

EXECUTIVE ORDER NO. 279

AUTHORIZING THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO NEGOTIATE AND CONCLUDE JOINT VENTURE CO-PRODUCTION, OR PRODUCTION-SHARING AGREEMENTS FOR THE EXPLORATION, DEVELOPMENT AND UTILIZATION OF MINERAL RESOURCES AND PRESCRIBING THE GUIDELINES FOR SUCH AGREEMENTS AND THOSE AGREEMENTS INVOLVING TECHNICAL OR FINANCIAL ASSISTANCE BY FOREIGN-OWNED CORPORATIONS FOR LARGE-SCALE EXPLORATION, DEVELOPMENT, AND UTILIZATION OF MINERALS

WHEREAS, Section 2 of Article XII of the 1987 Constitution provides that the exploration, development and utilization of natural resources shall be under the full control and supervision of the State, and the State may directly undertake such activities, or may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum (60%) of whose capital is owned by such citizens, which agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law;

WHEREAS, there are existing and expected proposals from interested parties, including foreign-owned corporations, for agreements involving the exploration, development and utilization of minerals that require immediate consideration to encourage investment in the mining industry which plays a pivotal role in the economic development of the country; and

WHEREAS, in order to enable the Government to consider and conclude such agreements, it is necessary in the national interest to provide the legal basis and authority as well as the general guidelines and framework for entering into such contracts or agreements envisioned by Section 2, Article XII of the 1987 Constitution until Congress shall enact a more comprehensive legislation on the subject;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order:

Section 1. The Secretary of the Department of Environment and Natural Resources (hereinafter referred to as "the Secretary") is hereby authorized to negotiate and enter into, for and in behalf of the Government, joint venture, co-production, or

production-sharing agreements for the exploration, development, and utilization of mineral resources with any Filipino citizen, or corporation or association at least sixty percent (60%) of whose capital is owned by Filipino citizens. Such joint venture, co-production, or production-sharing agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and shall include the minimum terms and conditions prescribed in Section 2 hereof. In the execution of a joint venture, co-production, or production-sharing agreement, the contracting parties, including the Government, may consolidate two or more contiguous or geologically related mining claims or leases and consider them as one contract area for purposes of determining the subject of the joint venture, co-production, or production-sharing agreement.

Section 2. The following minimum terms and conditions shall be incorporated in the co-production, joint venture or production-sharing agreement: (a) all the necessary management, technology and financial services to be furnished by the contractor; (b) the use of local goods and services to be maximum extent practicable, must be given preference; (c) a condition that the contractor shall not acquire title to the contract area; (d) the stipulated share in revenues and manner of payment thereof; (e) a period of two (2) years from date of the agreement, extendible for another two (2) years; (f) a period of utilization including development which shall not exceed twenty-five (25) years under the same terms and conditions; (g) obligatory relinquishment of portions of the contract area after the exploration period which are not needed for utilization and development; (h) work program and minimum expenditure commitment for the exploration period; (i) provision on consultation and arbitration with respect to interpretation and implementation of the agreement; (j) employment and training of Filipino personnel; (k) industrial safety and anti-pollution measures; (l) restoration and/or protection of technology to the Government or local mining company; (n) a stipulation that all data and information gathered by the contractor shall be furnished to the Bureau of Mines and Geo-Sciences and that all books of accounts and records shall be open to inspection; (o) commitment to community development; (p) such other terms and conditions not inconsistent with the Constitution and existing laws, as the Secretary may deem to be the best interest of the Government.

Section 3. Any contract or agreement which may be entered into by the Secretary pursuant to Sections 1 and 2 hereof shall be subject to the approval of the President.

Section 4. The Secretary is further hereby authorized to accept, consider and evaluate proposals from foreign-owned corporations or foreign investors for contracts or agreements involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, which, upon appropriate recommendation of the Secretary, the President may execute with the foreign proponent. In entering into such proposals, the President shall principally consider the real contributions to the economic growth and general welfare of the country that will be realized, as well as the development

and use of local scientific and technical resources that will be promoted by the proposed contract or agreement. Until Congress shall determine otherwise, large-scale mining, for purpose of this Section, shall mean those proposals for contracts or agreements for mineral resources exploration, development, and utilization involving a committed capital investment in a single mining unit project of at least Fifty Million Dollars in United States currency (US\$50,000,000.00).

Section 5. Any contract or agreement entered into by the President pursuant to Section 4 hereof shall be reported to Congress by the Executive Secretary on behalf of the President within thirty (30) days from its execution.

Section 6. The Secretary shall promulgate such supplementary rules and regulations as may be necessary to effectively implement the provisions of this Executive Order.

Section 7. All provisions of Presidential Decree No. 463, as amended, other existing mining laws, and their implementing rules and regulations, or parts thereof, which are not inconsistent with the provisions of this Executive Order, shall continue in force and effect.

Section 8. This Executive Order shall take effect immediately.

DONE in the City of Manila, this 25th day of July, in the year of Our Lord, nineteen hundred and eighty-seven.

CORAZON C. AQUINO

By the President:

JOKER P. ARROYO
Executive Secretary