

[REPUBLIC ACT NO. 2077, June 13, 1958]

AN ACT TO AMEND SECTIONS TWO, THREE, FIVE, SIX AND EIGHT OF REPUBLIC ACT NUMBERED ONE THOUSAND EIGHT HUNDRED TWENTY-EIGHT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two of Republic Act Numbered One thousand eight hundred twenty-eight is hereby amended to read as follows:

"SEC. 2. There is hereby created the Surigao Mineral Reservation Board, hereinafter referred to as the Board, composed of the Chairman of the National Economic Council, as chairman, the Secretary of Agriculture and Natural Resources, the Secretary of Finance, the Secretary of Justice, and the Governor of the Central Bank, as members, who shall carry out and implement the provisions of this Act. It shall have the power and authority to represent the Government in the operations and to insure compliance with the terms and conditions of the operating contract or contracts.

"The Board is hereby authorized to organize an office and appoint the necessary staff, whose salaries and emoluments shall be fixed by the Board, and to secure the assistance of the personnel of the National Economic Council and other government offices.

"In order to carry out the policy declared in section one hereof, the President of the Philippines is hereby authorized to determine, upon previous advice and recommendation of the Board, whether the development, exploitation and utilization of the said mineral deposit and the processing and disposition of the minerals that may be produced therefrom:

"(1) shall be undertaken by the Government itself, in which case he is authorized to contract loans and/or float bonds in such amounts as he may deem necessary and adequate to carry out effectively the undertakings contemplated in this Act, but not exceeding two hundred million pesos, after consultation with the Monetary Board of the Central Bank and upon recommendation of the National Economic Council; or

"(2) shall be undertaken by the Government jointly with private enterprise, in which case he is also authorized to contract loans and/or float bonds in the amount and in the manner stipulated in the preceding subparagraph (1): *Provided, however,* That the Government shall, at any one time, own not less than fifty-one *per centum* of the capital stock of

such enterprise; or

"(3) shall have the operation undertaken as hereinabove provided through an independent contractor or contractors who are qualified pursuant to the provisions hereunder, for the entire operation or any part or phase thereof.

"Unless there are clear advantages in favor of the third mode, either of the first two modes shall be preferred: *Provided*, That, in any case, the Board shall implement the policy herein declared.

"Should the President of the Philippines decide to have the operation undertaken through an independent contractor or contractors, as hereinabove provided, the Board may engage and utilize the services of persons or corporations, as independent contractor or contractors, with the approval of the President, by calling for bids to undertake or perform for the Government any phase or phases of all the operations authorized in this Act covering any particular area or areas within the Surigao Mineral Reservation, and the processing of the minerals produced therefrom, negotiating and entering for such purpose into a contract or contracts of service with any party or parties, domestic or foreign, fully qualified as to organization, finances, resources, experience and technical competence, and which may offer such terms and conditions as determined by the Board, subject to the approval of the President of the Philippines, to be most advantageous to the Government: *Provided*, That should there be no bid submitted, or the bid or bids submitted are unacceptable, the Board, with the approval of the President, is hereby authorized to negotiate with such party or parties, domestic or foreign, as may be fully qualified as to organization, finances, resources, experience and technical competence, for the operation of the whole or part of the Surigao Mineral Reservation under the provisions of this Act.

"For the purpose of this Act, a contract of service shall mean an operating contract in which the Operator is an independent contractor of service, entitled as such to compensation for services rendered: *Provided*, That any contractor or contractors of service shall not, by virtue of the contract, acquire any title or interest in the area or areas affected, nor, except as hereinafter provided in section five hereof, in any of the minerals from the Surigao Mineral Reservation produced or processed by it. The Operator shall furnish all materials, labor, equipment, plants and other installations that may be acquired for carrying on the operations herein authorized, or necessary or incident to those herein authorized, and all such operations, processes, work or acts shall be carried out at Operator's own cost and expenses, without prejudice to the Government and Operator agreeing on other terms regarding materials, equipment, plants and other installations."

SEC. 2. Section three of the same Act is hereby amended to read as follows:

"SEC. 3. The President may grant to the Government entity which may operate the Reservation under paragraph one or two of section two, or to the operator under paragraph three of- the same section, as the case

may be, the following rights and privileges:

"(1) Necessary rights over an area or areas for investigation within the Surigao Mineral Reservation;

"(2) Exemption from laws and regulations relating to: (a) importation of machinery, equipment, accessories, spare parts, and/or supplies and materials necessary for or in connection with said operation or processing of minerals; (b) construction, installation and operation of power plants, including importation of machinery and equipment, accessories, spare parts and/or operating supplies and materials, should the National Power Corporation fail to supply within a reasonable period and at reasonable cost the power needed in the operation; (c) exportation of such machinery and equipment which were imported solely for construction and installation purposes in connection with the aforesaid operation and processing, and which are no longer needed in the operation;

"(3) Exportation of mineral products produced by the operations: *Provided*, That all domestic requirements for same shall have first been satisfied;

"(4) Importation of highly technical and specialized personnel and executive staff, who may exercise without examination or certification their profession solely for this undertaking subject to such regulations as may be prescribed by the office or agency to be created and designated, and who may receive not more than fifty *per centum* of their annual compensation in foreign exchange: *And provided*, That if the alien technicians lose their employment, the applicable laws and regulations on immigrants shall apply to such alien technicians and their immediate families; and

"(5) Gratuitous use of timber and water for mining and processing purposes from the Surigao Mineral Reservation."

SEC. 3. Section five of the same Act is hereby amended to read as follows:

"SEC. 5. The following provisions shall guide the relationship between the Government and the private enterprise holding the minority capital stock and/or its approved contractor as provided for in section two hereof:

"(1) Any minority stockholder and/or contractor may be authorized to repatriate not more than eighty *per centum* of the duly authorized and recognized foreign capital investments, plus interest, within five years or longer, in the discretion of the Board, from the first year of actual commercial production, depending upon operation circumstances, and to remit to non-resident investors abroad profits or dividends, out of current and annual profits or dividends: *Provided*, That the total repatriation of foreign investments herein authorized plus the total remission of profits or dividends for any year shall not exceed fifty *per centum*, of the percentage contribution to the total capital investment: *And provided, further*, That the repatriation of the remaining duly authorized and recognized foreign capital investment shall be subject to the existing