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Extractive industry in the Dominican Republic: A history of growth, regression and recovery

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ABSTRACT

The evolution of the mining sector in the Dominican Republic has been a slow and tortuous one. The last 100 years are characterized by the country's search for a way of using its non-renewable resources in a more sustainable manner. The Dominican Republic has a very favorable geology and displays world class deposits. In the near future, the mining sector should become a relevant pillar of the Dominican economy by contributing directly to its diversification and also to local development. Throughout time the Dominican Republic has acquired experience in dealing with mining companies. The positive elements of its experience must be preserved in order to build a relationship based on a fair distribution of benefits at all levels: national, local and investor. The country must be institutionally prepared to benefit from its mining potential in the most favorable way to protect its interests, and thus make a very positive impact on the welfare of all Dominicans.

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1. Introduction

Although the mining history of the Dominican Republic (DR) goes back to Spanish colonization, it was in the early years of the XX century when the country became aware of its mining potential. Modern mining activity in DR has been characterized by booms and setbacks, not only in terms of mining production, but also regarding the strategic vision of the role of mining in the country's development and how it should be promoted.

Most of the time, mining in DR has been a private sector led development where the state has played an enabling role, basically by managing exploration and exploitation rights. This is the case of metallic mining, mainly developed by foreign direct investment, except for the short period of nationalization of the Pueblo Viejo gold mine. In industrial minerals, the involvement of state-owned companies has been more significant.

Mining development in the country has been driven by external factors, such as the evolution of mineral and oil prices or the availability of technologies that influence the competitiveness of

local mining vis à vis rest of the world locations. Internal policy decisions have also contributed to this pattern. In some moments, public policy has fostered the emergence and consolidation of mining activities, and in others a short sight vision has guided public decisions regarding mining development.

In this paper we analyze how those external and internal factors interact and what has been the contribution of mining to the Dominican Republic. First, we present a short description of the mining potential of the country. Later, we go through the history of mining public policy and the building of institutional capacity. Part three discusses the political economy of the relationship between the Dominican state and foreign mining companies. Then, we analyze the impact of mining in terms of its contribution to export, fiscal revenues, employment, environment and local development. Finally, we conclude.

2. Mining potential of the Dominican Republic

The Dominican Republic shares the Hispaniola Island with Haiti, with an extension of 48,442 kms². The island has a great geological environment for mineral deposits,¹ mainly located in its central part. Deposits of gold, silver, ferronickel, zinc and bauxite

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¹ Pérez M. et al (2012) for an explanation of the geological characteristics of the Hispaniola Island.

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are being exploited, and new gold mines have been discovered, such as the one in San Juan Hills and the border with Haiti. Currently, there are four main metallic mining operations and ten exploration projects with several experienced companies.² Although the beginning of bauxite, ferronickel and gold exploitation goes back to the late 1950s and early 1970s, exploitation of copper and zinc started in the 2000s.

The country also counts with non-metallic and industrial mineral deposits. One of the most important gypsum and salt mines in Latin America is located in the Southwestern region of DR. There are reserves of high grade (medicinal grade) calcium carbonate, marble, coral stone, and limestone, standing up the Portoro and travertine marble varieties.

Non-metallic mining, after Trujillo's assassination and until the 1980s, was basically developed by state-owned enterprises. Nowadays, the country has developed an industrial capacity for the processing of sized rocks, marble, cement and limestone,³ as well as for amber and larimar stone handcrafting.

Since 1939 several unsuccessful attempts have been made in order to find oil deposits. In recent years, studies conducted in joint venture with the Cuba government revealed the possibility of existence of continental margin sediments associated with the Bahamas. Currently, there are no contracts for oil exploration. The government is preparing an international oil exploration bid, based on a recent evaluation done by Schlumberger.

According to the Mining Development Plan 2012–2030,⁴ presented by the Mining and Petroleum Chamber, the potential value of Dominican mining resources and reserves in 2012 was estimated at US\$60,000 millions for metallic mining and US\$40,000 millions for non-metallic mining.

3. Brief history of mining policy in DR

3.1. Before the XX century

One of the first economic activities that Cristopher Columbus carried out was to prospect for gold. He founded La Vega Real, the first New World settlement known for its gold production. Nowadays, this region is known as the Eastern Cibao mining district, cradle of the renowned Pueblo Viejo gold mine as well as ferronickel, zinc and copper deposits.

The destruction of La Vega Real by an earthquake in 1562, together with the native population extermination and the discovery of other gold-rich areas in Central America, Colombia, México and Perú, made the Hispaniola lose its attraction for mining. This led to the lethargy of mining in the island, although it was believed that significant gold reserves in the country remained. Only alluvium gold handmade mining persisted as a relevant economic activity in countryside areas, mainly developed by women in an informal way.⁵

In the Dominican Republic's history as an independent state, the first public policy decision regarding mining was taken in 1848

when the Congress enacted Decree 140,⁶ for promoting mining as an activity to be developed on an open and freeway, based on a fair contract or leasing agreement with the Dominican state and subject to a payment to the state no greater than 5% of the production. Hereinafter, the legal framework for mining activity suffered frequent changes, reflecting the public interest of finding effective ways for promoting, regulating and taxing mining activities; and in some cases the interest of having more political control of the process of granting mining rights.

3.2. Learning how to deal with mining development: 1900–1970

In 1904 the first Dominican mining law was enacted,⁷ which dictated that no matter the land owner, all mining activities must be authorized by the state, and imposed the payment of a fee per unit of the concession land extension as the only fiscal obligation of mining.

Onward and until 1961, there was a succession of approvals, amendments and suspensions of mining legal provisions. Around forty legal decisions regulating mining activities were issued during this period: nine general mining laws,⁸ eleven mineral specific laws,⁹ four mining taxes laws, and seven laws related to mineral rights administration.

Mining law of 1936 was the first one to declare that all minerals belonged to the Dominican state, that mining rights should be acquired by concession granted by the state, and that the Executive had discretionary power to establish special conditions for granting mining rights, including changes in tax obligations. By constitutional mandate, Congress had to approve mining contracts. There was also the concern of how to regulate handmade, small scale and informal mining, and its tradition of open and free economic activity, and how to foster and regulate mechanical large scale mining which required a relatively high level of investment, transport infrastructure and a more complex taxing scheme. Differences in the social base of miners made it necessary to specify a differentiated regulatory treatment since 1925.¹⁰

A striking feature of mining development during the first sixty years of the XX century was the high level of instability of the legal framework. Legal changes modified the tax mining scheme and mining rights management. Although the approval of each new mining law was accompanied by a statement of legal security assurance, legal instability created space for selective and arbitrary acting, particularly under Trujillo's dictatorship, as well as for speculative and opportunistic behavior of mining rights owners.

The institutional arrangement for dealing with mining development showed the same instability of its legal framework, but also evidenced the evolution of the organizational structure of the Dominican state. Originally the mining laws were administrated by the Secretariat of State of Development and Communications, but from 1931 onwards mining law administration went from one institution to another. Finally, in 1966 the Secretariat of State of

² The exploration projects are: 1) Americano Nickel Ltd, proven and probable reserves of 50 million tons of removable ore; 2) Pueblo Viejo Dominicana Corporation proven and probable reserves of 25.3 million ounces of gold; 3) Unigold Ltd; 4) Panterra Gold-Envirogold Las Lagunas Limited, located in the old tailings dam of Las Lagunas, with reserves of 5 million tons of extractable mineral; 5) Everton Resources-Dominican Mining; 6) Linear Gold; 7) Energold Mining Ltd.; 8) Energold Drilling Corporation; 9) Inex-GoldQuest Corporation; 10) Perilya-Corporación Minera Dominicana, proven and probable reserves of 5 million tons of copper and gold extractable mineral.

³ Pérez M. et al (2012).

⁴ Pérez M. et al (2012).

⁵ Moya F. (2016).

⁶ Decree 140 of May 16, 1848. The Dominican independence was declared in February 27, 1844. *CJPE* (2016).

⁷ Mining Law of May 25, 1904. Previously, the French Mining Law of April 21, 1810, was adopted. See Decree 913 of Apr 2, 1866. *CJPE* (2016).

⁸ Those were: Mining law of May 25, 1904; Mining law of May 10, 1910; Executive Order 471 of 1924; Law 155 of Mar 25, 1925; Mining law 779 of Apr 19, 1934; Mining law 1131 of Aug 8, 1936; Mining law 1852 of Nov 27, 1948; Mining law 4445 of May 25 of 1956; and Mining law 4550 of Sep 23, 1956. *CJPE* (2016).

⁹ Those were mineral specific dispositions: gold and related minerals (Law 84 of Mar 8, 1939; Law 729 of Oct 30, 1944; Law 4759 of Sep 1, 1957; Law 5032 of Nov 21, 1958); hydrocarbon and oil minerals (Law 709 of Mar 27, 1942; Law 547 of Mar 21, 1944; Law 5032 of Aug 31, 1956); salt mineral (Law 160 of Jan 1, 1943); gypsum (Law 224 of Mar 4, 1943); silver, iron, copper, nickel, chrome, mercury, cobalt, molybdenum and manganese (Law 395 of Sep 24, 1943); and aluminum (Law 575 of May 8, 1944). *CJPE* (2016).

¹⁰ Law 155 of Mar 25, 1925. *CJPE* (2016).

¹¹ Law 290 of Jun 30, 1966. *CJPE* (2016). See also *ONAP* (2004).

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