sup> *Id.*

<sup>106</sup> EO 279 (1987).

<sup>107</sup> RA 7942, Sec. 112.

<sup>108</sup> *Id.* RA 7942, Sec. 81, DAO 2010-21 (2010), Secs. 213 and 214.

<sup>109</sup> RA 7942 (1995) sec. 81, DAO 2010-21 (2010) Sec. 214.

<sup>110</sup> DAO 2010-21 (2010), Secs. 38 and 52.

<sup>111</sup> *Id.*, Sec. 216.

## Distribution

The Local Government Code of 1991 provides the manner by which the government's share from the use and development of mineral resources is distributed. The Code ensures that such proceeds are equitably shared by the local government units (LGUs) within their respective areas. This also contemplates sharing the proceeds with their inhabitants by way of direct benefits.<sup>112</sup>

The Code further provides that LGUs have a 40% share of the gross collection by the national government from the preceding fiscal year from mining taxes, royalties, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the use and development of the national wealth within their territorial jurisdiction.

This 40% share is distributed as follows: <sup>113</sup>

Location of natural resources	Province	City or Municipality	Barangay	Remarks
In the province	20%	45%	35%	
In 2 or more provinces, or in 2 or more component cities or municipalities, or in 2 or more barangays				Shares computed according to population (70%) and land area (30%)
In highly urbanized or independent component city		65%	35%	
In 2 or more cities				Same formula as above

The Code further provides that this share shall be automatically released to each LGU, without need of any further action, directly to the provincial, city, municipal, or barangay treasurer, as the case may be, on a quarterly basis within 5 days after the end of each quarter.

The national government is not allowed to subject such share to any lien or holdback.<sup>114</sup> A more detailed set of guidelines and procedures governing the release of LGU shares from collections derived by the national government from mining taxes was issued in 2009.<sup>115</sup>

Out of its share of the government's proceeds from such national wealth use and development, LGUs are then directed to finance local development and livelihood projects.<sup>116</sup>

Occupation fees, on the other hand, are distributed in the following manner: 30% of all such collections from mining rights holders in onshore mining area accrue to the province, while 70% to the municipality where the mining area is located. In a chartered city, the full amount of occupation fees accrues to the concerned city.<sup>117</sup>

<sup>100</sup> *The NCIP regards the "royalties" not as an economic benefit due to the IP/ICC, but as a social justice measure. (NCIP Admin. Circular No. 3, series of 2012, Sec. 58)*

<sup>101</sup> RA 7942 (1995), Secs. 16-17.

<sup>102</sup> DAO 2010-21 (2010), Sec. 16.

<sup>103</sup> RA 7942 (1995), Sec. 80, DAO 2010-21 (2010), Sec. 212; Rep. Act No. 7729, amending Sec. 151 (a) of the Tax Code.

<sup>104</sup> *Id.* RA 7942, Sec. 81; DAO 2010-21 (2010), Sec. 213.

<sup>112</sup> RA 7942 (1995), Sec. 82; DAO 2010-21 (2010), Sec. 216; RA 7160, (1991) Sec. 289.

<sup>113</sup> Rep. Act No. 7160 (1991), Secs. 290 and 292.

<sup>114</sup> *Id.*, Secs. 286 and 293.

<sup>115</sup> DOF-DBM-DILG-DENR Joint Circular No. 2009-1 (2009).

<sup>116</sup> *Id.*, Sec. 294

<sup>117</sup> RA 7160 (1991) Sec. 88.

# CHAPTER 3

## AREAS AND COMPANIES WITH LARGE-SCALE NON-METALLIC MINING AND QUARRYING OPERATIONS

### Profile of Areas and Companies with Large-Scale Non-Metallic Mining and Quarrying Operations

As of 30 June 2013, the government has issued 339 MPSA contracts covering over 602,000 ha. of both large-scale metallic and non-metallic mining/quarrying in the country.<sup>118</sup> Using the definitions for non-metallic minerals and quarry resources, the data was disaggregated to extract information on large-scale non-metallic mining and quarrying operations.

Out of the total number of MPSAs in the country, 148 MPSAs covering approximately 130,000 ha. involve large-scale non-metallic mining/quarrying which are at different stages of

mining development. Specifically: The commodities being explored or developed are mostly limestone and shale (including marble), clay, sand and gravel, aggregates, and dolomite.

With respect to the distribution of MPSAs across the country, Luzon has the largest number and size of MPSAs, with 84 MPSAs covering approximately 71,000 ha. of land. This is followed by Visayas (46 MPSAs with 42,000 ha.) and Mindanao (18 MPSA with 17,000 ha.), respectively.

Within Luzon, concentrations of large-scale non-metallic mining/quarrying areas in exploration, development, and commercial operations stages are found in Regions 1 (Ilocos Region), 3 (Central Luzon), and 4-A (CALABARZON), specifically in the provinces of Pangasinan, Bulacan, and Rizal.

In the Visayas region, Region 7 (Central Visayas) hosts the most number of MPSAs, with the province of Cebu as a dominant host.<sup>119</sup> Cebu alone has 30 MPSAs that covers a little over 20,000 ha. Region 8 (Eastern Visayas), Northern Samar and Leyte in particular, follows in the list with 8 MPSAs covering approximately 16,000 ha.

While the number of operating large-scale non-metallic mines in Mindanao is relatively small (18 MPSAs with only 3,400 ha. in operation), a huge tract of land (9,000 ha.) is currently being explored.

In terms of entities that hold MPSAs for large-scale non-metallic mining/quarrying, this is predominantly held by corporate entities. However, several individuals or groups of individuals (heirs of certain families) and a cooperative also appear as MPSA contractors.

Among the companies in the list, Holcim Philippines holds the most number of MPSAs throughout the country. It has a total

of 17 MPSAs at varied stages of development: 5 in the Ilocos region, 3 in Central Luzon, 3 in Northern Mindanao, and 6 in Davao region. Other significant players in terms of number of MPSAs held include: Rapid City Realty and Development Corporation (9 MPSAs in Region 4-A); Apo Land and Quarry Corporation (8 MPSA in Region 7); Solid Earth Development Corporation (6 MPSAs in Region 7); and Teresa Marbles and Lafarge Republic (3 MPSAs each in Region 4-A).

A complete list of the large-scale non-metallic mining and quarrying companies in the Philippines, including location maps of the industry, at the provincial level and commodity basis, is included in this study. (See, Annexes A, B and C)

It is also important to provide a profile of the major cement plants in the country. As of February 2015, there are 16 cement plants nationwide: 9 in Luzon, 3 in the Visayas, and 4 in Mindanao. These are Holcim Philippines (La Union, Bulacan, Misamis Oriental, and Davao), Northern Cement Corporation (Pangasinan), Eagle Cement Corporation (Bulacan), Solid Cement Corporation (Rizal) (CEMEX Group), Apo Cement Corporation (Cebu) (CEMEX Group), Lafarge Republic, Inc. (Bulacan, Rizal, Batangas, Cebu, Iligan), Taiheyo Cement Philippines (Cebu), Goodfound Cement Corporation, Philippines (Albay), and Pacific Cement Philippines (Surigao del Norte).<sup>120</sup>

Most of the cement plant companies in the above enumeration are members of the Cement Manufacturers' Association of the Philippines (CeMAP).<sup>121</sup> CeMAP is an association of cement manufacturers in the country which, according to its website, aims to promote the interests of its members in the aspects

of producing high quality cement, developing products and cement-based products for consumers, ensuring a level playing field for manufacturers, leading in the implementation of sustainable development initiatives, providing source of data for its association members, government and non-government stakeholders, and in relating to the public in general.<sup>122</sup> CEMAP is currently led by its President, Dr. Ernesto Ordonez.

Only a few large-scale non-metallic mining and quarrying companies are listed as members of the Chamber of Mines of the Philippines (COMP).<sup>123</sup> Apart from COMP (dominated by metallic mining companies) and CEMAP (cement), there is no other national association that exclusively represents the interests of the large-scale non-metallic sector in the country. However, it is possible that industry members have geographic or regional groupings, such as the Eastern Rizal Miners' Association (ERMA) for the eastern Rizal area.<sup>124</sup> A similar association is apparently being organized in Cebu for the entire Region 7.<sup>125</sup>

While a conversation has been initiated with the leadership of ERMA about the country's commitment to the EITI standards and its implications on the large-scale non-metallic mining industry,<sup>126</sup> efforts to solicit feedback from CEMAP have not succeeded as of the completion of this report. Hence, it is strongly recommended that the PH-EITI-MSG continue to directly communicate with and secure the commitment of the sector through individual companies and regional or provincial associations in order to provide more substantive and analytical content about this sector in future EITI country reports.

Number of MPSA	Stage
75	Exploration
5	Development
53	Commercial operation
5	Exploration and commercial operation
1	Development and commercial operation
1	Partial development/commercial operation and partial exploration
5	For registration/not yet released or signed
3	Cancelled (but with pending Motion for Reconsideration or Appeal)
148 (total)	

<sup>118</sup> DENR-MGB, Mining Tenements Management Division, Complete List of Existing Mineral Production Sharing Agreement (MPSA) as of June 30, 2013.

<sup>119</sup> By virtue of EO 183 (2015), Region 18 or the Negros Island Region (NIR), comprising the provinces of Negros Oriental (formerly part of Region 7) and Negros Occidental (formerly part of Region 6), was created. However, considering that the institutional arrangements for the new region are still underway, including for the DENR-MGB, this study continues to regard any data gathered for the provinces under the previous regional groupings.

<sup>120</sup> MGB. Location Map of Cement Plants in the Philippines. February 2015.

<sup>121</sup> <http://CeMAP.org.ph/>. Website of the Cement Manufacturers' Association of the Philippines (CEMAP). The only exceptions are Eagle Cement Corp. and Goodfound Cement Corp.

<sup>122</sup> *Id.*

<sup>123</sup> Among the few of those listed are: Dolomite Mining Corp., Teresa Marble Corp., and Solid Earth Corp.

<sup>124</sup> Meeting with MGB Region 4A, ERMA, CEMEX/Solid Cement Corp., Montalban Aggregates Producers' Association (MAPA), and NGO-PMRB, Rizal Province, 15 January 2016.

<sup>125</sup> Meeting with MGB Region 7, Mandaue City, 2 February 2016.

<sup>126</sup> Meeting with Ms. Angelita Lee, President of ERMA, 16 January 2016

# CHAPTER 4

## A GLIMPSE OF LARGE-SCALE NON-METALLIC MINING AND QUARRYING OPERATIONS IN THE THREE SELECTED AREAS

The scoping study aims to cover three (3) areas hosting large-scale non-metallic mining operations, with focus on their respective situation (citing relevant local ordinances and contracts of selected companies), the problems and challenges in regulating operations, including any concerns regarding compliance with environment and natural resources laws, monitoring environmental performance, and dynamics relating to socio-political issues, as well as recommendations to address the same.

Specifically, the study intends to look at a representative large-scale non-metallic mining company in each of the following 3 areas: Bulacan, Rizal, and Cebu provinces. These provincial areas were selected based on discussions with officials from the PH EITI Secretariat, MGB, and civil society. This study is based on documents gathered or made available by the PH-EITI Secretariat and the concerned MGB regional offices, including results of interviews with key stakeholders in the said provinces. (See Annex D for the list of individuals who were interviewed for this scoping study)

The provinces were selected based on the prevalence of large-scale non-metallic mining and quarrying operations relative to other areas in the country. The companies, on the other hand, were selected based on the level of mining development, thus assuming increased factors for assessing operational issues, such as environmental law compliance and performance monitoring.

## Province of Cebu

### Profile of Large-Scale Non-Metallic Mining in the Province

Out of 46 large-scale non-metallic mining MPSAs hosted by the Visayan region, 30 are located in the province of Cebu. These cover a total of more than 19,000 ha. being explored, developed, and/or commercially operated for varied non-metallic minerals and quarry resources by about 15 companies and individuals. Dominant players in terms of number of MPSAs held and area covered within the province include Lafarge Republic, Solid Earth Development Corporation, and Apo Land and Quarry Corporation.

See the following table:



	Name of Company	Location	Area (in hectares)	Commodity	Term
	Commercial Operation				
1	Apo Land and Quarry Corp. (assigned from Apo Cement)	Naga	192.00	Limestone	1993-2018
2	Apo Land and Quarry Corp.	Naga	84.00	Greywacke and pozzolan	1997-2022
3	Lafarge Republic (formerly Republic Cement)	Asturias	2,383.54	Limestone	1996-2021
4	Solid Earth Development Corp. (assigned from Grand Cement Manufacturing)S	San Fernando	1,492.02	Limestone	1997-2022
5	Solid Earth Development Corp.	San Fernando	84.17	Limestone	2004-2009
6	Dolomite Mining Corp.	Alcoy and Dalaguete	524.61	Dolomite and other associated mineral deposits	2005-2030
	<b>Subtotal</b>		<b>4,760.34</b>		
	<b>Development</b>				
7	Southwestern Cement Corp. (assigned from Looc Limestone)	Malabuyoc	306.46	Limestone	1996-2021

	Name of Company	Location	Area (in hectares)	Commodity	Term
8	Southwestern Cement Corp.	Malabuyoc	486.00	Limestone	1996-2021
9	Lafarge Republic, Inc. (from Republic Cement)	Carmen	2,551.00	Graywacke, sandstone, limestone, and silica	1999-2024
	<b>Subtotal</b>		<b>3,343.46</b>		
	<b>Exploration</b>				
10	Apo Group, Inc.	Malabuyoc	549.00	Limestone	1997-2022
11	Apo Land and Quarry Group Corp.	Naga City	129.96	Limestone and other associated mineral deposits	2009-2034
12	Apo Land and Quarry Group Corp.	Naga City	84.15	Limestone and other associated mineral deposits	2009-2034
13	Apo Land and Quarry Group Corp.	Naga and San Fernando	170.98	Limestone and other associated mineral deposits	2010-2035
14	APC Group, Inc.	Ginatilan	502.83	Limestone	1997-2022
15	Jose R. Soberano	Pinamungahan	324.00	Silica sand	1998-2023
16	Taiheyo Cement Phils. Inc. (from Solid Earth)	San Fernando and Naga	486.00	Limestone	1999-2024
17	Ibalong Resources and Development Corp.	Sibonga	607.50	Limestone, clay, other cement materials	1999-2024
18	Citadel Mining Corp.	Danao City	336.37	Graywacke	2000-2025
19	Kimhee Realty Corp.	Consolacion	168.23	Limestone	2004-2029
20	Kimhee Realty Corp.	Daangbantayan	2,013.75	Rock phosphate and other associated mineral deposits	2007-2032
21	Solid Earth Development Corp.	Duangan and Binabag, Pinamungahan	84.14	Silica and other associated mineral deposits	2010-2035

	Name of Company	Location	Area (in hectares)	Commodity	Term
22	Solid Earth Development Corp.	Pinamungahan	1,257.18	Silica and other associated minerals	2010-2035
23	Solid Earth Development Corp.	Naga and San Fernando	1,683.05	Limestone and other associated minerals	2010-2035
24	Solid Earth Development Corp.	San Fernando	496.57	Limestone and other associated minerals	2010-2035
25	Peblea Q. Alfaro	Busay and Kalunasan	336.52	Diorite, basalt and other associated mineral deposits	2010-2035
	<b>Subtotal</b>		<b>9,230.23</b>		
	<b>Exploration and Commercial Operations</b>				
26	Quarry Ventures Phil., Inc.	Naga and Pinamungahan, Cebu and Toledo City	607.50	Marbleized Limestone	1998-2023
27	JLR Construction and Aggregates, Inc.	Naga and Minglanilla	336.00	Basalt and stone	2004-2029
	<b>Subtotal</b>		<b>943.50</b>		
	<b>Not yet released/ registered; Contract not yet signed by proponent</b>				
28	Apo Land and Quarry Corporation	Carcar	505.06	Limestone, silica, and other associated minerals	2010-2035
29	Apo Land and Quarry Corporation	Carcar	420.91	Limestone, silica, and other associated minerals	2010-2035
30	Apo Land and Quarry Corporation	Naga	140.24	Graywacke, sandstone, bentonite, silica, and other associated mineral deposits	2010-2035
	<b>Subtotal</b>		<b>1,066.21</b>		
	<b>Total</b>		<b>19,343.74</b>		

## Selected Company: Apo Land and Quarry Corporation

Apo Land and Quarry Corporation (Apo Land) was selected for being the oldest operating large-scale non-metallic mining company in the province. The corporation can be traced to the Apo Cement Corp. the origins of which dates back to the 1920s when the Cebu Portland Cement Corp. was formed and owned by the Philippine government. Control of the corporation moved from Japanese to American and back to Philippine hands during the second world war.<sup>128</sup>

Apo Land, a member of the CEMEX Philippines group of companies and CeMAP,<sup>129</sup> operates two contract areas in Naga, Cebu. The first area, covering 192 ha., started commercial operation of limestone deposits in 1993. The second area, with 84 ha., commenced operations in 1997 primarily for greywacke and pozzolan.<sup>130</sup> Both MPSAs were provided a term of 25 years.

### Relevant Local Legislation

The provincial government has passed two important local ordinances pertaining to mineral and quarry resources - the *Revenue Code of Cebu of 2008*<sup>135</sup> and the *Environmental Code of the Province of Cebu*.<sup>136</sup>

1. Chapter VI of the *Revenue Code of Cebu of 2008* provides for the regulatory powers of the provincial governor in the conduct of business and trade activities related to environment and natural resources. It includes provisions on permits, accreditation, fees, and charges for extracting mineral and quarry resources in specified areas. These typically involve small-scale mining of an area of not more than 20 hectares; and quarrying of an area of not more than 5 hectares. In its strict sense, the *Revenue Code* of the province, by defining the scope of the governor's power and authority, does not cover the conduct of large-scale metallic and non-metallic mining and quarrying activities.

However, in terms of implementation, it appears from interviews with officials from MGB Region 7 that the provincial government's *Revenue Code of 2008* is perceived by the mining industry to be requiring certain fees and charges that are already imposed under the *Mining Act of 1995* and implemented by the MGB.<sup>137</sup> A

Having been signed in 1993, the MPSA for the first contract area was made pursuant to EO 279 (1987). Its MPSA thus provides a different fiscal regime.<sup>131</sup> Apart from the excise tax, it was required to pay a basic government share of the gross revenue and a percentage share in the net revenue.<sup>132</sup> It is not clear whether Apo Land has otherwise indicated to the DENR Secretary as required that it has opted not to be governed by the provisions of the 1995 Mining Act.<sup>133</sup>

On the other hand, the MPSA for the second contract area was already executed pursuant to the 1995 Mining Act. Its provisions on the share of the government as well as its allocation, including other expenditures, were clearly in accordance with the current mining law.<sup>134</sup>

draft ordinance proposing to amend certain sections of the *Revenue Code* in order to clarify its coverage and avoid excessive tax impositions is thus in circulation.<sup>138</sup> The draft ordinance anchors its proposal on the *Local Government Code* provisions which specify the guidelines and limitations on the right of the province to levy taxes, fees, and charges,<sup>139</sup> emphasizing that all local ordinances must conform to existing national laws and other legislation.

For instance, it cited Section 192 of the *Revenue Code of 2008* which requires all transporters and haulers of quarry resources and minerals/mineral products to obtain from the provincial governor an Ore Transport Permit (OTP). Under the said provision, failure to present the OTP can cause the impoundment of the vehicle and cargo being transported, including payment of fines and penalty to the provincial treasurer.

The draft ordinance now proposes an additional paragraph to clarify that transporters and haulers that have already obtained the necessary OTP from the DENR-MGB pursuant to the *Mining Act of 1995* should no longer be required to obtain another OTP from the provincial governor.<sup>140</sup> Further, the draft ordinance proposes to amend the Code's provisions on the imposition of

environmental enhancement fees, thus creating an Environmental Enhancement Fund, in an attempt to make a distinction between permits issued by the provincial government under the Code and those that are not, including where the company has already established a Mine Rehabilitation Fund (presumably under the Mining Act of 1995) covering the area of extraction.<sup>141</sup>

According to the MGB Region 7 officials, the proposed ordinance is expected to be taken up by the provincial government in its forthcoming sessions.

2. The *Environmental Code of the Province of Cebu* manifests a more active stance on the environmental impact of mining and quarrying activities, regardless of whether the operation is small- or large-scale. This was passed in pursuit of the general welfare clause of the Local Government Code of 1991.<sup>142</sup> The Environmental Code, in considering the need to integrate environmental policies with social and economic dimensions, also defines the provincial government's interaction with component LGUs and other provinces, as well as its own stand and position, on environmental issues that are trans-jurisdictional in nature, and with the national government agencies concerning the environment.<sup>143</sup>

With this framework, the Code articulates in several provisions how the provincial government intends to address concerns related to large-scale non-metallic mining and quarrying operations. These are as follows:<sup>144</sup>

- a. Initiate and coordinate with the mining industry players-private companies, government agencies and the general public, in accordance with the *Local Government Code* and the *Mining Act*, to ensure that Cebu's metallic and non-metallic mineral resources are harnessed with due consideration of ably managing the impacts of environmental resource degradation, unique landscape destruction, biodiversity loss, loss of life and property, and any other fatal accidents.<sup>145</sup>
- b. Initiate and coordinate with the MGB, relevant agencies, and stakeholders; and closely monitor the enforcement and implementation of environmental, mine safety and health laws and

regulations related to mining, quarrying, mineral processing, and mineral trading activities within the province, to ensure compliance with relevant laws and policies on environment, health and safety, and pollution management;<sup>146</sup>

- c. Whether it is large-scale or small-scale mining, conduct a mandatory public hearing or consultation in the barangay(s) where the mining/quarrying site is located before any permit, clearance or endorsement is issued by the LGUs (barangays/cities/municipalities) within the province;<sup>147</sup>
- d. For large-scale mining operations, coordinate with the DENR in the licensing, operation, and rehabilitation of the mines. The province undertakes to ensure that the environmental guarantee fund (EGF) is enough to cover foreseeable damage from the mining operation and the mine rehabilitation plans and funds are properly updated to use the best technology available. It will also request regular auditing of the EGF and the reserves for rehabilitation.<sup>148</sup>

### Issues and Concerns

The issues and concerns presented are limited to those raised by the MGB regional office and a local community member in Naga City. The meeting organized by MGB Region 7 was supposed to include representatives from Apo Land and Quarry Corp. However, Apo Land officials had to urgently leave for Manila when the meeting was held. Subject to further validation, the perspectives of the industry were articulated in some ways during the meeting.

#### Perspectives of the MGB Region 7 officials:<sup>149</sup>

*Monitoring compliance with laws, rules, and regulations.* The MGB Region 7 officials, led by Regional Director Loreto B. Alburo, regard the large-scale non-metallic and quarrying sector in the region as generally compliant with the DENR's standards and policies.<sup>150</sup> What they deem problematic is small scale mining.<sup>151</sup> They also view the performance of Apo Land as satisfactory, referring further to the company's ISO 9002<sup>152</sup> and ISO 14001 certification<sup>153</sup> as well as its recent recognition for environmental stewardship, health and safety, and community development achievements.<sup>154</sup>

<sup>128</sup> CeMAP website, [http://CeMAP.org.ph/?page\\_id=1169](http://CeMAP.org.ph/?page_id=1169).

<sup>129</sup> *Id.* See the CEMEX website, <http://www.cemexphilippines.com/AboutCemex.aspx>. CEMEX considers itself as "a leading producer and marketer of cement and ready-mix products" with operations worldwide.

<sup>130</sup> MPSA No. 013-93-VII and MPSA No. 093-97-VII.

<sup>131</sup> MPSA No. 013-93-VII, Section VI refers to (a) a basic government share at the rate of 0.5% of the gross revenue payable quarterly to the DENR Regional Office; and (b) 1% share in net revenue, paid on the same day that the basic share is due. These are paid in addition to the excise tax as provided under the Tax Code.

<sup>132</sup> *Id.*

<sup>133</sup> RA 7942, Sec. 112 requires such an indication to be made in writing with the DENR Secretary.

<sup>134</sup> MPSA No. 093-97-VII.

<sup>135</sup> Cebu Provincial Ordinance No. 2008-10.

<sup>136</sup> Resolution No. 1483-2012/Ordinance No. 2012-13.

<sup>137</sup> Meeting with MGB Region 7, 2 February 2016.

<sup>138</sup> Ordinance No. \_\_\_\_: An Ordinance Amending Sections 124, 125, 181, 192, and 220 of Ordinance No. 2008-10 to Conform with the Local Government Code by Clarifying the Coverage of the Tax on Minerals, Sand, Gravel, and Other Quarry Resources as well as Modifying the Tax Base of the Environmental Enhancement Fees, and for Other Purposes.

<sup>139</sup> *Id.* Reference was made to RA 7160, Sections 130, 133, 134, and 138.

<sup>140</sup> *Id.* Section 4. It is noted that DAO 2010-21, Sec. 116 requires all permit holders, contractors, accredited traders, processors, and other mining rights holders to obtain an OTP from the MGB regional director for the transport of all minerals, mineral products, and by-products. For MPSA and FTAA contractors, the OTPs are already issued under the agreement.

<sup>141</sup> *Id.* Sec. 5.

<sup>142</sup> *Id.* Reference to RA 7160, Sec. 16, which allows the LGU to exercise its express and implied powers, including any necessary, appropriate or incidental powers for efficiently and effectively governing the province, and all essential powers to promote its general welfare.

<sup>143</sup> *Id.* Whereas clause.

<sup>144</sup> *Id.* Article V on mineral resources.

<sup>145</sup> *Id.* Sec. 2.

<sup>146</sup> *Id.* Sec. 3.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.* Sec. 6.

<sup>149</sup> Meeting with MGB Region 7 officials, 2 February 2016, Mandaue City.

<sup>150</sup> *Id.*

<sup>151</sup> Small-scale mining is regulated by the provincial governor through the Provincial Mining Regulatory Board (PMRB), of which the MGB regional director is the chair.

<sup>152</sup> International Organization for Standardization's model for quality assurance in production, installation, and servicing.

<sup>153</sup> ISO certification on the setting up of an effective environmental management system, which is one of the tools for managing a company's environmental responsibilities.

<sup>154</sup> During the 62nd Annual National Mine Safety and Environment Conference held in November 2015, the Apo team received the recognition from the Presidential Mineral Industry Environment Award (PMIEA) committee. The awards included the PMIEA-2015 platinum award, best mining forest and safest mineral processing - cement plant category. See also, <http://www.sunstar.com.ph/cebu/local-news/2016/01/05/apo-cement-cited-environmental-health-and-safety-excellence-450084>. Accessed: 4 February 2016.

*Stakeholders and their inter-relationships.* The MGB regional officials describe the mining stakeholders and their inter-relationships in the region as generally good. The multi-partite monitoring team (MMT) for the Apo Land is composed of representatives from the MGB, EMB, Apo Land, NGO, Provincial Environment and Natural Resources Office (PENRO), and LGU.<sup>155</sup> The MMT uses a monitoring template that the regional office has developed. They regard their template as more simple and more comprehensible, including by non-technical people, than the one recently developed for the joint EMB-MGB monitoring.<sup>156</sup>

NGOs in the province and in the Apo Land community are seen as active and collaborative participants in mining-related concerns.

With respect to the LGUs, the MGB officials describe their relationship as satisfactory, particularly at the most local level of the *barangays* hosting the mining activity. However, they pointed to minor issues at the provincial LGU level that need improvement. In particular, they deal with the perception that the MGB's presence in the Provincial Mining Regulatory Board (PMRB) diminishes the power of the provincial government with respect to small-scale mining.<sup>157</sup>

While there is no mining association in the region and in Cebu province at present,<sup>158</sup> MGB Region 7 officials remarked that there are current moves to create one for the region. One of the movers is Ms. Annie Dee, president and general manager of Teresa Marble Corp., whose company has established some presence in the region. The group is reportedly pushing for the amendment of certain provisions of the *2008 Revenue Code of Cebu*. (See discussion on Relevant Local Legislation)

Among the other issues raised by the MGB Region 7 officials and their corresponding recommendations on PH-EITI are as follows:

1. *Implementation of EPEP, SDMP, and FMRDP by holders of Mineral Production Sharing Agreement (MPSA) and Mineral Processing Permit (MPP).* In general, the registered MPSA holder is mandated by law to allocate funds for EPEP, SDMP, and FMRDP-related expenditures. These expenditures are required from the start of mining development to actual operations (which includes mineral processing), and eventual closure of the mine. However, in practice, the processing of non-metallic and quarry resources, is typically undertaken by another entity, the MPP holder – which may be an affiliate or sister company of the MPSA holder or a totally different company. For example, Bohol Limestone Corp. is the MPSA holder, while the Philippine Mining Service Corp. (PMSC), a 100% Japanese-owned company, is the MPP holder; Dolomite

Mining Corp. holds the MPSA, while PMSC is the MPP holder. In the case of Apo Land, the MPSA holder is Apo Land and Quarry Corp., while the MPP is held by Apo Cement.

Although a formal agreement between the two companies should be able to determine responsibilities with respect to the provisions for EPEP, SDMP, and FMRDP, this can pose practical problems because the accountability for these expenditures remains with the holder of the MPSA.

According to the MGB regional office, a 2015 memorandum from the MGB central office appears to remedy this problem by requiring MPP holders to submit separate data and allocation for its EPEP, SDMP, and FMRDP as a condition for the renewal of its mineral processing permit. In other words, MPSA and MPP holders, which may cover the same mineral or quarry resource, will now have separate and distinct EPEP, SDMP, and FMRDP expenditures.

For MGB database management and EITI purposes, this may affect the prompt submission and effective collation of needed data from the companies. The private sector is also perceived not to welcome this policy development.

2. *Operating costs as basis of SDMP.* As discussed, operating mines are required to allocate every year a minimum of 1.50% of the operating costs to implement its SDMP, which is geared towards improving the living standards of their host and neighboring communities. Although the actual SDMP expenditures by metallic and non-metallic mining companies are regarded as typically higher than the minimum requirement, the MGB regional officials cited that the use of “operating costs” as defined in the Mining Act and as a basis for determining SDMP allocation poses a problem for the cement industry.

CEMAP is apparently proposing that, for its industry, the basis of the operating costs should only be computed from the costs incurred from raw materials crushing to the homogenizing stage. It should not include costs related to clinkering and other succeeding processes for manufacturing cement.

Considering this position, a review of the appropriate basis of the SDMP for the large-scale non-metallic mining industry, specifically for cement, is thus recommended.

3. *Scope of LGU tax and revenue generation authority and other regulation issues.* As discussed, the provincial government of Cebu has passed its *Revenue Code of 2008*, which enumerates the permits, taxes, fees, and

*permits. The PMRB is chaired by MGB regional director, with the provincial governor as vice-chair, and one representative each from the small-scale mining, large-scale mining, and NGOs as members.*

<sup>158</sup> According to the MGB Region 7 officials, an association of metallic and non-metallic companies – the Mining for Environment and Development Foundation, Inc. (MEDFI) – existed in Region 7 in the early 1990s. The association included exploration companies and mining applicants. However, with inactive officials on board, the association eventually perished.

other charges related to the extraction of mineral and quarry resources that should be obtained from or paid to the provincial governor.

Several individuals identified with the local mining industry are apparently seeking amendments to certain sections of the Code on the ground that they are already paying similar fees and charges to the MGB under the *Mining Act of 1995*. They have now advanced a draft ordinance that aims to clarify the coverage of the Code, making reference to the *Local Government Code* provisions defining the right of the province to levy taxes, fees, and charges, and on the need for local ordinances to be in conformity with national laws. (See discussion on Relevant Local Legislation)

In addition, there may need to be a review of the structure of the PMRB and the respective roles of the MGB regional director and the provincial governor, with respect to regulating mining activities within the scope of the PMRB. As discussed, the presence of the MGB regional director as the chair of the PMRB, which largely focuses on small-scale mining, is seen by other stakeholders as a threat or a diminution of the regulatory powers of the provincial governor. This perception should be rectified.

4. *Remittance of LGU share in the revenue derived from natural resources use.* The MGB Region 7 officials observed the slow remittance of the share of the LGUs from the proceeds derived from national wealth use and development. They proposed that the possibility of allowing direct remittance to the concerned LGUs should be considered, so it is easier to track whether and how the LGUs are able to effectively finance local development and livelihood projects to its constituents.
5. *Data computerization and linkages.* Utilizing the infrastructure built by the MGB Central Office, MGB Region 7 officials observed that its system for collation and submission of *revenue data* is fully operational. However, it continues to be challenged by the need to demand *production data* from the LGUs, which it does by personally visiting the concerned LGUs to request and secure the appropriate documents from concerned LGU personnel. In addition, the data, while already serving the MGB, are not yet linked with those of the other government agencies, such as the BIR.
6. *Capacity-building on EITI.* While the objectives of the EITI are quite clear to most of the MGB Region 7 officials, its processes and outcomes need to be further appreciated by the DENR, including the EMB, the large-scale non-metallic mining and quarrying industry, the LGUs, and the other stakeholders. More information dissemination and capacity-building activities on EITI are thus recommended.

<sup>159</sup> This is based on an interview with Mr. Winley Dela Fuente, a father of two, past LPRAT Co-Chair of the City of Naga, Federation PTA President, and works as a freelance real estate professional. The questionnaire was prepared by the consultant, but the interview was administered by Mr. Chadwick Go Llanos (c/o C-CIMPEL Archdiocese of Cebu), on 5 February 2016.

<sup>160</sup> According to Mr. dela Fuente, a full day's yield, in approximately 300,000 bags of cement, is directly given to the LGUs, and about 50 to 100 bags are given to the barangays. The frequency of the delivery to the LGUs as well as the identification of the specific LGUs and barangays are not clear from the written response.

#### **Perspectives of a Local Community Member:<sup>159</sup>**

Through the assistance of Chadwick Go Llanos from the EITI-MSG, the scoping study was able to include the perspectives of a local community member in Naga, the site of the Apo Land and Quarry operations. Winley dela Fuente shared his perspectives about the performance of the company and its impact on the socio-economic well-being of the community.

Mr. dela Fuente agreed that the large-scale non-metallic mining industry may have contributed to the increase in the local employment of the area, albeit on a contractual basis. The industry has also augmented, to a limited extent, infrastructure support in the local community and has provided supplemental grants to support local schools.

With respect to the Apo Land and Quarry operations, he expressed his view that immediate communities have enjoyed infrastructure support from the company through the construction of social and educational facilities. Health services are likewise provided to host and nearby communities, on a regular but limited basis. Cement bags are also directly given to the LGUs, and a portion of that reaches the barangays.<sup>160</sup> In terms of the delivery of services, Mr. dela Fuente observed that these used to be given directly by the company to the community; but the process has changed. Community members now need to approach the barangay chieftains for the services, which the latter will submit as requests to an intermediary organization. Due to this process, more residents often felt adversely affected than benefited by the company's operations in terms of socio-economic benefits.

With respect to the role of and relationship with other stakeholders, Mr. dela Fuente noted the presence of the EMB in facilitating conflicts. However, EMB's neutrality in conflict management is often questioned as it has constantly been viewed as favoring the company. Community consultations in decision-making are also regarded as lacking qualitative inputs from diverse representatives. He is not aware whether CSOs have credible participation in the MMT and whether such CSO, if there is one, is efficient. He recommended that tangible reforms towards increased mitigation of health and environmental impacts should be undertaken and felt on the ground.

As regards the EITI, Mr. dela Fuente recommended that the following documents should be included in the submissions: (a) the EIS document; (b) documents pertaining to the consultation activities; and (c) environmental and health standards and values. He reiterated the call for increased transparency in the LGU's spending of its share from the mining industry; as well as in having a more participatory SDMP and CSR process where its activities can be translated into verifiable impacts on the affected communities.

# Province of Rizal

## Profile of Large-Scale Non-Metallic Mining in the Province

The DENR has so far issued 34 large-scale non-metallic mining MPSAs in Region 4-A (CALABARZON).<sup>161</sup> Of this number, 27 MPSAs are located in the province of Rizal, embracing more than 5,000 ha. of land subject of exploration, development and/or commercial operation for different non-metallic minerals and quarry resources by 16 companies and individuals. In addition, Rizal has 5 mineral processing permit (MPP) areas issued by the MGB and 12 quarry permits from the provincial government.<sup>162</sup> Among the prominent players in the province include Rapid City Realty and Development Corporation, Concrete Aggregates, Lafarge Republic, Quimson Limestone, and Teresa Marbles. See the following table of MPSA holders:<sup>163</sup>



	Name of Company	Location	Area (in hectares)	Commodity	Term
<b>Commercial Operation</b>					
1	Concrete Aggregates	Angono	192.00	Basalt and rock aggregates	1995-2020
2	Concrete Aggregates	Angono	19.90	Aggregates and basalt	1996-2021
3	Asensio Pinzon Aggregates Corp.	Rodriguez	130.51	Aggregates and basalt	1997-2022
4	Rapid City Realty and Development Corp.	Teresa	87.15	Silica	1997-2022
5	Rapid City Realty and Development Corp.	Antipolo City	6.96	Basalt and tuff	1997-2022
6	Rapid City Realty and Development Corp.	Antipolo City	40.00	Silica	1997-2022
7	Rapid City Realty and Development Corp.	Antipolo City	16.76	Basalt and andesite	1997-2022
8	Rapid City Realty and Development Corp.	Antipolo	54.02	Basalt, andesite, silica, and filling materials	1998-2023
9	Teresa Marble	Antipolo City	55.90	Marbleized limestone	1997-2022

<sup>161</sup> CALABARZON is located in Southwestern Luzon. It is an acronym for the provinces of Calamba, Laguna, Batangas, Rizal, and Quezon.

<sup>162</sup> Additional data on MPPs and quarry permits from the "Status of Quarrying Operations in Rizal Province," a power point file provided by the MGB Region 4-A, 15 January 2016.

<sup>163</sup> This data is based on the Complete List of Existing MPSA, prepared by the MGB Mining Tenements Division, as of 30 June 2013. If correlated with the data provided by MGB Region 4-A, some discrepancies in the MPSA areas were noted.

	Name of Company	Location	Area (in hectares)	Commodity	Term
10	Teresa Marble	Antipolo	57.41	Marbleized limestone	1998-2023
11	Teresa Marble	Antipolo	110.69	Limestone	1998-2023
12	San Rafael Development Corp. <sup>164</sup>	Rodriguez	103.09	Basalt	1999-2024
13	Quimson Limestone	Tanay	358.76	Limestone, shale, silica	1999-2024
14	Lafarge Republic Inc. (from Republic Cement)	Teresa	154.68	Limestone and shale	1999-2024
15	Hardrock Aggregates, Inc.	Antipolo	45.00	Basalt and andesite	2004-2029
16	Rolando B. Gimeno/La Concepcion Construction and Development Corp.	Antipolo City	32.50	Basalt and other associated mineral deposits	2007-2032
17	Gozon Development Corp.	Antipolo City	158.12	Rock aggregates	2009-2034
<b>Subtotal</b>			<b>1,623.45</b>		
<b>Development and Commercial Operation/Exploration</b>					
18	Rapid City Realty and Development Corp.	Baras	171.72	Basalt and andesite	1999-2024
<b>Subtotal</b>			<b>171.72</b>		
<b>Exploration</b>					
19	Golden Ore Inc.	Antipolo City	121.00	(Gold, precious base metals) rock aggregate materials	1998-2023
20	Rapid City Realty and Development Corp.	Baras and Tanay	399.24	Basalt and andesite	1998-2023
21	Rapid City and Development Corp.	Teresa, Morong, Binangonan, and Angono	1,015.16	Silica and other associated mineral deposits	2010-2035
22	Lafarge Republic Inc. (from Republic Cement)	Teresa, Morong	36.45	Limestone	2000-2025
23	Montalban Millex Aggregates Corp.	Rodriguez	175.68	Basalt, andesite, and other associated mineral deposits	2007-2032

<sup>164</sup> Id. While this MPSA is listed, it is described as having no operation in Rizal province.

	Name of Company	Location	Area (in hectares)	Commodity	Term
24	Roxanne S. Go	Teresa and Morong	164.19	Silica and other associated mineral deposits	2010-2035
	Subtotal		1,911.72		
	<b>Exploration and Commercial Operations</b>				
25	Quarry Rock Group, Inc.	Baras and Tanay	586.70	Aggregates and filling materials	1998-2023
26	Island Quarry and Aggregates, Corp. <sup>165</sup>	Antipolo City	70.98	Basalt and diorite	1998-2023
	<b>Subtotal</b>		<b>657.68</b>		
	<b>Cancelled (with appeal in court)</b>				
27	Sulu Resources Development Corp.	Antipolo City	654.16	(Gold, precious base metals) rock aggregate materials	1998-2023
	<b>Subtotal</b>		<b>654.16</b>		
	<b>Total</b>		<b>5,018.73</b>		

### Selected Company: Lafarge Republic

Lafarge Republic, Inc. (Lafarge) is engaged in the manufacture, development, exploitation, and sale of cement, marble, and other classes and kinds of building materials, and the processing or manufacture of materials for industrial and commercial purposes.<sup>166</sup> Its operating cement manufacturing plants are located in the provinces of Bulacan, Batangas, Rizal, and Cebu. It has the following companies as subsidiaries: Fortune Cement Corp., Lafarge Iligan, Lafarge Mindanao, FR Cement Corp., and Lloyds Richfield Industrial Corp.<sup>167</sup> Lafarge is also a member of CeMAP.<sup>168</sup>

The Teresa plant of Lafarge in Teresa, Rizal originated in 1958 as Filipinas Cement Corporation. In 1987, it became FR Cement Corporation. It strengthened its financial and technical capability in 1997 by partnering with Tong Yang Cement Corp., the second largest cement group in South Korea, and through its holding company, Southeast Asia Cement Holding, Inc. (SEACEM). In 1998, Lafarge Cement Philippines, then the second largest cement manufacturer in the world, acquired a major stake at SEACEM, making FR Cement a part of Lafarge's network of cement manufacturers.<sup>169</sup>

Lafarge (FR Cement) holds two MPSAs in the province of Rizal, both of which were entered into pursuant to the 1995 Mining Act.<sup>170</sup> The first MPSA, executed in 1999, has a contract area of 154.68 ha. and enjoys a term of 25 years or up to 2024, which may be renewed for another term not exceeding 25 years.<sup>171</sup> Currently in commercial operation for limestone and shale, Lafarge's MPSA for this area follows the provisions of the new mining law on government share, allocation, and expenditures.<sup>172</sup>

The second MPSA, covering an area of 36.45 ha., was entered into in 2000 and will last up to 2025 unless further renewed for another term not exceeding 25 years.<sup>173</sup> Based on 2013 MGB data, it is still listed as under exploration stage, with a pending application for a Declaration of Mining Project Feasibility.<sup>174</sup> Similar to its other MPSA in the province, this MPSA for limestone has the same provisions on government share, allocation, and expenditures.<sup>175</sup>

<sup>171</sup> MPSA No. 138-99-IV.

<sup>172</sup> Id.

<sup>173</sup> MPSA No. 159-2000-IV.

<sup>174</sup> DENR-MGB, Mining Tenements Management Division, Complete List of Existing Mineral Production Sharing Agreement (MPSA) as of June 30, 2013.

<sup>175</sup> MPSA No. 159-2000-IV.

<sup>165</sup> Id. This is marked as being operated by Solid Cement Corp. as a source of low-grade silica.

<sup>166</sup> <http://www.reuters.com/finance/stocks/overview?symbol=LRI.PS>

<sup>167</sup> Id.

<sup>168</sup> [http://CeMAP.org.ph/?page\\_id=1169](http://CeMAP.org.ph/?page_id=1169).

<sup>169</sup> Id.

<sup>170</sup> MPSA No. 138-99-IV and MPSA No. 159-2000-IV.

### Relevant Local Legislation

Two resolutions appear to capture the sentiment of the Rizal provincial government about the existence and growth of the quarrying and mining industry in the province:

- Resolution No. 223, series of 2013*, declaring a moratorium on the acceptance, processing, and approval of new applications for all forms of permits, contracts, operating agreements, and clearances on quarrying and mining activities in the province of Rizal; and
- Resolution No. 243, series of 2013*, on the moratorium on the acceptance, processing, and approval on the renewal of all forms of permits, contracts, operating agreements, and clearances on quarrying and mining activities in the province of Rizal.

The resolutions were anchored on the provincial LGU's powers to promote the general welfare of its inhabitants and to protect the environment.<sup>176</sup> They referred to a study about the negative impact of quarrying and mining on the environment, particularly its serious damage to biodiversity, pollution,

### Issues and Concerns

#### Perspectives of MGB Region 4-A Officials:

*Monitoring compliance with laws, rules, and regulations.* In an interview, Regional Director Samuel T. Paragas described the regional office's current approach to monitoring mining activities as having a more environmental perspective.<sup>181</sup> He alluded to a new monitoring format developed by the DENR following the issuance of DAO 2015-02 on the harmonization of the Philippine EIS system and the Mining Act in relation to mining projects. This new monitoring format is now being used by the MMT, which is composed of representatives from the MGB regional office, DENR, EMB regional office, environmental NGO, mining company, affected community, PMRB, Laguna Lake Development Authority (LLDA), and the municipal/city LGU.

According to Engr. Paragas, the MMT conducts quarterly monitoring of particular operations with respect to the latter's safety, health, and environmental programs and based on their approved EPEP. Specifically, the MMT monitors the slope stability of the mining area, its siltation control structures, settling pond system, drain canals or waterways, reforestation efforts, air, water, and noise quality, stockpile management, progressive rehabilitation, and mine safety, among others.<sup>182</sup> The findings of the MMT monitoring are reported to the Mines Rehabilitation Fund Committee (MRFC), which in turn addresses the same through concrete actions.

<sup>176</sup> *Resolution No. 223, series of 2013, citing RA 7160 (1991), Sec. 16 and 468 (a) (1) (vi).*

<sup>177</sup> Id. Also, *Resolution No. 243, series of 2013.*

<sup>178</sup> Id.

<sup>179</sup> Id.

<sup>180</sup> Id.

<sup>181</sup> *Meeting with Engr. Samuel T. Paragas, MGB 4-A Regional*

river and creek siltation, among others.<sup>177</sup> The resolutions regard the existing quarry operations in the province as already sufficient in number, expressing concern that adding more may hasten further environmental degradation, and consequently impair the health, safety, and economy of the province.<sup>178</sup>

Based on these considerations, the provincial government declared such moratorium on the processing and approval of new applications (*Resolution No. 223*) and on the renewal (*Resolution No. 243*) of all mining and quarrying permits, contracts, and operating agreements. The moratorium, however, looks to the final determination by the DENR of the carrying capacity (point of saturation) of the province to hold or bear mining and quarrying, including mine processing or aggregate crushing plants.<sup>179</sup>

Both resolutions strongly urged the DENR to similarly declare a moratorium on large-scale mining activities and operations in the province and to cease the processing and approval of new mineral agreements, including the renewal of such agreements.<sup>180</sup>

On top of this, the MGB regional office conducts on-site inspection and validation of the companies' mining operations on an annual basis. They check the companies' compliance with their 3-year work program and other mandatory reportorial requirements, such as those pertaining to the payment of taxes and occupation fees.<sup>183</sup>

The MGB regional officials noted that a number of large-scale non-metallic and quarry operations in Rizal had satisfactorily implemented their EPEP activities, which in turn significantly improve their environmental mitigating system to address siltation, water and air quality, stability of active quarry slopes and dumping ground, safety and housekeeping, among others.<sup>184</sup>

Engr. Paragas attributed the region's monitoring capability to the competence of his staff and the completeness and active participation of the MMT members. However, he views that there is a need to further train the non-technical members of the MMT so they can more effectively take part in the monitoring activities.<sup>185</sup>

*Director, 13 January 2016.*

<sup>182</sup> *Status of Quarrying Operations in Rizal Province, a power point file provided by the MGB Region 4-A, 15 January 2016.*

<sup>183</sup> *Meeting with Engr. Samuel T. Paragas, MGB 4-A Regional Director, 13 January 2016.*

<sup>184</sup> Id.

<sup>185</sup> *Meeting with Engr. Samuel T. Paragas, MGB 4-A Regional Director, 13 January 2016.*

*Stakeholders and their inter-relationships.* The quality of the relationships among the different stakeholders in the region varies. Engr. Emilio Ramos, chief of the MGB region's Mine Management Division, commented that outside of the MMT, relationships among the NGOs, LGUs, and the companies can be problematic on occasions.<sup>186</sup> In order to remedy what is perceived as gaps in communication among stakeholders, he targets to organize dialogues with the *sangguniang panlalawigan* (provincial council) and to further conduct information, education, and communication (IEC) sessions about the permitting processes, large-scale non-metallic operations, and geo-hazard issues.

There is no single association of mining companies in the region. However, they cited the Eastern Rizal Miners' Association or ERMA, which is an aggrupation of large-scale non-metallic mining companies in eastern Rizal; and the Montalban Aggregates Producers' Association (MAPA), which is more an association of small-scale miners in the area.

*LGU moratorium and the carrying capacity of the province of Rizal.* On the matter of the provincial resolutions declaring a moratorium on the acceptance of new mining applications and renewal of existing mining applications (discussed under Relevant Local Legislation), the MGB Region 4-A clarified that the resolutions cover small-scale mining only. It further took a divergent view on the matter of the DENR being urged by the provincial government to issue a similar moratorium in Rizal.<sup>187</sup> The stance of the MGB regional office is based on its data about the total land area of the province and the corresponding areas covered by existing mining agreements and permits. Based on MGB Region 4-A data, Rizal province has a total land area of about 130,892 hectares, while the total permit area covers about 1,318 ha., which is roughly just 1% of the total land area.<sup>188</sup> Impliedly, the MGB regional office viewed that this percentage will not even make a dent on the biodiversity of the entire province.

#### Perspectives of the other stakeholders:

With the assistance of the MGB regional director, a meeting with the other officers of the MGB in the region, leaders and representatives of the mining industry, and NGO in the province was convened for this scoping study.<sup>189</sup> The attendees shared their perspectives about the industry, the provincial LGU moratorium, and the PH-EITI.

Ms. Angelita Lee, president of the Eastern Rizal Miners' Association (ERMA), described ERMA as an association of large-scale cement plant manufacturers, producers of marble and aggregates, and firms engaged in blasting and drilling activities. Since its inception in 1995, ERMA now has a total of 17 member companies. The association sees itself as a link with the government and with its members. It has undertaken numerous activities related to social acceptability, disaster risk reduction, and reforestation. It also implements projects in barangays located within quarry operations. From her perspective, the industry has initiated projects over and above the mandated SDMP.

Mr. Teofilo Salcedo, the lone NGO representative,<sup>190</sup> reacted to the provincial resolution imposing a moratorium on the acceptance of new mining applications and renewal of existing mining permits. He viewed that the moratorium, while covering small-scale mining only, has a tremendous impact on the mine workers, particularly those coming from his province who do not know any kind of labor but mining or quarrying. This apparently is creating a domino effect on the socio-economic welfare of their families and communities, which is posing a problem for the province.

Mr. Salcedo further shared his experience as an NGO representative in the MMT and in PMRB. He has been involved in monitoring companies' compliance with ECC conditions and other parameters, including the SDMP, in the province. He mentioned that there is a need to communicate the real contributions of mining and the results of the mining operations to the local communities and to the entire province.

As regards the PH-EITI, Ms. Lee and the other representatives from the mining industry commented that they share in the value of transparency in transactions involving the industry, including in the expenditures related to EPEP and SDMP. According to Ms. Lee, the large-scale non-metallic mining and quarrying companies are already submitting the required information to the MGB, which they understand are available to the public. However, with respect to ERMA's involvement in EITI, she explained that she could not make any commitment on behalf of ERMA's members because the association respects the processes of each member company. This means that, in order for the industry to be engaged, it is best to approach and secure individual company commitments to the PH-EITI standards and requirements.

<sup>186</sup> Meeting with Engr. Emilio R. Ramos, Chief, Mine Management Division, MGB Region 4-A, 13 January 2016. His division is tasked to monitor the companies' compliance with RA 7942 and to provide initial evaluation of mine permit applications submitted by large-scale non-metallic and quarrying companies.

<sup>187</sup> Meeting with Engr. Samuel T. Paragas, MGB 4-A Regional Director, 13 January 2016.

<sup>188</sup> Status of Quarrying Operations in Rizal Province, a power point file provided by the MGB Region 4-A, 15 January 2016. However, using the data from the MGB Mining Tenements of June 2013, which totals the number of areas covered by large-

scale non-metallic mining and quarrying MPSA (exploration, development, and commercial operations) at 5,018.73 ha., the percentage increases to 3.8%.

<sup>189</sup> Meeting with MGB Region 4A, ERMA, CEMEX/Solid Cement Corp., Montalban Aggregates Producers' Association (MAPA), and NGO-PMRB, Rizal Province, 15 January 2016.

<sup>190</sup> President, Community-Based Kaunlaran Development Foundation, Inc. and NGO representative at the PMRB, Rizal Province.

# Province of Bulacan

## Profile of Large-Scale Non-Metallic Mining in the Province

Of the 19 MPSAs for large-scale non-metallic mining issued in Region 3 (Central Luzon), 12 are located in the province of Bulacan. This comprises approximately 2,768 ha. of land being commercially operated and another 3,816 ha. being explored primarily for limestone and shale deposits. Among those under commercial operation, Solid North has the largest contract area, followed by Lafarge Republic and Holcim Philippines. See the table below:



	Name of Company	Location	Area (in hectares)	Commodity	Term
<b>Commercial Operation</b>					
1	Lafarge Republic	Norzagaray	559.00	Limestone	1994-2019
2	Holcim Philippines	Norzagaray	554.38	Limestone and shale	1994-2019
3	Holcim Philippines (formerly Union Cement) and Doric Marble Inc.	Dona Remedios Trinidad, Norzagaray	342.65	Limestone and shale	1999-2024
4	Continental Cement Corp.	Norzagaray and San Jose Del Monte	362.33	Limestone	1996-2021
5	Solid North Mineral Corp.	San Ildefonso	757.04	Limestone and shale	2000-2025
6	Eagle Cement Corp. (assigned from Rock and Ore Industries)	San Ildefonso	169.37	Limestone and shale	2002-2027
7	Spar Development Co., Inc.	Bigte and Norzagaray	24.00	Limestone	2004-2029
	<b>Subtotal</b>		<b>2,768.77</b>		
<b>Exploration</b>					
8	TMC International Corp.	Dona Remedios, Trinidad	107.94	Marbleized limestone and other associated mineral deposits	2006-2031
9	Talibayog Mining Corp.	San Rafael and San Ildefonso	2,065.22	Limestone and other associated mineral deposits	2007-2032
10	Eagle Cement Corp.	Dona Remedios and San Ildefonso	82.60	Limestone and other associated mineral deposits	2007-2032

	Name of Company	Location	Area (in hectares)	Commodity	Term
11	Holcim Philippines, Inc. (partially assigned to Teresa Marble Corp. in 2014)	Norzagaray and Dona Remedios Trinidad	1,167.11 (less 238.55)	Limestone and other associated mineral deposits	2009-2034
12	Teresa Marble Corp. (partially assigned to Holcim in 2014)	Norzagaray	393.44 (less 287.75)	Marbleized limestone	2009-2034
	<b>Subtotal</b>		<b>3,816.31</b>		
	<b>TOTAL</b>		<b>6,585.08</b>		

## Selected Company: Holcim Philippines

Holcim Philippines, Inc. (Holcim) is currently the biggest cement company in the country. It was the product of a merger in 2000 of three cement plants – Bacnotan Cement Corporation, Davao Union Cement Corporation, and Hi Cement Corporation.<sup>191</sup> Holcim has plants in La Union, Bulacan, Davao, and Lugait in Misamis Oriental.<sup>192</sup> It is also a member of CeMAP.<sup>193</sup>

Holcim initially holds 3 MPSAs in the province, with one co-owned by Doric Marble Corporation. The first two MPSAs are both in commercial stage.<sup>194</sup> The third MPSA is ongoing exploration and has been partially assigned in 2009 to Teresa Marble Corporation.<sup>195</sup> In the same year, an MPSA held by Teresa Marble, which is also under exploration, was partially assigned to Holcim Philippines.<sup>196</sup> So at present, Holcim effectively holds 4 MPSAs covering a total of 2,113.34 ha., with 897.03 ha. in commercial operation and 1,216.31 ha. being explored. The remaining 344.24 ha. are held by Teresa Marble Corporation through approved partial assignment contracts.<sup>197</sup>

The first MPSA in commercial operation, covering 554.38 ha., was signed in 1994 pursuant to EO 279 (1987) with an initial term of 25 years, renewable for another 25 years.<sup>198</sup> Having been entered into before the Mining Act of 1995, the initial production share of the government consisted of a basic share of ½ percent of the gross revenue and a net share of 1 percent of the net revenue, which was then over and above the required excise tax payments.<sup>199</sup>

<sup>191</sup> [http://CeMAP.org.ph/?page\\_id=1169](http://CeMAP.org.ph/?page_id=1169). Seventy percent of the shares of Union Cement Corp. is owned by a joint venture between Bacnotan Consolidated Industries, Inc. and Holcim, a Swiss company and one of the largest cement companies in the world. See also Holcim Philippines website, <http://www.holcim.ph/index.php?id=23093>.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> MPSA No. 027-94-III and MPSA No. 140-99-III.

<sup>195</sup> MPSA No. 294-2009-III (Amended A) thru Order dated 8 August 2014 approving its partial assignment. Based on the approved deed, Holcim assigns to Teresa Marble all its rights and interests in the 238.5565 ha. portion of the contract area.

<sup>196</sup> MPSA No. 298-2009-III (Amended B) thru Order dated 8 August 2014 approving its partial assignment. By virtue of the deed of assignment, Teresa Marble Corporation assigns to Holcim Philippines all its rights and interests in the 287.7557 ha.

The second MPSA in commercial operation covers 342.65 ha. and was jointly entered into by Hi Cement and Doric Marble Corporation in 1999 pursuant to the Mining Act of 1995.<sup>200</sup> The original area applied for was slightly bigger, which was reduced after temporarily excluding areas covered by small scale mining permit applications within the MPSA proposed area.<sup>201</sup> This MPSA already contains the new mining law's provisions on government share, allocation, and expenditures.<sup>202</sup>

The third MPSA, still in exploration phase, was entered into by Holcim in 2009. The MPSA originally covers 1,167.11 ha., but was later reduced to 928.56 ha. after it assigned a portion of the contract area to Teresa Marble Corporation in 2014.<sup>203</sup>

The fourth MPSA, with a contract area of 393.44 ha., was issued to Teresa Marble in 2009. However, in 2014, it assigned the 287.75 ha. portion to Holcim Philippines, giving the latter control over a larger part of the original contract area.<sup>204</sup>

Both deeds of assignment were properly registered with the MGB Regional Office and consequently approved by the DENR Secretary upon the recommendation of the MGB Director.<sup>205</sup> By virtue of the assignment made, the assignee has assumed all the rights and interests, as well as the obligations of the assignor under the MPSAs over the assigned portions.

portion of the contract area.

<sup>197</sup> *Id.* 238.55 ha. assigned from Holcim and 105.69 ha. retained after partial assignment to Holcim.

<sup>198</sup> MPSA No. 027-94-III. MPSA is in the name of Hi Cement Corporation.

<sup>199</sup> *Id.*

<sup>200</sup> MPSA 140-99-III. Named contractors are Hi Cement Corporation and Doric Marble Corporation.

<sup>201</sup> *Id.* Original area applied for was 389.24 ha.

<sup>202</sup> *Id.*

<sup>203</sup> MPSA No. 294-2009-III (Amended A) thru Order dated 8 August 2014 approving its partial assignment

<sup>204</sup> MPSA No. 298-2009-III (Amended B) thru Order dated 8 August 2014 approving its partial assignment.

<sup>205</sup> *Id.*

## Relevant Local Legislation

Citing its devolved powers and functions under the 1991 *Local Government Code* with respect to environmental law enforcement, the provincial government approved its *Revised Environmental Code for Bulacan in 2011*.<sup>206</sup> The Code sets the general framework of actions and standards for promoting a balanced and healthful ecology in the province, and provides specific regulations on water usage and classification, odor emission control, solid waste management, noise control, and air quality standards.<sup>207</sup>

The environmental code has a particular regulation on environmental compliance. Article VII, Section 45 requires the issuance of a Provincial Environmental Compliance Certificate (PECC) (or Certificate of Non-Coverage, as the case may be) to all business establishments and projects before construction and actual operations in the province. Municipal or city mayors in the province are prohibited from granting business permits without such PECC.<sup>208</sup> The indicative list of projects that require PECC includes mineral extraction and quarry projects, 5 hectares and below.<sup>209</sup>

Nonetheless, the code also empowers the governor, upon a resolution or ordinance enacted by the provincial council, with consultations conducted with the provincial environment and natural resources office, to declare certain projects or areas in the province as environmentally critical.<sup>210</sup> It specifies that all declared and approved environmentally critical projects, “such as but not limited to mining and quarry operations,” are required to secure a PECC and to comply with other requirements, including the setting up of an environmental protection and enhancement program (EPEP).<sup>211</sup> It is not clear whether this provision also contemplates the possible coverage of large-scale non-metallic mining projects within the provincial ECC requirement process.

In case large-scale non-metallic mining projects are likewise included under the foregoing section, the Code requires the payment of the following:<sup>212</sup>

- Filing fees – PHP500
- Processing fees – PHP4,000
- Inspection fees – PHP1,000

In addition, filing fees (processing and inspection fees) are required to be paid to the provincial government when entities apply for an authority to construct or a permit to operate a pollution control device or a wastewater treatment facility.<sup>213</sup>

The code is also replete with provisions on taxes, fees, and charges payable to the provincial treasurer.<sup>214</sup> However, since the local code does not distinguish whether the impositions apply to small-scale mining only or equally apply to large-scale mining, some of the possibly relevant tax provisions for large-scale non-metallic mining are herein discussed:

<sup>206</sup> Resolution No. 186-2011 entitled “A Resolution Approving the Provincial Ordinance No. C-005 Enacting the 2011 Revised Environmental Code of the Province of Bulacan.”

<sup>207</sup> *Id.*

<sup>208</sup> *Id.* Article VII, Sec. 45.

<sup>209</sup> *Id.*

<sup>210</sup> *Id.* Article VII, Sec. 46.

<sup>211</sup> *Id.*

- Mining/quarry tax - 10% of the fair market value of the mineral resources to be extracted and commercially disposed based on the current available price index released by the DENR Central Office to be computed by the provincial ENRO, and subject to the approval of the PMRB;<sup>215</sup>
- Environmental enhancement fees.<sup>216</sup>

1.	Extraction of ordinary earth and other loose unconsolidated materials	PHP 3.00/cu.m.
2.	Extraction of raw materials used for manufacture of cement	PHP 5.00/M.T.
3.	Extraction of raw materials used for manufacture of ceramics	PHP 10.00/M.T.
4.	Extraction of blockable marbleized limestone	PHP 60.00/cu.m.
5.	Extraction of limestone for other purposes	PHP 10.00/M.T.

Proceeds from the environmental enhancement fees are deposited by the provincial treasurer in a trust fund to be exclusively used to finance environmental projects and programs, conduct of environmental researches, studies, training, and seminars aimed to enhance, protect, preserve, and rehabilitate the environment and natural resources.<sup>217</sup>

Finally, the environmental code provides rules regarding the issuance of delivery receipts and transport slips for those engaged in hauling sand and gravel and other quarry resources; as well as accreditation for haulers, processors, traders, suppliers, dealers and retailers of minerals, mineral products, and by-products. These are as follows:

- Citing the need for local administrative expediency and regulation, the code states that the delivery or transport of mineral resources covered by Ore Transport Permit issued by the national government (i.e., for large-scale mining) shall require delivery receipts/transport slips (DR/TS) for each delivery or transport to be secured from the provincial ENRO, and payment for such DR/TS shall be made with the provincial treasurer.<sup>218</sup>
- The code also provides for the establishment of an accreditation system, or a system for registering all haulers, processors, traders, suppliers, dealers and retailers and other persons engaged in the extraction, processing, transformation, and transportation of mineral and quarry resources, including their products and by products. The governor's accreditation has a corresponding fee which, upon approval, is valid for one year and renewable every year thereafter.<sup>219</sup>

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> *Id.* Art. X.

<sup>215</sup> *Id.* Art. X. Sec. 72.

<sup>216</sup> *Id.* Sec. 73.

<sup>217</sup> *Id.* Sec. 76.

<sup>218</sup> *Id.* Sec. 80.

<sup>219</sup> *Id.* Sec. 88.

## Issues and Concerns

*Monitoring compliance with laws, rules, and regulations.* Regional Director Lope O. Carino, together with Division Chief Lauro Garcia Jr. of MGB Region 3, first discussed the importance of the large-scale non-metallic mining and quarrying industry, particularly since cement and other aggregates are seen as useful in building infrastructure projects, which in turn benefit the country's economy.<sup>220</sup>

Compared to metallic mining, they explained that non-metallic mining does not use sulfuric acid. Its process commences with crushing and ends with bagging, with almost no chemicals involved. In terms of environmental impact, they agreed that the industry generates the same impact as the metallic sector. However, they explained that in the aspect of pollution, the industry creates more impact on air quality and less on water quality of its environs.

Within this context, the MMT aids in monitoring the companies on a quarterly basis. The MMT consists of representatives from the EMB and MGB, the company (Holcim, in this case), DENR-Community Environment and Natural Resources Office (CENRO), LGU at the barangay and municipal levels, and NGO (Sagip Sierra Madre Movement). Similar to the other regions covered by this scoping study, the MMT reports the results of its work to the MRF Committee, which addresses any issues that may surface from the monitoring reports.

In the aftermath of the DENR policy harmonizing the tasks of the MGB and the EMB with respect to mining projects, the new set-up in the region demands joint monitoring by EMB and MGB regional offices. In terms of structure, given the perceived predominance of having to monitor the ECC conditions and environmental aspects of a mining operation, EMB now holds the helm of the MMT, with the MGB as the vice-chair. In terms of focus, the EMB looks at the ECC conditions and all environmental aspects, such as the implementation of the laws on clean air, clean water, solid wastes, and toxic substances and hazardous wastes; while MGB concentrates on the provisions of the mining law, including the EPEP, SDMP, and other mine safety and health issues. They have raised concerns on this new set-up, which are discussed in the succeeding paragraphs.

*Stakeholders and their inter-relationships.* According to the MGB regional officials, other than CEMAP, there is no known association of large-scale non-metallic mining companies in

the region and in the province of Bulacan.

Within the province, they have not encountered any major problems relating to the PMRB and the large-scale non-metallic mining industry. To illustrate this positive relationship, they made mention of a Community Technical Working Group (CTWG), a joint initiative of the MGB, LGU, and Holcim, where the SDMP commitments of Holcim are consulted and discussed with different sectors. The results of the CTWG meetings are then submitted to the MGB for review and approval.

However, they have experienced difficulties in managing the new “harmonized” monitoring structure that the MGB shares with the EMB regional office. Difficulties relate to arranging the schedule of the monitoring activities, frequent changes in the MMT members coming from the EMB, and competence in MMT operations, including in the prompt submission of the counterpart reports to the MGB regional director's office. It appears that, in order for the harmonized monitoring structure to work effectively, some levelling-off and confidence-building measures need to be set up between the MGB and EMB regional offices.

*Other challenges.* A major issue identified by the MGB regional office relates to illegal mining. This relates to managing conflicts involving areas that are covered by certificates of title and are therefore private properties of certain individuals, and simultaneously covered by existing MPSAs issued by the DENR. In these cases, surface owners often desire to operate without securing the required consent of the MPSA holder. In other instances, mining permits are secured from the LGU, again absent the required consent of the MPSA holder.

At the time of the interview, the MGB regional office was not aware of any need to clarify the scope of locally-imposed fees related to mining activities or any latent or manifest conflicts between the provisions of the provincial ordinance relating to matters like provincial ECCs, EPEP, environmental enhancement fees, and delivery/transport fees, which were earlier discussed; and the mining law's impositions on large-scale non-metallic mining or quarrying operations. This may need to be validated with the LGUs and the operating companies in future EITI studies. (See discussion on Relevant Local Legislation).

## CHAPTER 5

# CONCLUSION

The study has identified that with respect to large-scale non-metallic mining, the same provisions of the 1987 Constitution as well as the laws and regulations governing large-scale metallic mining also apply. Major distinctive features of the laws and regulations uniquely applicable to the large-scale non-metallic mining sector were highlighted in the study.

Notwithstanding the similarity in the governing legal framework, the study has made an observation that the large-scale non-metallic mining sector, particularly the cement industry, has effectively distanced itself from the metallic mining industry for sound reasons. The industry context needs to be explained in appreciating its proposed policy changes regarding existing revenue and financial schemes for the sector, as well as in understanding its seeming lack of response to and participation in the PH-EITI initiative.

The study also maps the extent and location of large-scale non-metallic mining and quarrying in the country, provides a list of the companies and individuals involved in the said activity, and identifies the commodities produced. Based on available data, the study shows that Luzon hosts the greatest number and size of large-scale non-metallic mining areas in the country, converging particularly in the provinces of Pangasinan, Bulacan, and Rizal; then followed by Visayas, with concentration in Cebu province. While Mindanao has the least number of operating large-scale non-metallic mines, a significant land area is currently subject to exploration activities.

The study finally takes a glimpse of the provinces selected based on the prevalence of large-scale non-metallic mining operations relative to other areas in the country, with focus on specific companies, which were selected based on their respective level of mining development, and the relevant local legislation in the provinces.

It is observed that the local ordinances – revenue codes, environmental codes, and related provincial resolutions – articulate how the provincial governments attempt to address issues and concerns related to large-scale non-metallic mining and quarrying operations.

The environmental code of Cebu, for instance, has expressed the need to integrate and coordinate with national government agencies, component LGUs and other provinces, the private sector, and civil society all aspects and processes of environmental law enforcement in the province; and particularly mandates the conduct of local public hearing and consultations on projects being examined by the national government. This is a presumed response to a possibly perceived disconnect between national laws and local ordinances, including lack of or inadequate interaction among the various stakeholders; and a supposed demand to ensure that local stakeholders are able to participate in examining proposed mining projects subject to approval by the national government.

Similarly, the resolutions of the province of Rizal well capture the sentiment of the provincial government about the presence and continued growth of the quarrying and mining industry in the province and its impact on the health and safety of its inhabitants. Its declaration of a moratorium over the approval of new mining applications and renewal of existing permits and contracts, including requests urging the DENR to make a similar pronouncement, sends a strong message to the national government and the public about the need to craft an appropriate policy response and action for the province. The needed policy actions could be crafted in terms of finally determining its carrying capacity for quarrying and mining activities; and in terms of making firm decisions to strengthen the ecological balance of the province. At the same time, the basis of the provincial resolutions needs to be juxtaposed with the data offered by the MGB about existing mines and its impact on the biodiversity of the entire province.

<sup>220</sup> Meeting with MGB Region 3, 29 January 2016.

The scoping study has not only provided pertinent information about the large-scale non-metallic mining industry in the country. It has also raised important concerns that may be used to further analyze and make recommendations on the role of the various stakeholders in furthering the objectives of EITI, and to provide input to legal and policy reforms.

*First*, it has drawn out important issues about: (1) the monitoring mechanisms employed by the government, specifically the new “harmonized” monitoring structure of the MGB and EMB, and the respective capabilities of those involved in monitoring mining operations; (2) the scope and limits of the taxing powers and regulatory authority of LGUs vis-a-vis the national government, as illustrated in Cebu’s *Revenue Code* and Bulacan’s *Environment Code*, including their respective roles in the PMRB; (3) the social and environmental impact of large-scale non-metallic mining operations in specific areas; and (4) significant accounting and reporting issues, such as calculating the SDMP for the cement industry, as well as for MPSA and MPP holders.

*Second*, the study has captured the recurring demands: (1) to improve the process of remitting the shares of the LGUs from the proceeds of natural resources use; (2) to increase transparency in the manner by which LGUs spend such share from national wealth, including in the way by which benefits from the SDMP are given to the affected communities; (3) to improve the quality of stakeholder participation in the process of developing the companies’ SDMP and corporate social responsibility (CSR) programs; (4) to improve the data collection and reporting process from the MGB and EMB regional offices as well as from LGUs, including to link these data with those of other relevant national agencies, such as the BIR; and (5) to effectively communicate such data and its analysis to the concerned public.

*Finally*, the scoping study has highlighted the need to properly inform before fully engaging the large-scale non-metallic mining sector through individual mining companies and regional or provincial associations, such as the ERMA, and including the CeMAP, the LGUs, and the DENR-EMB (at the national and regional offices) in the EITI discussions. The conversations accomplished for this scoping study will need to be further validated and deepened in future EITI reports.

# ANNEXES

- A** List of Large-Scale Non-Metallic Mining Companies in the Philippines
- B** Location Map of Large-Scale Non-Metallic Mining Companies in the Philippines (Provincial Presence)
- C** Location Map of Large-Scale Non-Metallic Mining Companies in the Philippines (Commodity)
- D** List of individuals who were interviewed for the scoping study

**ANNEX A: List of the Large-Scale Non-Metallic Mining Companies in the Philippines  
[Extracted from DENR-MGB, Mining Tenements Management Division, Complete List  
of Existing Mineral Production Sharing Agreement (MPSA) as of June 30, 2013]**

	Name of Company	Location	Area (in hectares)	Commodity	Term	Stage
1	Abra Mining and Industrial Corp.	Bucay, Abra	672.00	Tuffaceous limestone, shale and silica sand	1999-2024	Commercial operation; DMPF <sup>1</sup> for limestone, magnetite, and gold
2	A. Dynasty Multipurpose Cooperative	San Miguel and Guipos, Zamboanga del Sur	2,025.00	Marble	1997-2022	Exploration
3	Alcorn Gold Resources (formerly Alcorn Petrol)	Merida and Isabel, Leyte	2,288.21	Limestone	1997-2022	Exploration
4	Alumina Mining Philippines, Inc.	Jabonga and Santiago, Agusan del Norte	253.14	Bauxite	2002-2027	Exploration
5	Anamel Builder Corp.	Gapan, Nueva Ecija	63.51	Sand and gravel	1996-2021	Development/commercial operation
6	APC Group, Inc.	Ginatilan and Malabuyoc, Cebu	549.00	Limestone	1997-2022	Exploration
7	APC Group, Inc.	Ginatilan and Malabuyoc, Cebu	502.83	Limestone	1997-2022	Exploration
8	Apo Land and Quarry Corp. (assigned from Apo Cement)	Naga, Cebu	192.00	Limestone	1993-2018	Commercial operation
9	Apo Land and Quarry Corp.	Naga, Cebu	84.00	Graywacke and pozzolan	1997-2022	Commercial operation
10	Apo Land and Quarry Group Corp.	Naga City, Cebu	129.96	Limestone and other associated mineral deposits	2009-2034	Exploration
11	Apo Land and Quarry Group Corp.	Naga City, Cebu	84.15	Limestone and other associated mineral deposits	2009-2034	Exploration
12	Apo Land and Quarry Corp.	Naga and San Fernando, Cebu	170.98	Limestone and other associated mineral deposits	2010-2035	Exploration
13	Apo Land and Quarry Corporation	Carcar, Cebu	420.91	Limestone, silica, and other associated minerals	2010-2035	Not yet released/registered; contract not yet signed by proponent
14	Apo Land and Quarry Corporation	Carcar, Cebu	505.06	Limestone, silica, and other associated minerals	2010-2035	Not yet released; contract not yet signed by proponent
15	Apo Land and Quarry Corporation	Naga, Cebu	140.24	Graywacke, sandstone, bentonite, silica, and	2010-2035	Not yet released; contract not yet signed by proponent

<sup>1</sup> Declaration of Mining Project Feasibility.

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				other associated mineral deposits		
16	Asensio Pinzon Aggregates Corp.	Rodriguez, Rizal	130.51	Aggregates and basalt	1997-2022	Commercial operation
17	Asturias Chemical Industries, Inc.	Calatagan, Batangas	2,336.80	Limestone, shale, tuff, aggregates	1997-2022	Exploration
18	Atty. Romulo B. Reyes	Ternate, Cavite	86.02	Basalt and andesite	1996-2021	Cancelled, with motion for reconsideration
19	Bauxite Resources, Inc.	Matuginao, Gandara, San Jose de Buan, and San Jorge, Samar (within Samar Bauxite Mineral Reservation)	5,519.01	Bauxite	2002-2027	Exploration
20	Bohol Limestone Corp.	Garcia Hernandez, Bohol	640.00	Limestone	2000-2025	Commercial operation
21	Canaan Agricultural Development Corp.	Villaba and Palompon, Leyte	904.00	Limestone	2000-2025	Exploration
22	Central Palawan Mining and Industrial Corp.	Quezon, Palawan	4,896.10	Limestone	2001-2026	Exploration
23	Citadel Mining Corp.	Danao City, Cebu	336.37	Graywacke	2000-2025	Exploration
24	Citnickel Mining and Industrial Corp.	Petal and Dasol, Pangasinan	3,398.06	Limestone	1999-2024	Exploration
25	Concrete Aggregates Corp.	Angono, Rizal	192.00	Basalt and rock aggregates	1995-2020	Commercial Operation
26	Concrete Aggregates Corp.	Angono, Rizal	19.99	Aggregates and basalt	1996-2021	Commercial operation; DMPF for Basalt, approved 2009
27	Continental Cement Corp.	Norzagaray and San Jose Del Monte, Bulacan	362.33	Limestone	1996-2021	Commercial operation
28	Daprosa Perez	Villaba, Leyte	270.68	Limestone	1998-2023	Exploration
29	Diamante Cement and Mining Corp.	Mariveles, Bataan	126.52	Basalt and andesite	2002-2027	Exploration
30	Dolomite Mining Corp.	Alcoy and Dalaguete, Cebu	524.61	Dolomite and other associated mineral deposits	2005-2030	Commercial operation
31	Dorilag Cement Corp.	Jordan, Buenavista, Guimaras	1,794.60	Limestone	1993-2018	Exploration
32	Eagle Cement Corp. (assigned from Rock and Ore Industries)	San Idefonso, Bulacan	169.37	Limestone and shale	2002-2027	Commercial operation; DMPF approved in 2010
33	Eagle Cement Corp.	Dona Remedios and San Idefonso, Bulacan	82.60	Limestone and other associated mineral deposits	2007-2032	Exploration

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34	East Environ Corp.	Baao, Camarines Sur	62.19	Perlite and other associated mineral deposits	2010-2035	Exploration
35	EMACO, Inc.	Lintangan, Sibuco, Zamboanga del Norte	3,807.00	Bentonite clay	1995-2020	For registration
36	Epetacio Du. Beltran	Magsaysay, Misamis Oriental	482.09	Bentonite, silica, limestone and other associated mineral deposits	2007-2032	Exploration
37	Far East Cement Corp.	Buruanga, Aklan and Libertad, Antique	1,458.91	Limestone and other associated mineral deposits	2010-2035	Exploration
38	Glicerio Pescador Jr.	Kumalarang, Zamboanga del Sur	243.00	Marble, other dimension stone materials	1997-2022	Exploration
39	GML Corp.	Bani and Agno, Pangasinan	1,061.45	Limestone and shale	1998-2023	Exploration
40	Golden Ore, Inc.	Antipolo City, Rizal	121.00	(Gold, precious base metals) rock aggregate materials	1998-2023	Exploration
41	Gozon Development Corp.	Antipolo City, Rizal	158.12	Rock aggregates	2009-2034	Commercial operation
42	Gulf Estate Mining Corp.	Alaminos and Sual, Pangasinan	1,462.37	Limestone	2000-2025	Exploration
43	Hardrock Aggregates, Inc.	Antipolo City, Rizal	45.00	Basalt and andesite	2004-2029	Commercial operation
44	Heirs of Elias E. Olegario	Mangatarem, Pangasinan	761.83	Zeoloite, bentonite, and other associated mineral deposits	2004-2020	Exploration and commercial operation
45	Heirs of Fernando P. Dancel	Burgos, Ilocos Norte	106.42	Feldspar and other associated minerals	2005-2030	Exploration
46	Holcim Philippines, Inc. (formerly Union Cement)	Agno, Pangasinan	405.00	Silica	1995-2020	Commercial operation
47	Holcim Philippines, Inc. (formerly Union Cement)	Bunawan District, Davao City	657.32	Limestone	1997-2022	Commercial operation
48	Holcim Philippines, Inc. (formerly Union Cement)	Bunawan District, Davao City	148.44	Shale	1997-2022	Commercial operation
49	Holcim Philippines Manufacturing Corp. (formerly Alsons Cement Corp.)	Lugait, Misamis Oriental	129.69	Limestone	1996-2021	Commercial operation

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50	Holcim Philippines, Inc. (formerly Union Cement)	Luna, La Union	217.00	Limestone	1995-2020	Commercial operation
51	Holcim Philippines, Inc. (formerly Union Cement)	Iligan City and Lugait, Misamis Oriental	397.67	Limestone	1996-2021	Commercial operation
52	Holcim Philippines, Inc. (formerly Union Cement)	Mati, Davao Oriental	166.02	Silica	1997-2022	Commercial operation
53	Holcim Philippines (formerly Union Cement)	Norzagaray, Bulacan	554.38	Limestone and shale	1994-2019	Commercial operation
54	Holcim Philippines (formerly Union Cement) and Doric Marble Inc.	Dona Remedios Trinidad, Norzagaray	342.65	Limestone and shale	1999-2024	Commercial operation
55	Holcim Philippines, Inc. (assignment from Solid North Mineral Corp.)	Davao City and Bunawan and Lasang, Davao del Norte	5,247.45	Limestone and shale	2002-2027	Exploration
56	Holcim Philippines, Inc. (partially assigned to Teresa Marble Corp. in 2014) <sup>2</sup>	Norzagaray and Dona Remedios Trinidad, Bulacan	1,167.11 (less 238.55)	Limestone and other associated mineral deposits	2009-2034	Exploration
57	Holcim Philippines, Inc.	Davao City	642.15	Limestone and other associated mineral deposits	2008-2033	Exploration; with pending application for DPMF
58	Holcim Philippines, Inc.	Balaoan, La Union	246.47	Limestone and other associated mineral deposits	2007-2032	Exploration
59	Holcim Philippines, Inc.	Bacnotan and Balaoan, La Union	259.08	Limestone and other associated mineral deposits	2007-2032	Exploration
60	Holcim Philippines, Inc.	Mati, Davao Oriental	254.95	Silica and other associated mineral deposits	2009-2034	Exploration
61	Holcim Philippines, Inc.	Agno, Pangasinan	328.90	Silica and other associated mineral deposits	2009-2034	Exploration
62	Holcim Philippines Manufacturing Corp.	Iligan City and Lugait, Misamis Oriental	433.42	Limestone, shale, and other associated mineral deposits	2009-2034	Exploration
63	Ibalong Resources and Development Corp.	Camalig and Guinobatan, Albay	1,061.91	Limestone	1999-2024	Commercial operation

<sup>2</sup> Based on copies of the MPSA and Deed of Assignment obtained from MGB Central Office.

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64	Ibalong Resources and Development Corp.	Sibonga, Cebu	607.50	Limestone, clay, other cement materials	1999-2024	Exploration
65	I.C. Bertumen and Company, Inc.	Banate, Iloilo	419.55	Basalt and other associated mineral deposits	2007-2032	Exploration
66	Iligan Cement Corp.	Kiwalan and Iligan City, Lanao del Norte	519.08	Limestone and shale	1998-2023	Commercial operation
67	Industries Development Corp.	Dinalongan and Casiguran, Aurora	1,991.35	Dimensin stone	1996-2021	Exploration
68	Island Quarry and Aggregates, Corp. <sup>3</sup>	Antipolo City, Rizal	70.98	Basalt and diorite	1998-2023	Exploration and commercial operation
69	JLR Construction and Aggregates, Inc.	Naga and Minglanilla, Cebu	336.00	Basalt and stone	2004-2029	Exploration and commercial operation
70	Jorge P. Tan Jr.	Isabel, Leyte	80.00	Rock phosphate, dolomite, and other associated mineral deposits	2010-2035	Exploration
71	Jose R. Soberano	Pinamungahan, Cebu	324.00	Silica sand	1998-2023	Exploration
72	Kimhee Realty Corp.	Consolacion, Cebu	168.23	Limestone	2004-2029	Exploration
73	Kimhee Realty Corp.	Daangbantayan, Cebu	2,013.75	Rock phosphate and other associated mineral deposits	2007-2032	Exploration
74	Lafarge Republic (from Republic Cement)	Taysan, Batangas	321.17	Limestone and shale	1995-2020	Commercial operation
75	Lafarge Republic (from Republic Cement)	Norzagaray, Bulacan	559.00	Limestone	1994-2019	Commercial operation
76	Lafarge Republic Inc. (from Republic Cement)	Teresa, Rizal	154.68	Limestone and shale	1999-2024	Commercial operation
77	Lafarge Republic, Inc. (from Republic Cement)	Carmen, Cebu	2,551.00	Graywacke, sandstone, limestone, and silica	1999-2024	Development
78	Lafarge Republic (from Republic Cement)	Asturias, Cebu	2,383.54	Limestone	1996-2021	Exploration
79	Lafarge Republic Inc. (from Republic Cement)	Teresa, Morong, Rizal	36.45	Limestone	2000-2025	Exploration
80	Landtech Mining Resources, Inc.	Calatagan, Batangas	304.39	Limestone, shale and tuff	2004-2029	Exploration
81	Lazi Bay Resources Development	Lazi and Maria, Siquijor	392.80	Limestone	1995-2020	Commercial operation

<sup>3</sup> Id. This is marked as being operated by Solid Cement Corp. as a source of low-grade silica.

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82	Linfair Development Corp.	Pagbilao, Quezon	35.00	Marble	1996-2021	Exploration; reinstated per order of DENR Secretary, 2010
83	Long Fong Corp.	Gonzaga and Sta. Teresita, Cagayan	2,835.00	Limestone	1998-2023	Exploration; reinstated 2007
84	Magnetic Construction and Development Corp.	Penaranda, Nueva Ecija	63.88	Sand and gravel	1996-2021	Development
85	Marbleland Mining and Development Corp.	General Tinio, Nueva Ecija	29.08	Marbleized limestone	2002-2027	Exploration
86	Marble Mining Exploration Corp.	Batac, Espiritu, New Era, and Pinili, Ilocos Norte	1,284.51	Limestone	1997-2022	Commercial operation
87	Maria Cristina Chemical Industries (MCCI) Corp.	Kiwalan and Iligan City, Lanao del Norte	26.78	Limestone	1998-2023	Commercial operation
88	Maria Cruz del Gallego	Del Gallego, Camarines Sur	332.06	Ball clay	2000-2025	Exploration
89	Mariveles Aggregates and Base Development Corp.	Mariveles, Bataan	242.55	Aggregate and basalt	1997-2022	Exploration
90	Mindanao Portland Cement Corp.	Iligan City, Lanao del Norte	323.09	Limestone and shale	1995-2020	Commercial operation
91	Monark Constructors Corp.	Villaba, Leyte	922.8215	Rock Asphalt	2002-2027	Exploration
92	Montalban Millex Aggregates Corp.	Rodriguez, Rizal	175.68	Basalt, andesite, and other associated mineral deposits	2007-2032	Exploration; with pending application for DMPF
93	Napoleon R. Navato	Bugallon, Pangasinan	822.90	Silica and other associated mineral deposits	2010-2035	Exploration
94	Northern Cement Corp.	Sison, Pangasinan	630.50	Limestone and shale	1998-2023	Commercial operation
95	Oregon Mining and Development Corp.	San Miguel, San Nicolas, and Tayug, Pangasinan	2,137.68	Rock aggregates	2000-2025	Exploration
96	Orient Aggregates and Structural Concept Developers, Inc.	Mariveles, Bataan	51.31	Basalt, andesite, and other associated minerals	2007-2032	Exploration
97	Oriental Hyundai Quarry and Development Corp.	Bungdunan and Bal-an, Negros Oriental	769.5	Limestone and shale	1994-2019	Cancelled, 2005, with motion for reconsideration
98	Orophil Stonecraft, Inc.	Baao, Camarines Sur	141.14	Perlite, bentonite, and other associated mineral deposits	2008-2033	Commercial operation; DMPF for Perlite approved, 2010
99	Pacific Cement Co., Inc.	Quezon and Mapaura, Surigao City	668.61	Limestone	1997-2022	Commercial operation

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100	Pacific Cement Co., Inc.	Trinidad, Surigao City	427.05	Silica	1997-2022	Commercial operation
101	Palawan Star Mining Ventures, Inc.	Quezon, Palawan	5,234.21	Limestone	2001-2026	Exploration
102	Panapino Mining Inc.	Batag Island, Northern Samar	2,389.50	Bauxite	1997-2022	For registration
103	Peblea Q. Alfaro	Busay and Kalunasan, Cebu City	336.52	Diorite, basalt and other associated mineral deposits	2010-2035	Exploration
104	Philippine Sunrise Marble, Inc.	San Teodoro, Oriental Mindoro	332.87	Marble	1995-2020	Exploration
105	Pyramid Hill Mining and Industrial Corp.	Espanola, Narra, and Quezon, Palawan	5,149.90	Limestone	2001-2026	Exploration
106	Quarry Rock Group, Inc.	Baras and Tanay, Rizal	586.70	Aggregates and filling materials	1998-2023	Exploration and commercial operation
107	Quarry Ventures Phil., Inc.	Naga and Pinamungahan, Cebu and Toledo City	607.50	Marbleized Limestone	1998-2023	Exploration and commercial operation
108	Quimson Limestone	Tanay, Rizal	358.76	Limestone, shale, silica	1999-2024	Commercial operation
109	Rapid City Realty and Development Corp.	Antipolo City, Rizal	60.00	Basalt, silica, aggregate	1996-2021	Commercial operation
110	Rapid City Realty and Development Corp.	Teresa, Rizal	87.15	Silica	1997-2022	Commercial operation
111	Rapid City Realty and Development Corp.	Antipolo City, Rizal	40.00	Silica	1997-2022	Commercial operation
112	Rapid City Realty and Development Corp.	Antipolo City, Rizal	16.76	Basalt and andesite	1997-2022	Commercial operation
113	Rapid City Realty Development Corp.	Antipolo, Rizal	54.02	Basalt, andesite, silica, and filling materials	1998-2023	Commercial operation
114	Rapid City Realty and Development Corp.	Baras, Rizal	171.72	Basalt and andesite	1999-2024	Development/commercial operation in portion covered by DMPF and exploration in remaining portion
115	Rapid City Realty and Development Corp.	Antipolo City, Rizal	6.96	Basalt and tuff	1997-2022	Exploration
116	Rapid City Realty and Development Corp.	Baras and Tanay, Rizal	399.24	Basalt and andesite	1998-2023	Exploration
117	Rapid City and Development Corp.	Teresa, Morong, Binangonan, and Angono, Rizal	1,015.16	Silica and other associated mineral deposits	2010-2035	Exploration
118	Rio Tuba Nickel Mining Corp.	Bataraza, Palawan	84.54	Limestone	2005-2030	Development
119	Robust Rock Resources, Inc.	Mariveles, Bagac, Bataan	5,600.96	Basalt	1996-2021	Exploration

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120	Rock and Ore Industries, Inc.	Sta. Ignacia, Tarlac	2,187.00	Limestone and shale	1998-2023	Exploration
121	Rockmix, Inc.	Balanga, Bataan	20.80	Sand and gravel	1997-2022	Commercial operation
122	Rolando B. Gimeno/La Concepcion Construction and Development Corp.	Antipolo City, Rizal	32.50	Basalt and other associated mineral deposits	2007-2032	Commercial operation
123	Roxanne S. Go	Teresa and Morong, Rizal	164.19	Silica and other associated mineral deposits	2010-2035	Exploration
124	San Rafael Development Corp. <sup>4</sup>	Rodriguez, Rizal	103.09	Basalt	1999-2024	Commercial operation
125	Silicon Development Corp.	Babiera and Sagay, Negros Occidental	109.51	Silica, sand and quartz	2004-2029	Exploration
126	Solid Earth Development Corp. (assigned from Grand Cement Manufacturing)	San Fernando, Cebu	1,492.02	Limestone	1997-2022	Commercial operation
127	Solid Earth Development Corp.	San Fernando, Cebu	84.17	Limestone	2004-2009	Commercial operation; DMPF for limestone, approved 2010
128	Solid Earth Development Corp.	Duangan and Binabag, Pinamungahan, Cebu	84.14	Silica and other associated mineral deposits	2010-2035	Exploration
129	Solid Earth Development Corp.	Pinamungahan, Cebu	1,257.18	Silica and other associated minerals	2010-2035	Exploration
130	Solid Earth Development Corp.	Naga and San Fernando, Cebu	1,683.05	Limestone and other associated minerals	2010-2035	Exploration
131	Solid Earth Development Corp.	San Fernando, Cebu	496.57	Limestone and other associated mineral deposits	2010-2035	Exploration
132	Solid North Mineral Corp.	San Ildefonso, Bulacan	757.04	Limestone and shale	2000-2025	Commercial operation
133	Southwestern Cement Corp. (assigned from Looc Limestone)	Malabuyoc, Cebu	306.46	Limestone	1996-2021	Development
134	Southwestern Cement Corp.	Malabuyoc, Cebu	486.00	Limestone	1996-2021	Development
135	Spar Development Co., Inc.	Bigte and Norzagaray, Bulacan	24.00	Limestone	2004-2029	Commercial operation

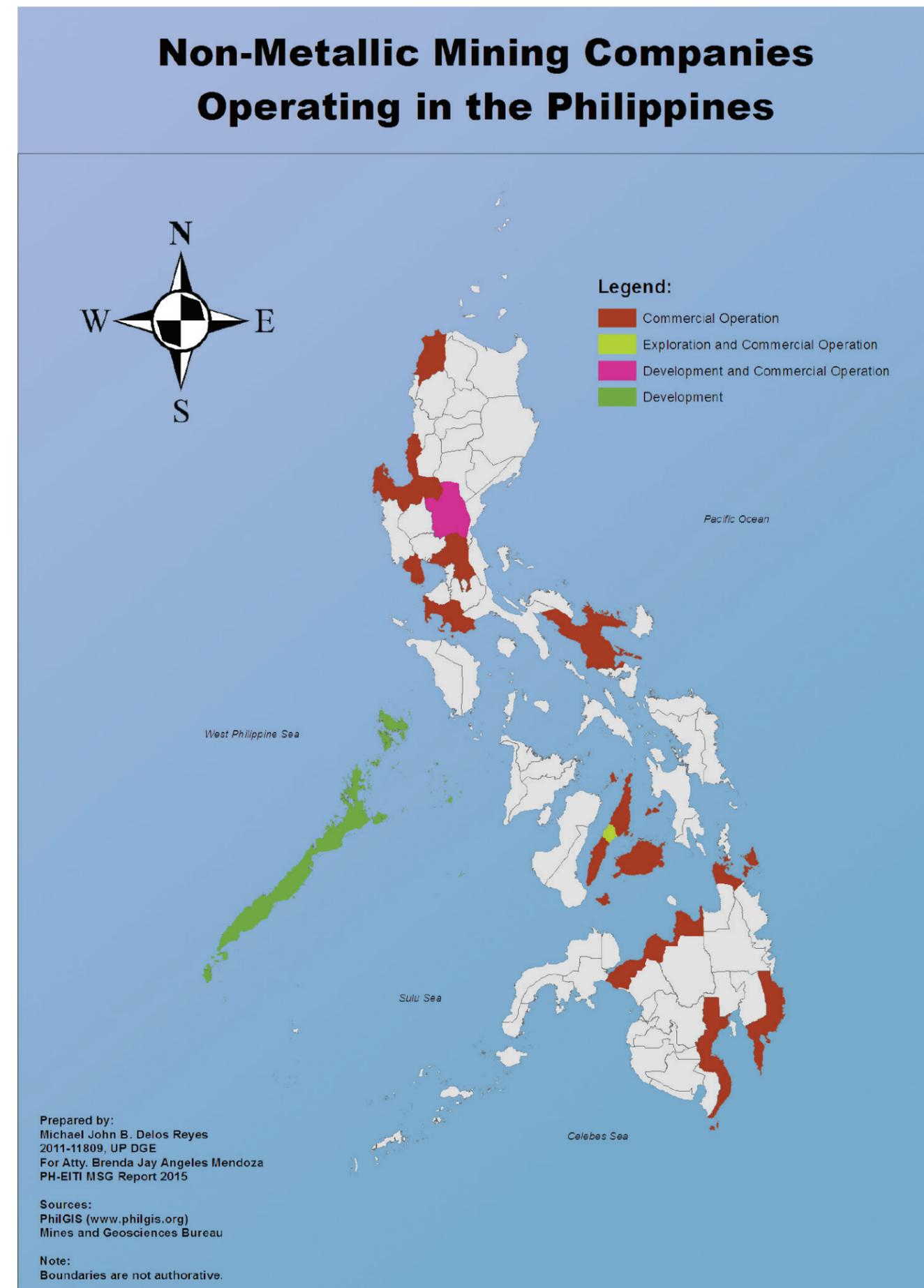
<sup>4</sup> Id. While this MPSA is listed, it is described in the MGB Region 4-A data as having no operation in Rizal province.

**ANNEX A: List of the Large-Scale Non-Metallic Mining Companies in the Philippines**  
**[Extracted from DENR-MGB, Mining Tenements Management Division, Complete List of Existing Mineral Production Sharing Agreement (MPSA) as of June 30, 2013]**

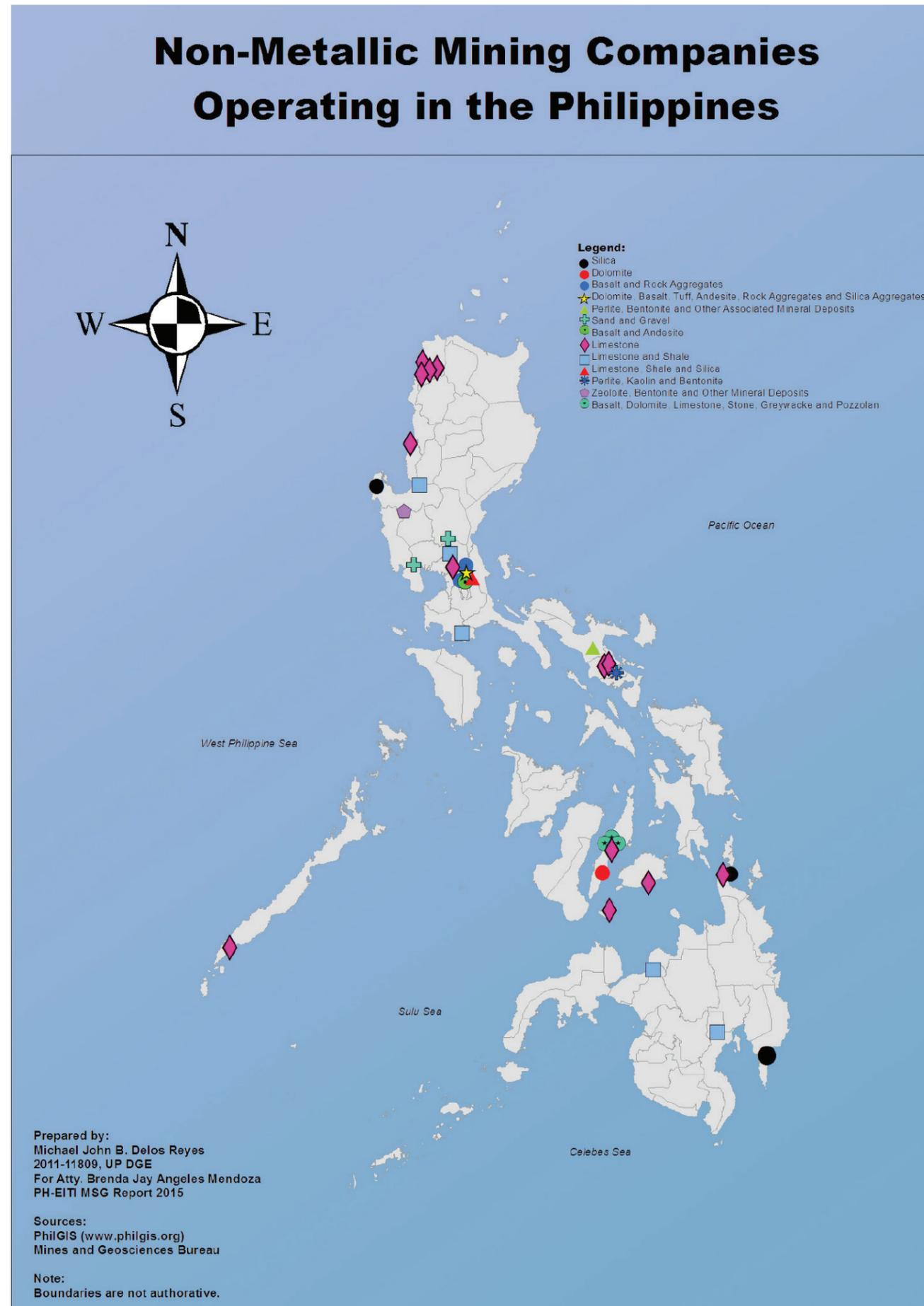
136	Sulu Resources Development Corp.	Antipolo City, Rizal	654.16	(Gold, precious base metals) rock aggregate materials	1998-2023	Cancelled in 2009; on appeal in court
137	Taiheyo Cement Phils. Inc. (from Solid Earth)	San Fernando and Naga, Cebu	486.00	Limestone	1999-2024	Exploration
138	Talibayog Mining Corp.	San Rafael and San Idefonso	2,065.22	Limestone and other associated mineral deposits	2007-2032	Exploration
139	Teresa Marble	Antipolo City, Rizal	55.90	Marbleized limestone	1997-2022	Commercial operation
140	Teresa Marble	Antipolo, Rizal	57.41	Marbleized limestone	1998-2023	Commercial operation
141	Teresa Marble	Antipolo, Rizal	110.69	Limestone	1998-2023	Commercial operation; DMPF approved on interim basis
142	Teresa Marble Corp. (partially assigned to Holcim in 2014) <sup>5</sup>	Norzagaray, Bulacan	393.44 (less 287.75)	Marbleized limestone	2009-2034	Exploration
143	TMC International Corp.	Dona Remedios, Trinidad, Bulacan	107.94	Marbleized limestone and other associated mineral deposits	2006-2031	Exploration
144	Tudor Mineral Exploration Corp.	Libertad, Antique	768.00	Marble and dimension stone	2001-2026	Commercial operation
145	UBS Marketing Corp.	Legaspi, Albay	276.23	Perlite, kaolin, and bentonite	2002-2027	Commercial operation
146	UP-Mines, Inc.	Ragay and Sipocot, Camarines Sur	8,141.74	Limestone, other cement raw materials	1997-2022	Exploration
147	Vivencio F. Abano, Jose F. Abano, Jr. Luis F. Abano, and Ofelia Abano-Tamayo	Bula, Camarines Sur	171.65	Gypsum and other associated mineral deposits	2009-2034	Exploration
148	Vulcan Materials Corp.	Batangas City, Batangas	332.39	Aggregate and andesite	1997-2022	Exploration

<sup>5</sup> Based on copies of the MPSA and Deed of Assignment obtained from the MGB Central Office.

**ANNEX B: Location Map of Large-Scale Non-Metallic Mining Companies in the Philippines (Provincial Presence)**



ANNEX C - Location Map of Large-Scale Non-Metallic Mining Companies in the Philippines  
(Commodity)



ANNEX D: List of Individuals Interviewed for the Scoping Study

	Name	Position	Organization
1	Engr. Lope O. Carino	Regional Director	MGB Region 3
2	Engr. Lauro Garcia Jr.	Chief, Mine Safety Environment and Social Development Division (MSESDD)	MGB Region 3
3	Engr. Samuel T. Paragas	Regional Director	MGB Region 4-A
4	Engr. Emilio R. Ramos	Chief, Mine Management Division (MMD)	MGB Region 4-A
5	Dondi M. Sarmiento	Officer-in-Charge, MSESDD	MGB Region 4-A
6	Sonny B. Villar	Chief, Mine Community and Social Development Section	MGB Region 4-A
7	Angelita I. Lee	President	Eastern Rizal Miners' Association (ERMA)
8	Edmundo Trazo	Environmental, Health and Safety Corporate Manager	CEMEX/Solid Cement Corp.
9	Erlinda Lizardo	Corporate Communications Manager	CEMEX/Solid Cement Corp.
10	Ariel Yson	Community Relations Officer	CEMEX/Solid Cement Corp.
11	Teofilo Salcedo	President/NGO Representative	Community-Based Kaunlaran Development Foundation Inc./PMRB, Rizal
12	Engr. Loreto B. Albuero	Regional Director	MGB Region 7
13	Engr. Armando L. Malicse	Chief, MSESDD and concurrent OIC Regional Director	MGB Region 7/MGB Negros Island Region (NIR)
14	Engr. Raul A. Laput	Chief, Mine Management Division	MGB Region 7
15	Atty. Gerardo V. Mahusay	Chief, AFD	MGB Region 7
16	Al Emil G. Berador	Chief, Geosciences Division	MGB Region 7
17	Ramcie S. Brillante	Staff	MGB Region 7
18	Evelyno M. Suarin	Staff	MGB Region 7
19	Amelita G. Acedo	Staff, Mineral Economics Unit, MMD	MGB Region 7
20	Chadwick Go Llanos	CSO Representative	C-CIMPEL Archdiocese of Cebu/PH-EITI MSG
21	Winley De La Fuente	Past Chair/Current President	Local Poverty Reduction Action Team (LPRAT), City of Naga/Federation Parents-Teachers Association (PTA), Naga City Central School



