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Stakeholders Briefing on the Rationalization of Mining Fiscal Regime Bill

OIC-Usec. Karlo Adriano, PhD
Department of Finance

29 February 2024

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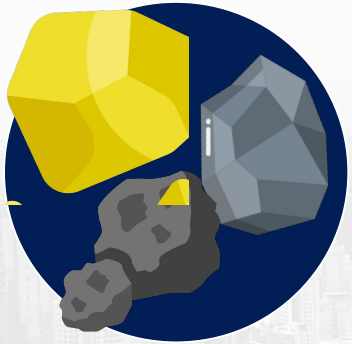
Overview of the mining industry



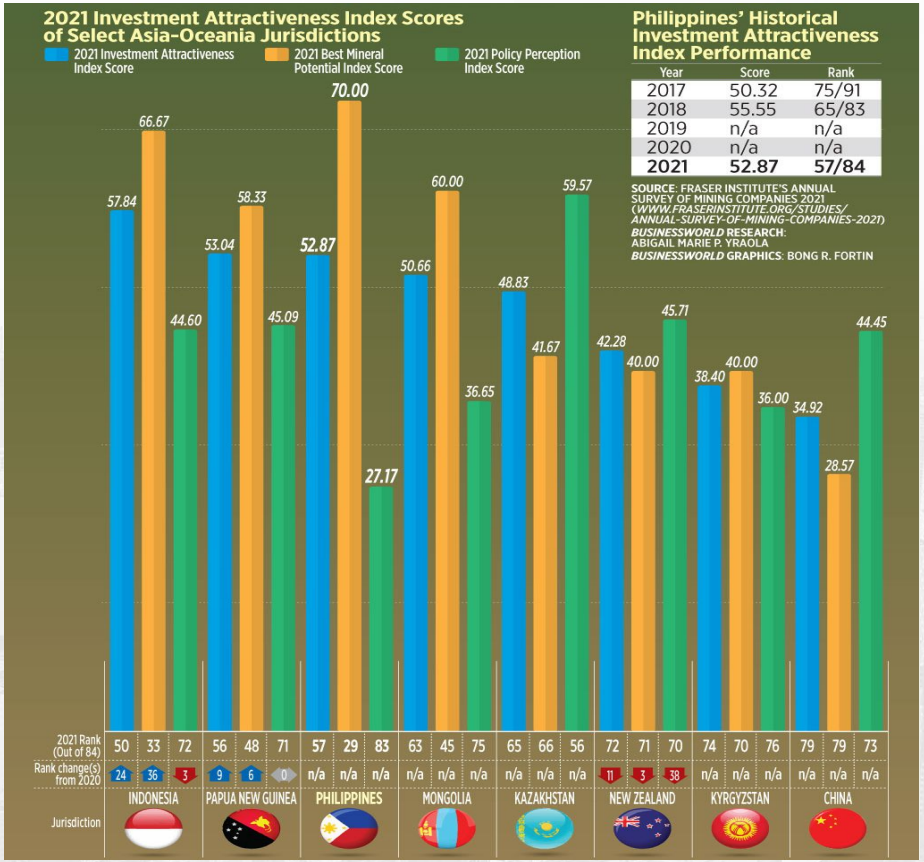
The Philippines is **geographically endowed** with abundant mineral resources such as **copper, gold, nickel and chromite.**

9 million hectares is identified as having **high mineral potential** but only **779,446.41 hectares or 2.60 percent** is covered by mining tenements as of June 2023.

Estimated value produced in 2022
Gold: P91.05 billion
Nickel and nickel products: P117.64 billion
Copper: P25.67 billion

Source: Mines and Geosciences Bureau (MGB)

According to the Fraser Institute, the Philippines has one of the best mineral potential, but the current policies DO NOT encourage investments in the sector.



Source: Business World article on Fraser Institute Survey

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Challenges surrounding mining fiscal regime

Discussion of a new mining fiscal regime has been ongoing since 2012

There are several mining fiscal regimes, resulting in complex tax system

The Average Effective Tax Rate (AETR) or government take on mining is relatively high compared to peers

Executive Order 79, s 2012: Review the current mining taxation under the premise that the mining sector is not being taxed enough.

Executive Order No. 79, s. 2012

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 79

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

WHEREAS, Section 16, Article II of the 1987 Constitution provides that the State shall protect and advance the right of the Filipino people to a balanced and healthful ecology in accord with the rhythm and harmony of nature;

WHEREAS, Section 1, Article XII of the 1987 Constitution seeks a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; an expanding productivity as the key to raising the quality of life for all, especially the underprivileged; and that in the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop;

WHEREAS, Section 2, Article XII of the 1987 Constitution provides that the exploration, development, and utilization of mineral resources shall be under the full control and supervision of the State;

WHEREAS, further to Section 2, Article XII of the 1987 Constitution, which recognizes the small-scale utilization of resources by Filipino citizens, small-scale mining shall be recognized as a formal sector of the industry;

Source: EO 79

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There are several fiscal regimes for the Philippine mining industry, resulting in complex tax system

#	Current Philippine mining fiscal regimes
1	Mineral Production Sharing Agreement (MPSA)
2	MPSA in Ancestral Domain
3	MPSA in Ancestral Domain and in Mineral Reservation
4	Financial and Technical Assistance Agreement (FTAA) in Ancestral Domain
5	FTAA in Ancestral Domain with cost recovery (with accelerated depreciation)

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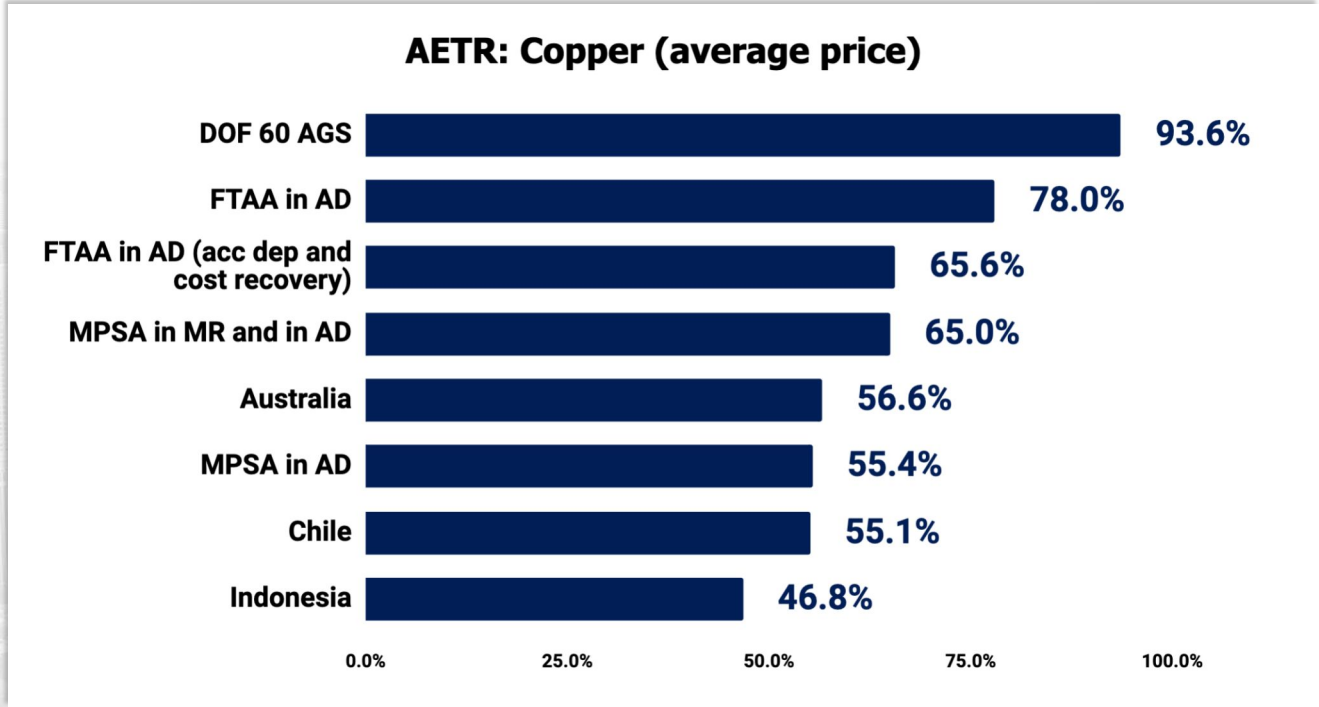
The AETR (tax burden) of PH's mining fiscal regimes are higher than our peers



Source: DOF estimates

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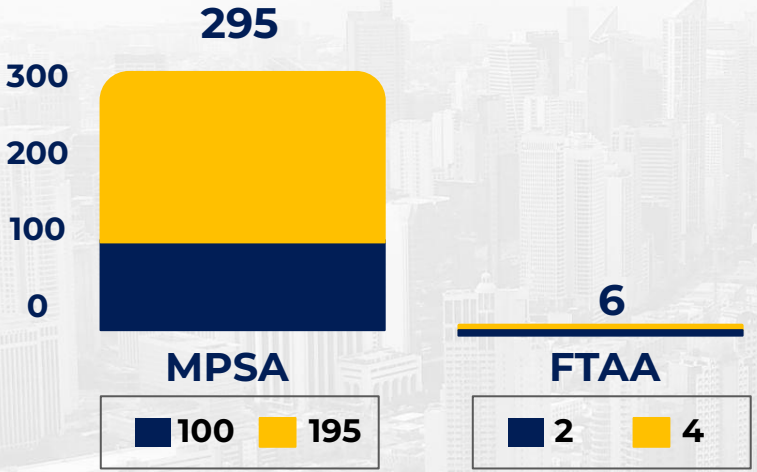
Consequently, the number of operating MPSAs and FTAAs is few as of December 15, 2023



With commercial operation, including mines under suspension, and care and maintenance

Under exploration, development, or construction

Source: MGB

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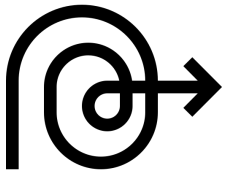
Key reforms of the DOF-proposed Mining Fiscal Regime Bill



Simplification of the mining fiscal regime (base taxation is MPSA)

Imposition of a **royalty tax outside mineral reservation** to address the constitutional issue

Introduction of a **windfall profit tax mechanism** to ensure government's fair share when mineral prices are high

Provisions on **thin-capitalization, ring-fencing, transparency, and accountability**

KEY FEATURES: Current vs Proposed Regime

Item	Current regime	HB 8937	DOF version
Number of Fiscal Regimes	5	2	2
Royalty MR	5%	4%	5%
Royalty outside MR	0%	1- 5% (margin-based with 8 tiers)	1.5-5% (margin-based with 4 tiers)
Windfall profit tax	0%	1-10% (margin-based with 10 tiers)	1.5-10% (margin-based with 4 tiers)
Thin capitalization, transfer pricing, ring-fencing, and transparency	Without	With	With
Collecting agency (royalty)	MGB	BIR	BIR

The DOF simplifies the current proposal under HB 8937 by adopting fewer tiers and rates for easier compliance and administration, and lesser incentives for aggressive accounting.

Royalty outside mineral reservations (from 8 to 4 tiers)

Margin	HB 8937 rates
1 up to 10%	**1.0%**
Above 10% up to 20%	**1.5%**
Above 20% up to 30%	**2.0%**
Above 30% up to 40%	**2.5%**
Above 40% up to 50%	**3.0%**
Above 50% up to 60%	**3.5%**
Above 60% up to 70%	**4.0%**
Above 70%	**5.0%**

Margin	DOF rates
Equal to 1% but not over 20%	1.5%
Over 20% but not over 40%	2.5%
Over 40% but not over 60%	3.5%
Over 60%	5.0%

The DOF simplifies the current proposal under HB 8937 by adopting fewer tiers and rates for easier compliance and administration, and lesser incentives for aggressive accounting.

Windfall profit tax (from 10 to 4 tiers)

Margin	HB 8937 rates
More than 35% up to 40%	**1.0%**
More than 40% up to 45%	**2.0%**
More than 45% up to 50%	**3.0%**
More than 50% up to 55%	**4.0%**
More than 55% up to 60%	**5.0%**
More than 60% up to 65%	**6.0%**
More than 65% up to 70%	**7.0%**
More than 70% up to 75%	**8.0%**
More than 75% up to 80%	**9.0%**
More than 80%	**10.0%**

Margin	DOF rates
Equal to 26% but not over 45%	1.5%
Over 45% but not over 60%	4.0%
Over 60% but not over 75%	7.0%
Over 75%	10.0%

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The DOF proposed compromise regime will generate higher additional mining revenues for the government.

	Estimated revenue impact, 2025-2028 average (in PHP billions)	
	HB 8937	DOF revised
Royalty inside mineral reservations	4.44	5.55
Royalty outside mineral reservations	1.09	1.31
Windfall profit tax	2.87	3.37
Total estimated revenues	**8.40**	**10.23**

Notes:

1. DOF staff estimates
2. Using 2022 BIR and MGB data on mining companies

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Thank you!

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