

**CHECK AGAINST DELIVERY**

**Speech by Julian Payne, President, Canadian Chamber of Commerce of the Philippines  
On "Realizing Mining's Potential in the Philippines: Foreign Investors Can Help"  
At the Philippines Mining 2014 Conference & Exhibition, Pasig City, on September 17, 2014**

Chamber of Mines President Philip Remualdez

Secretary of Environment and Natural Resources Ramon Paje

Other distinguished guests and panelists

Ladies and gentlemen

It is an honor and great pleasure to have been invited to speak today at this conference on mining and, in particular, on this panel on "*Resiliency in a changing environment*". Maraming salamat po.

Let me begin with a quote from William Shakespeare that is applicable to realizing the potential of Philippine's mining in a changing environment. The quote is:

*There is a tide in the affairs of men  
Which, taken at the flood, leads on to fortune;  
Omitted, all the voyage of their lives  
Is bound in shallows and in miseries.  
On such a full sea are we now afloat,  
And we must take the current where it serves,  
Or lose our ventures.*

Ladies and gentlemen:

There is no doubt in my mind that, since at least the start of this decade, the Philippines has in Shakespeare's words been "at the flood" with an opportunity to realize the potential of environmentally and socially responsible mining...and the need for the Philippines to adjust to the rapidly evolving global environment for mining:

- We have witnessed an unprecedented growth in global demand for mineral resources, including copper, gold, and nickel, to name a few.
- We are known to have one of the world's largest underdeveloped reserves of mineral wealth, including copper, gold and nickel, to name a few.

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- Global investment funding is seeking new opportunities in new emerging markets in Southeast Asia including in the Philippines.
- The Philippines has establishing itself as a credit worthy country, a seemingly ideal candidate for foreign investment, including in mining.

However unless we "take the current where it serves" and be more resilient in adapting to this changing environment to grasp the opportunity at hand today, I fear the current opportunities for Philippines' mining will bypass us as the interest and investment for developing mineral resources goes to other countries more resilient in adapting to the changing environment.

And if foreign interests and investment in mining bypasses the Philippines in favor of other countries with undeveloped mineral reserves, we risk being left behind "in shallows and in miseries". More explicitly we will be frustrated in our dreams, hopes and, efforts to realize a more broadly-based and diversified economy with the long-term and sustained growth necessary for the Philippines to achieve the status of a developed economy. We will be left with a narrower economy that will continue to be based primarily on remittances, call centers, small-scale agriculture, tourism and manufacturing.

Ironically we may also be left with an economy that in the future will have to import more costly raw and semi-processed metals that have been mined in and processed by other countries as inputs for our growing manufacturing industry, for our farm implements, for metals used in infrastructure...and even for jewelry which anti-miners as well as pro- miners like to wear.

Finally in failing to effectively encourage exploitation of our mineral resources, there will be a major opportunity-cost of foregone additional employment in the rural and poorest areas of the country where inclusive growth has been most elusive. Ironically my country, Canada, welcomes and receives over 30,000 Filipino immigrants annually plus OFWs. This includes an increasing number who are pleased to work in environmentally and socially responsible mining and related industries in Canada because they do not have the opportunity for similar employment here in the Philippines.

Let me now move on to the issue of being resilient in a changing environment to realize mining's potential in the Philippines and how foreign investment can help.

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I will comment on seven issues I consider most relevant concerning the resilience needed in planning Philippine's mining to respond to the changing environment. In summary point form these are wider recognition that:

- (1) Large-scale mining will benefit the Philippines more than small scale mining and is essential to exploit global demand for minerals.
- (2) Foreign investment is critical at this stage to develop large-scale mining in the Philippines for it to meet the challenges in competing in global markets.
- (3) Foreign investment in large-scale mining is the best way to ensure environmentally and socially responsible mining in the Philippines.
- (4) Unchanged decades-old restrictions by the Philippines on foreign direct investment impedes the realization of related benefits possible with mining.
- (5) If approved, the fiscal policy recommended by MICC will discourage foreign investment in large-scale mining and result in less total revenues for the State.
- (6) The proposed ban on export of raw ore may lead to less foreign investment in the related ore-processing that such a ban seeks to promote.
- (7) Declaring "No-go" zones for mining not based on best land-use assessments will distort optimum use of the Philippines' natural resources.

The bottom line is that, in considering the benefits and risks of large-scale mining and in setting the regulatory framework for such mining in the Philippines we have to be resilient and think in terms of the changing environment in the 21<sup>st</sup> century including the global demand and supply relationships in the 21<sup>st</sup> century, international competition for investment in the 21<sup>st</sup> century, and the advanced technologies and good practices now used in mining in the 21<sup>st</sup> century.

We must not base our thinking and our regulatory framework for mining just on past history and fears stoked by 20<sup>th</sup> century mining experience, 20<sup>th</sup> century technologies, and 20<sup>th</sup> century ideologies opposing foreign investment and large corporations.

Let me now comment briefly on each of the seven above-mentioned issues:

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**(1) Large-scale mining will benefit the Philippines more than small scale mining and is essential to meet the scale of global demand**

- a) Large-scale mining generates large-scale new employment: In 2012 the large-scale mining industry employed directly about 250,000 workers and indirectly another 1,800,000 workers. For a comparison, this is double the 1,000,000 workers now in the call center/IPO industry.
- b) Large-scale mining generates inclusive growth: Unlike call-centers, almost all mining is located in remote rural areas, so almost all the related employment is in areas where Philippines' unemployment is highest. Thus mining is one of the best industries to address the need to achieve inclusive growth ... and this in the areas where most needed.
- c) Large-scale mining requires long-term mining operations: It thus generates long-term employment on a continuous predictable basis.
- d) Large-scale mining brings requires professional and technical training: This enhances the total stock of expertise and human capital in the Philippines ... and this done at private sector expense.
- e) Large-scale mining includes construction of rural infrastructure: This includes roads, hospitals and schools ... again at private sector expense and which also saves public expenditure at the national and LGU levels.
- f) In contrast, small-scale mining: cannot hope to supply the volume of global demand; does not offer continuing and predictable employment; does not provide professional and technical training; and does not contribute to rural infrastructure at private sector expense.

**(2) Foreign investment is critical for the Philippines' mining industry to be in a position to exploit global markets**

- a) Large-scale mining requires extremely large capital investments: The volumes of capital investment needed are not usually available within smaller national capital markets including in the Philippines so international capital markets usually have to be tapped for foreign investment for large scale mining projects. Tampakam could not have been planned without foreign investment.

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- b) Large-scale mining requires leading-edge technologies: This is necessary to address geological issues as well as to be able achieve economies of scale to be competitive. Foreign investment brings with it the potential transfer of leading-edge technologies from leading industrialized countries with well-established major mining industries. The leading edge-technologies are not usually available in emerging economies.
- c) Large-scale mining requires return on investment over the longer-term: This requires a specialized understanding and forecast long-term global demand and commodity prices for minerals. Few national firms operating in just their own country have the specialized resources and presence in global commodity markets to maintain such expertise.
- d) Foreign investment usually includes transfer of technology: This occurs both while the mining operation is foreign owned and if/when ownership is bought out by and transferred to national mining companies (such as has happened with TVI).

**(3) Large-scale mining that includes foreign investment is the best way to ensure environmentally and socially responsible mining**

- a) Large-scale mining operations are fewer in number and can be more easily and effectively regulated than innumerable and scattered small-scale mining operations. (Probably why the authorities have focused on controlling large-scale mining instead of small scale mining!)
- b) Large scale mining companies are usually listed companies and subject to much greater scrutiny by SEC, shareholder, NGOs, and the public than small scale mining companies and operations.
- c) Foreign companies in OECD countries involved in mining in emerging economies including in the Philippines have international reputations to protect and are more closely scrutinized by their shareholders, NGOs and international watchdog groups than national and small-scale companies
- d) Foreign companies in OECD countries involved in mining in emerging economies including in the Philippines are subject to strict anti-corrupt practices legislation applicable to their offshore operations and thus not resort to corrupt practices to circumvent environmental regulations.

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**(4) Restrictions on Foreign Direct Investment (FDI) in the Philippines is a block to realizing all the potential benefits related to large-scale mining**

- a) The OCED and World Bank have reported recently that the Philippines has the most restrictive regime for foreign direct investment in Southeast Asia. As a result, despite recent increases, it still has one of the lowest levels of FDI in Southeast Asia.
- b) Large-scale mining provides a core for a wide range of related businesses to support the main mining operation ranging from Jollibee outlets to small highly technical support services. The latter services are often small and available only from offshore companies. The restrictive FDI regime is an impediment to establishment of companies and investment in the Philippines to provide such support services.

**(5) The fiscal policy recommended by MICC will block foreign investment in large-scale mining and not generate additional revenues**

- a) As we all know, under the current fiscal regime applicable to mining the Average Effective Tax Rate (AETR) which covers all revenue received from mining by the public sector is 60%. This compares with 58% for Canada and Australia, 55% for South Africa, 50% for Peru, 41% for Chile, and 35% for nearby Papua New Guinea.
- b) The proposed new fiscal regime recommended by the MICC will impose an AETR estimated at 79%, much higher than most other countries.
- c) This means that the Philippines will not only be totally uncompetitive with other competing emerging economies such as Chile and PNG where mining is also more financially and politically risky with a lower AETR to counter impact of such risk; It also means that the Philippines will be uncompetitive with mining in Australia and Canada where the financial and political risk is much less than in the Philippines ... and AETR lower.
- d) This is the best example I have seen of a proposal that is contrary to what is required as resiliency in adjusting to a changing environment - in this case a more competitive market with widening alternate investment opportunities. It moves the Philippines to worse position!

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- e) Further if the purpose of the new fiscal regime is just to generate increased total tax revenue, it will almost certainly fail in meeting this objective. It will most probably yield less due to an increased AETR resulting in a decline in new investment in mining and the impact of a decline in new investment on future new revenues. In over simplified economics, consider that:
- (i) With a level of revenue of USD 100M from new investment, the present AETR rate of 60% yields an AET of USD 60M.
  - (ii) If/if the level of revenue remains at USD 100M due to the same level of new investment being continued after the imposition of a 79% AETR, the total related AET will increase to USD 79M - an net increase of USD 17M or 17%. Sounds too good to be true...and it probably is.
  - (iii) If the total level of revenue falls by 50% to USD 50M due to a drop of 50 % in new investment, then the total related AET with a 79% AETR will fall to USD 38.5M - a decrease of USD 21.5M from that yielded with the current fiscal regime with a 60% AETR with investment unchanged.
  - (iv) And if the total level of revenue falls by 100% to zero due to no new investment, then the total related AET with a 79% AETR will also fall to zero - a decrease of USD 60M from that is the USD 100 M new investment unchanged with the current fiscal regime.

**(6) The proposed ban on export of raw ore will block opportunities for foreign investment in the related ore-processing that it seeks to promote**

- a) In an ideal world it is desirable that raw ore be processed in the country where mined to add value to the form of mineral finally exported. Unfortunately the world is not ideal.
- b) While this ideal should be strived for, bundling approval of foreign investment in mining with related investment in processing the ore may actually result in less investment in mining and thus in processing:

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- (i) Mining and processing are almost always done by separate companies and making the approval and investment in one ransomed to approval and investment in the other creates problems;
- (ii) The usual pattern of industrial development is that mining is established in a country or area with the export of the raw materials usually preceding the subsequent establishment of processing operations in the same country or area. This is due to potential processing companies wanting to see an established supply of raw ore before committing investment in a contiguous processing facility.
- (iii) While the establishment of the location of mining operations in location terms necessarily depends on location of the mineral reserves, the establishment of the location of the processing operation depends on other factors such as restrictions on foreign investment for such operations, availability of infrastructure, availability of skilled labor etc. in comparison with that in other competing locations. Forcing a processing operation to locate in the same country may force it into an uncompetitive situation.
- (iv) In terms of being resilient in changing environment, the better solution to a negative ban on export of raw ore would be to ease foreign investment restrictions on foreign investment in processing operations and provide incentives (and appropriate infrastructure) for co-location of processing operations with a raw ore producing mining operation.

**(7) Declaring 'No-go' zones for mining without land-use assessments blocks optimum use of the Philippines' natural resources.**

- a) There has been a rush in declaration of "No-go" zones for mining in the Philippines with the total land area now covered by "No-go" zones being about 65%. This rush seems to be based more on anti-mining sentiment than on a rational analysis and understanding of the impact of mining. More specifically it appears to be based on two serious misunderstandings:

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- (i) That mining and agriculture are mutually exclusive activities and cannot be carried out in overlapping areas. However, long experience in both Australia and Canada has demonstrated this is not the case: in many cases there are agricultural activities on the surface and mining underneath.
  - (ii) That mining activity has the same area footprint on the land as agricultural activities. However, again long experience in Australian and Canada has demonstrated that mining takes a much smaller footprint in area than agriculture.
  - (iii) That mining necessarily has a detrimental impact on the physical environment while agriculture and tourism do not. However, in fact there are many cases where inappropriate agriculture has been detrimental to the environment..and mining has not so been. And in many cases there has been over-development of tourist facilities with detrimental impact on the environment.
  - (iv) That more economic and better quality benefits are possible with agriculture than with mining. However there has been no objective analysis presented that has demonstrated this. Further this is an over generalization as the answer depends on the topography, geology, water resources etc. of specific locations and sites.
  - (v) The basic challenge is that there needs to be more resilience in thinking about the relative potential impacts of mining vs that of agriculture and/or tourism.
- b) The most important first two steps to be resilient in adapting to a changing environment with respect to "No-go" zones would be to put a freeze on establishing further "No-go" zones and a sunset clause on all those already established where there has been no actual agricultural and/or tourist investment and development.
  - c) The further necessary step is for a proper objective assessment of land-use to be completed for all current and proposed "No-go" zones, at least where there are known or expected mineral resources, to establish the relative benefits of use of the land for mining, vs. agriculture vs tourism vs urban/industrial development.

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Ladies and gentlemen:

I come from Canada. Canada's development as a major industrialized economy has been based in significant measure on its mining industry. Canada would not be what it is today and where it is in its economic development without exploiting all its natural resources including its mining industry.

Mining in Canada has been marked not only with great successes but also serious environmental impacts and other problems. Acid rain stands out amongst the problems. The response to such problems has been to recognize them and to address them with new technologies and practices, not to ban mining.

Relevant as an example to consider is that Canada's mining has been encouraged by reasonable tax rates where State and the private sector get fair shares with an AETR in order of 50%, not with an AETR taking more than 75% of total mining revenue.

Relevant as an example to consider is that Canada's mining has been developed side by side agriculture and tourism without declaring 65% of Canada as "no go" zones for mining.

Relevant as an example to consider is that the development of added value processing of raw ore has not been done by artificially enforcing the later as a condition of the former but rather to encourage mining in the first instance to actually start producing some raw ore and then supporting processing facilities based on market considerations and incentives.

Relevant as an example to consider is that Canada's mining has been developed and sustained in large part by large-scale mining financed by foreign as well as domestic investment, not by pinning hopes on small scale mining or just domestic financing.

I am sure my Australian and American friends here today would say the same for the mining industries in Australia and USA. This confirms that an open market environment and a forward looking and supportive regulatory approach developed with in real consultation with the mining sector is not just workable in Canada but a general and very successful model for the development of the mining industry

Most important all this demonstrates the need for the State and mining industry to be resilient in a changing environment and not to be limited by past perspectives and preconceived models of development that do not adjust to a changing environment..

In closing I want to add that it is in this context, that the Canadian Chamber of Commerce of the Philippines strongly supports environmentally and socially responsible mining in the Philippines and we will do all we can to support and promote such mining.

Maraming salamat po. Thank you.