

MINING LAW

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CHAPTER I

THE EXT ENT OF A PPL IC ATI ON

Ar t. 1. - Extent of Applic ation.- This pre sent Mining La w regula te s the re lations

of the Sta te with na tural and lega l persons, whether local or fore ign, and their

re la tions with one another, with res pec t to the obta ining of rights and the

performance of mining operations. Petroleum and other hydrocarbons, radioactive minerals and medicinal mineral waters are excluded from the dispositions of this

Law.

Art. 2. - Supplemental Standards. - The rules of the Civil Code, Code of Civil

Procedure, Code of Commerce, Company Law and other dispositions of positive

law cover mining matters in so far as they apply and provided the subject is not

expressly regulated in this Law. Art. 3. - Jurisdiction and Authority. -

Natural or legal persons, local or foreign,

who engage in mining activities are subject to the laws, judges and courts of the

country. In the case of foreign natural or legal persons, it is implied that they

renounce all claims by diplomatic channels or international legal institutions.

Art. 4. - Public Interest. - Mining activity in all its phases, on or outside

concessions, is declared to be in the public interest. Consequently, it is proper to

constitute easements as necessary, in accordance with this Law.

CHAPTER II

STATE AUTHORITY AND MINING RIGHTS

Art. 5. - State Authority Over Mines and Deposits. - All mineral substances existing in the national territory belong to the inalienable and

extinguishable ownership of the State, whatever their origin, form or physical state, and whether

they are under the ground, on the surface, on the seabed or in marine waters. And,

the exploitation shall agree with the lineaments of sustainable development and of

environment protection and conservation.

As provided in the last subsection of section 1 of Article 46 (actual Art. 247) of

the Constitution of the Republic, the State may authorize the performance of mining activity for the rational exploitation of mineral resources by natural or

legal persons, local or foreign, granting them mining rights, in accordance with

this Law.

Ar t. 6. - Mining Rights. - Mining rights are those which derive from mining concessions, as well as permits to install and operate plants for treatment, smelting and refining, and also from trading permits. Priority in presenting petitions for mining concessions gives preferential rights to receiving them.

Ar t. 7. Mining Concessions .- A mining concession is an universally valid and property related right, distinct and independent from the ownership of land on which it is located, even when both belong to the same person. The universally valid right which derives from the mining concession is defensible as against third parties, transferable and transmittable, susceptible to mortgage and, in general, to any act or contract except to form part of the common property of a family. Constructions, installations and other articles permanently linked to the operation are considered real property accessory to the concession. The Mining concession is susceptible of material division and accumulation within the limit of one mining hectare as a minimum and 5, 000 mining hectares as a maximum, by concession.

CHAPTER II

Ar t. 8. - (Abolished)

Ar t. 9. - (Abolished)

Ar t. 10.- (Abolished)

Ar t. 11.- Reports .- To carry on mining activities mentioned in this Law in the places determined below, it will be necessary to have reports issued by the following authorities and institutions, respectively:

- a) From the Mayor or President of a Municipal Council, within a city or populated center;
- b) From the Minister of Public Works, within distances of up to 200 meters measured horizontally from buildings, public roads, railroads, ferries, radio stations, antennas and telecommunication installations;
- c) From the National Council of Water Resources, on lakes, ponds and dams or in sites devoted to collecting water for cities and within distances of up

to 200 meters measured horizontally from the m.

d) From the State Petroleum Company of Ecuador (Petróleos Ecuatorianos) or its affiliates within distances of up to 200 meters measured horizontally from

oil, gas and petroleum product pipelines, refineries and other petroleum installations; e) From the General Directorate of the Merchant Marine and Coast

Guarded ports; and

f) From the National Electricity Council, within distances of up to 100 meters

measured horizontally, in areas in which there are power stations, pylons

and main lines of the National Network.

These reports shall be issued within a maximum period of 15 days and shall contain conditions that protect the interest of each institution; if they are not issued

within this period they shall be assumed to be favorable.

CHAPTER IV

THOSE SUBJECT TO MINING LAW

Art. 12.- Subjects of Mining Law. - The subjects of mining law are natural persons of legal age and legal persons, local or foreign, whose object and function

are in conformity with the legal dispositions of the country.

Art. 13.- Domicile of Foreigners. - Foreign natural or legal persons, to be owners

of mining rights, must have domicile in the national territory. They will receive

the same treatment given to any other person, natural or legal, of the country.

Art. 14.- Unqualified Persons. - The following persons may not obtain mining rights, personally or through another party, while in the exercise of their functions

and up to one year after leaving the m:

a) In any part of the national territory: the President of the Republic, the Vice

President of the Republic, Ministers of State, the General Controller, the

Attorney General, Magistrates of the Supreme Court, members of the Constitutional Court, Ministers of the District Tax Court, Ministers of the

Public Administration Litigation Court, Deputies of Congress, the Manager of the Central Bank, the President of the Central Bank Board, the officers and employees of the Ministry of Energy and Mines and its dependencies and the members of the Public Police Force on active duty;

b) In the jurisdiction where they exercise their functions : provincial governors, intendants, commissioners of Police, chief state representatives and their lieutenants, mayors, presidents of municipal councils, presidents and ministers of High Courts, notaries, registrars of property, mercantile registrars and their staffs;

c) The administrators, employees, workers, lessees, contractors, technicians

and consultants of the mining concessions within a perimeter of 5 kilometers of the concessions where they work; and

d) Blood relatives of the persons referred to in the preceding sections, to the second degree and their spouses and their blood relatives to the first degree.

Art. 15. - Exceptions. - The prohibitions in the preceding article do not extend

to:

a) Mining rights acquired prior to taking office of employment;

b) Mining rights belonging to the spouse of the ineligible person if such rights

had been acquired before the appointment, and those acquired through inheritance, succession or gift; and

c) Mining companies in which the ineligible person is a partner, established

before he was named to public office; they may continue provided he takes no part in their administration or management.

CHAPTER V

NATIONAL MINING ACTIVITY

Art. 16. - National Mining Activity. - National mining activity is carried on by

state, mixed, communal or mutual and private effort.

The State performs its mining activities through the General Directorate of

Geology which may set up mixed companies.

Communal or mutual and private companies enjoy the guarantees to which they

are entitled and have a right to state protection as provided in this Law.

Art. 17. - Company Actions and Affiliation. - The Superintendentcy of Companies, as a condition of approving the establishment, domiciling, increase of

capital or change of by-laws of companies whose object includes the performance

of mining activity in any of their phases, shall require its affiliation to one of the

Chambers of Mines of Ecuador according to Law.

CHAPTER VI

PHASES OF MINING ACTIVITY

Art. 18.— Phases of Mining Activity.— For the purpose of applying this Law, the

phases of mining activity are classified as:

a) Prospecting, which consists of the search for signs of new mineralized areas;

b) Exploration, which consists of determining the size and form of the deposit,

as well as the content and quality of the mineral present in it. Exploration also includes the economic evaluation of the deposit.

c) Exploitation, which comprises the group of operations, works and mining labor devoted to the preparation and development of the deposit and the extraction and transport of the minerals;

d) Beneficiation, which consists of the processing of the exploited minerals to

increase their useful content or metal percentage;

e) Smelting, which comprises the technical procedures designed to separate the metals from the corresponding minerals or concentrates produced in the

beneficiation stage;

f) Refining, which consists of the technical procedures designed to convert the

metallurgical products to metals of high purity; and

g) Trading, which consists of the buying and selling of minerals or the celebration of other contracts whose object is the negotiation of any product

resulting from mining activity. TITLE I I

MINING POLICY

CHAPTER I

FORMULATION, EXECUTION, AND ADMINISTRATION OF MINING POLICY

Art. 19.— Direction of Mining Policy.— The formulation of national mining policy corresponds to the Executive Function.

For the development of said policy, its execution and application, the State shall

act by the intermediary of the Ministry of Energy and Mines and the entities and

organization determined in this Law.

Art. 20.— Execution of Mining Policy.— The Ministry of Energy and Mines is the

State Secretariat charged with planning, execution and administration of mining

policy approved by the President of the Republic. Its functions are those

es ta blishe d in this Law and its Re gulations.

Ar t. 21.- National Dir ector ate of Mining. - The Na tiona l Dire ctora te of Mining

is the dependency of the Ministry of Energy and Mine s charge d with adminis tering the proce ss of is sua nce, conse rva tion and extinction of mining

rights in conformity with the regula tions of this La w. Its attributions are set out in

Article 177. The Ministry of Energy and Mine s may create wha tever re gional dire ctorates of mining are nece ssa ry for the fulfillment of its func tions, whic h will

ha ve juris diction and authority in the territorial section assigne d to the m. Their

attributions are those indic ate d in Article 178.

Ar t. 22.- National Mining Inve ntory Se rvic e.- The National Mining Inve ntory

Se rvic e is a spec ia liz ed de pendency of the National Direc torate of Mining, which

will ha ve charge of the te chnic al as pec ts re lated to the iss uance, cons ervation and

extinction of mining rights, and the elabora tion, ma intena nce and up-da ting of the

mining inventory in the entire country. Its attributions will be set out in the

Re gulation. A Re gional Mining Inve ntory Se rvic e will operate in the juris dictions in whic h

re giona l directorate s have been es ta blishe d.

Ar t. 23.- (A bolis hed)

Ar t. 24.- (Abolishe d)

Ar t. 25.- Adminis tr ative Syste ms. - The offic ers and employee s who give the ir

se rvic es in the entitie s and organis ms which this La w crea te s, will be subje ct to

the Civil Se rvic e and A dministrative Ca ree r Law .

Art. .. Aut om ati c Credit .- Without prej udi ci ng budgetar y all ocations which corr espond

to the Ministry of Ener gy and Mines to operate the mini ng publi c sector dependenci es,

al l resour ces generated as a resul t of applying this Law shall be deposited in the single

account of the Gener al Budget of the St ate and shall be automat icall y credit ed in what

corr esponds to the account of t he Mi nistry of E ner gy and Mines for t he operation of bot h

Nati onal Dir ect orate of Mi ni ng and Nati onal Dir ect or ate of Geol ogy;

to fund the operation of the mining sector administration and the mining-geological infrastructure and the implementation of the environmental measures and mining security. These resources shall be administered by the Ministry of Energy and Mines according to the dispositions stated in the General Regulation of this Law and under any circumstance they shall not be assigned to other purposes unless those stated in first paragraph of this article.

Art. ... Origin of Resources.- Resources referred in precedent article will be obtained from :

- a) Payment of administrative process fees and those obtained as a result of costs recovery originated from lending of institutional services by mining public sector dependencies;
- b) Payment of conservation and production patent fees;
- c) Those received by way of technical cooperation, donations and contributions of any kind made on behalf of the Ministry of Energy and Mines, and allotted exclusively to the dependencies of the public mining sector.
- d) Fines established by this Law; and,
- e) Those corresponding to patrimony funds.

Art. ... Distribution of Resources from Conservation Patent Fees.- All resources arising from payment of conservation patent fees shall be used to finance the administration of mining resources, which includes the National Directorate of Mining and the National Directorate of Geology, and maintenance and development of the Mining Administration and Information Systems (SADMI N and SIM). Surplus shall be distributed as follows: 50% for municipalities in whose circumscriptions the mining concessions are located, allotted exclusively to community infrastructure works; 20% for the provincial councils in whose circumscriptions the mining concessions are located, allotted likewise to community infrastructure works; 15% for the Police

Corps; and 15%

for higher education institutions which have faculties of Geology, Mines or

Environment.

Such resources shall be directly, opportunistically and automatically provided. Provision will

be under responsibility of the corresponding Minister and will become effective by

means of the transfer from the national treasury to the accounts of the beneficiary

dependences and entities.

TIT L E I I I

M I N I N G R I G H T S

C H A P T E R I

P R O S P E C T I N G

Ar t. 26.- Free dom of Pros pe cting. - Any natura l or legal person, loc al or fore ign,

ha s the right to prospe ct freely for the purpos e of see king minera l substa nces,

exce pt in those area s included within the limits of mining conc ess ions.

When the

ca se prese nts itse lf, they must obta in the reports refe rre d to in Artic le 11 of this

La w. C H A P T E R I I

M I N I N G C O N C E S S I O N

Ar t. 27.- to A r t. 44.- (Abolishe d)

Re place d by:

A r t. . . . M i n i n g C o n c e s s i o n s . - The St ate issues mi ning concessions in favour of natur al

or legal per sons, local or foreign, according to the pr escri pti ons of this Law and its

General Regulat ion.

The mining concession conf er s t o i t s holder the universal and excl usive right to prospect,

expl ore, exploi t, benef it, smel t, refine and trade all the mineral substances which exi st

and can be obtained wit hin t he area, wi th no more li mit s t han t hose stated i n t his L aw.

Art. ... Uni t of Measure.- For t he purpose of applying t his L aw, the uni t of measur e for

concessions shall be denom inated t he "m ini ng hectare." This unit of measure const it utes

a volum e of pyr ami dal shape whose vertex i s at the cent er of the ear th; i t s out side lim it is

the sur face of the eart h and corresponds pl animetri cally to a square of

100 meters on each side, measured and oriented according to the Mercator Transverse Projection system of ruling used by the National Topographic Map. Exception to the above rules constitutes the side of a concession placed at international borders and/or bordering upon beach areas, national patrimony of protected natural areas, State forestry patrimony and protecting forest and vegetation, in which case the concession limit will be the border line, sea beaches or the protected area limit, according to the case.

Technical aspects corresponding to shape, size, relation between minimum and maximum size of concession, orientation, limits, graphics, verifications, positioning, measures, cadastral systems, and other required by issuance, conservation and extinction of mining rights will be stated in the General Regulation of this Law.

Art. . . Dimension, Term of Concession and Excess.- Each mining concession shall not exceed 5,000 contiguous mining hectares; it will have a term of duration of up to thirty years which will be automatically renewed for equal periods provided that before expiration a written notice for that purpose should be given by the concessionaire. If there is a free space between two or more concessions that does not comprise a

"mining hectare", although it contains a total of more than 10,000 square meters, such free space shall be called an "excess". This excess will be granted to the adjacent concessionaire who first requests it.

The mining concessionaire who could not normally carry out his mining works because of duly proved Force Majeure or Act of God will request to the National Directorate of Mining both suspension of the concession term during the period of time there is such impediment and repetition of proportional part of patent fees paid during that period of time.

Art. . . Administrative Process Fees.- Those interested in obtaining mining

ng concessi ons

shal l pay the amount of one hundred US dol lars on account of fees for each
mini ng

concession appl icati on. S uch paym ent will be m ade only once.

The val ue of this patent fee is not rei mbursabl e and it shal l be deposi
ted accordi ng to the

General Regulat ion of t his L aw.

No peti tion wil l be accept ed if receipt of paym ent i s not annexed.

Art. ... Conservat ion Patent Fee.- The owners of mini ng concessions shall
pay in

advance for each mining hect are an annual conservati on pat ent fee in
dollars of the

Unit ed States of America, for each calendar year, during the month of March,
accor di ng

to t he fol lowing chart:

DURATIO N O F CONCES SION ANNUAL AMO UNT

Si nce Un ti l PER MINING H ECTARE

Year zero Year three US \$ 1. 0

Year four Year si x US \$ 2. 0

Year seven Year ni ne US \$ 4. 0

Year ten Year twelve US \$ 8. 0

Year thirt een Hencef or th US \$ 16.0

Fi rst paym ent of the total conservat ion patent fee shal l be made dur ing
the fir st fi fteen

days st art ing f rom t he dat e of signatur e of the document where it is st
ated that t he ar ea is

suit abl e to be given in concession and shall correspond to the per iod of
tim e elapsed

between the dat e of applicat ion subm itt al and December 31
st

of that year.

The lack of subscr iption of the af or ementi oned docum ent or fail ure to
pay the

conservati on patent fee constit ute a suffi ci ent reason to declare abandonm
ent and to fi le

such appli cation in the form st ated thi s L aw and i ts Gener al Regul at
ion. In addi tion to ful fi llm ent of the term of concessi on and reduct ion
or abandonment, ther e

is no other cause for exti nction of the mi ni ng concessi on except fai lur e
to pay

conservati on or pr oduct ion patent fees, accordi ng to the case.

Art. ... Report of Produ cti on St art .- Bef ore st ar ting com mer cial
producti on, the

concessionai re shall infor m to the Regi onal Dir ect or ate of Mini ng the
date of production

start by means of a written statement which has to be on oath. The start of commercial production is subject to approval of environmental impact evaluation studies.

The owner of a mining concession may not perform commercial exploitation works

without previously report this start, according to preceding paragraph; however, he may

take possession of those minerals he may obtain as a result of exploration works.

Those concessionaires who produce minerals without submitting a written report to the

Mining Directorate concerned at the start of commercial production shall be sanctioned

with a fine equivalent to the double of the corresponding production patent fee, provided

that it is not established as a crime.

Art. ... Production Patent Fee.- From the start of commercial production onwards, the

mining concessionaire shall pay a fixed annual patent fee of sixteen US dollars per each

mining hectare reported to be under production.

Art. ... Annual Reports.- During commercial exploitation, the owners of mining

concessions shall submit until March 31

of each year to the Regional Directorate of

Mining concerned, audit reports on production following technical guides prepared by

the National Directorate of Mining. These reports will be subscribed by the mining

concessionaire and his technical advisor who will be a professional in geology and/or

mining.

Audits to these reports shall be contracted by the concessionaires on their own expense,

with natural or legal persons, local or foreign duly registered as consultants or mining

auditors and registered in the Subsecretariat of Mines, according to the appropriate

dispositions of the General Regulation of the Mining Law.

Art. ... Mining or Metallurgical Residues.- Mining or metallurgical residues or tailings

encompass discarded ore or rock, rubble, debris, washings, sweepings, scor

ia, slag, and waste result ing fr om any m ining or m etallurgical act ivi ties. Mi ni ng or metal lur gi cal tail ings or residues becom e a complement to the concession, processing plant, or sm el t er to which they belong even though they may be locat ed outside thei r l imi ts. T he concessi on holder may fr eel y take advant age of t hem .

Art. ... Concession of Aban doned Resi dues.- Abandoned mini ng or metal lur gi cal

resi dues, al ong wi th any other miner al subst ances that may be found in them wit hin the

li mi ts of the concession sol ici ted, can be granted as a concession accordi ng to the

pr escri pti ons of t hi s L aw.

The residues ar e consider ed to be abandoned when:

a) They belong to an expir ed mi ning concession;

b) They belong to a processing plant or sm el t er which has not been in oper ati on for

2 years, except in cases of for ce majeure or acci dent that was duly justi fied in the

avai lable ti me per iod; and

c) When it is not possi ble to determi ne fr om where they come.

Art. ... Il legal Expl oit ati on of Mi neral s.- Those who are not mini ng concessi on holders

or do not have any l egal grounds t o operat e or wor k in that whi ch is refer red t o i n Art icl e

18 item (c), ar e gui lty of illegal expl oit at ion of mineral substances and shall be

sanctioned as m ent ioned in Arti cle 57 of t hi s L aw.

CHAPTER II I

PR OC ESSING PLAN TS, SMEL TER S, AN D R EFINE RIE S

Ar t. 45.- Authorization for the Ins tallation and Operation of Plants. The Sta te

shall authorize the ins talla tion and opera tion of proce ssing plants, smelters, or

re fineries to any na tural or le gal pers ona l, local or fore ign, who requests it

ac cording to the terms of Artic le 186 of this Law and of its Re gulation.

Ar t. 46. Mining Conce ssionair e's Rights to Install Plants. The holde rs of mining conce ssions ma y ins tall proces sing pla nts, sme lters , and re fineries by

virtue of their conc ess ions without having to obta in the authoriza tion mentione d in

the pre vious Artic le , provided said pla nts only proc ess mine rals of

those concessions. The processing of minerals from outside the concession needs the respective authorization. Art. 47. - Half-yearly reports. The title holders of processing plants, smelters, and refineries shall present to the Regional Directorate of Mining of their jurisdiction half-yearly reports of their activities paying special attention to that noted in Article 54 Item (c) as well as a summary of investments, work done, production obtained, and technological results obtained. These reports shall be analyzed by the Regional Directorate of Mining.

Art. 48. - Withholding Agents. - The title holders of processing plants, smelters and refineries will correspondingly act as withholding agents and will be subject to the tax regulations in the pertinent disposition of Title XI of this Law.

Art. 49. - Rights and Obligations. - The title holders of processing plants, smelters and refineries enjoy the rights referred to in Title IV, Chapters I & II, and are subject to compliance with the obligations referred to in Title V of this Law in that which is applicable.

CHAPTER IV

COMMERCIALIZATION OF MINERAL SUBSTANCES

Art. 50. - Right of Free Commerce. - Mining concession holders may freely commercialize their production both domestically and abroad.

Art. 51. - Trading License. - Natural or legal persons who are not mining concession holders that wish to trade or export metallic minerals or export non-metallic minerals should obtain a license or permit from the regional directorates of mining according to that stated in the Regulation of this Law. Any concessionaire who trades in metallic minerals or exports non-metallic minerals, originating from another concession must also obtain said license or permit.

This license or permit is not necessary for those natural or legal persons trading in non-metallic minerals within the country.

The cost of this license or permit is to be determined in the Regulation. Art. 52. - Validity of License and Renewal. - Trading permits given to

natural or

legal persons engaged in the activities mentioned in the preceding Article will be

valid for a period of three years. The permits are non-transferable and may be

renewed for three year periods in accordance with that stipulated in the Regulation

of this Law.

Art. 53.- Register of Traders. - The National Directorate of Mining shall

maintain a register of all those involved in the trade of metallic minerals and of

those involved in exportation of metallic and non-metallic minerals with the

object of keeping statistical data on internal trade as well as exports and also as a

measure to certify compliance with the obligations established in this Law.

Art. 54.- Obligations of Traders. - Those legally authorized to trade in mineral

substances must:

a) Become withholding agents according to the pertinent tax norms of Title XI

of this Law;

b) Prepare detailed declarations indicating all withholdings and deductions

made; and

c) Send monthly reports to the National Directorate of Mining or to the regional directorates in regards to the origin, volume and value of purchases; destination, volume and value of sales; any taxes withheld of any other statistical information that is required. The reports will be made

on simple forms issued by the National Directorate of Mining.

Art. 55.- Trading Permit Cancellation. - Incompliance of any of the obligations

mentioned in the previous Article will result in the cancellation of the trading

permit without prejudice to the responsibilities that correspond to the holder.

Art. 56.- Illegal Trading in Mineral Substances.- The following is considered

illegal trade in mineral substances: a) Mining concession holders that trade domestically in metallic minerals or

that export metallic or non-metallic minerals all originating from other concessions, without the license required in Article 51;

b) Those persons who buy or sell metallic minerals or export metallic or nonmetallic minerals without legal authorization; and
c) Miners who sell metallic minerals to people or entities not authorized to trade in the m.

Ar t. 57.- Legal Penalties .- The crime of illegal exploitation of minerals as described in Article . . . of this Law shall be punished by the confiscation of the mineral products, as well as machinery and equipment, depending on the seriousness and circumstances of the act.

In addition to confiscation, the guilty parties will be punished with 1 month to 3 years of prison or a fine equal to 10 to 200 minimum monthly salaries which shall

be imposed according to the seriousness and circumstances of the offense in conformity with that mentioned in Article 350 of the Tax Law .

If the first time offender has been given a prison sentence, this sentence can be

substituted with a fine , considering that each day in prison is equivalent to one

third of a minimum monthly salary. The offender may obtain his freedom by paying this fine and is allowed to deduct any prison time served for that particular

offense from the fine.

The crime of illegal trading of mineral substances , described in Article 56 of this

Law, shall be punished by the confiscation of the mineral substances involved in

the act. Furthermore , the offenders shall be fined an amount double the value of

the mineral substances involved in the act.

First time offenses will be tried by the National Director of Mining, and in the

second stage of by appeal, by the District Tax Court. Processes will be given to

these cases under the norms of tax fraud noted in Book IV of the Tax Law.

RI GHTS OF MI NIN G T IT LES

CHAPTER I

RI GHTS IN GE NER AL

Ar t. 58.- Continuity of Work.- No authority can order the suspension of mining

work that is done legally under a mining title, except for those cases

mentioned in

Articles 94 & 95, or when it is necessary to protect the health and life of miners,

or when it is required by the Civil Defense.

Art. 59.— Construction and Complementary Installations.— The title holders of

mining concessions may build and install within their concessions: buildings,

camps, storage areas, pipe lines, pumping stations, conveyors, maintenance shops,

electric lines, reservoirs, communication systems, roads, railroads, and any other

local transportation systems or installations.

If the concession is declared in exploitation, the holder may install processing

plants, smelters, refineries, tailing and residue dumps; as well as engage in any

other activity necessary to develop his operations. In all cases the concession

holder must abide by that indicated in this Law and all other corresponding legal

parameters.

Art. 60.— Water rights and Easements.— The granting of mining concessions and

the authorization to install treatment plants, smelters, and refineries has with it the

implicit right to the use of water and the right to benefit from any easements that

are necessary.

Art. 61.— Altering the Course of Water.— Holders of mining rights may alter the

course of rivers, as long as it does not affect third parties and as long as it is done

with authorization from the National Council of Water Resources. CHAPTER II ADMINISTRATIVE ASSISTANCE AND OPPOSITION

Art. 62.— Administrative Assistance.— The State, by means of the National

Directorate of Mining, will give assistance to mining title holders under the law

for reasons of intrusion, illegal occupancy, dispossession, or any other act that

may impede the free exercise of mining activities. This assistance also implies in

cases of authorities who act without jurisdiction or competence.

Art. 63.— Preventive Action.— The title holder or legal possessor of a

mining right

may solicit the restraint or illegal mining activities, whether in process or imminent, according to the rights of assistance granted under this Chapter.

Art. 64. - Opposition. - Mining concession holders may oppose the granting of concessions when the requests for said concessions are allegedly superimposed on their own existing concessions. In the same manner, petitioners for the same concessions may oppose on the ground they have priority.

TITLES V

OBLIGATIONS OF MINING

TITLE HOLDERS

CHAPTER I

OBLIGATIONS IN GENERAL

Art. 65. - Labor Obligations. - Labor force obligations contracted by the holders

of mining rights with their workers shall be their exclusive responsibility and will

in no way become the responsibility of the Ecuadorian State.

Art. 66. - Mining-Industrial Security and Hygiene. - The holders of mining

rights are under obligation to preserve the health and life of the industrial

personnel and workers, applying the standards of mining-industrial security and

hygiene provided for in the related legal and regulatory dispositions and providing them hygienic and comfortable living conditions in stable work camps, following

plans and specifications approved by the National Directorate of Mining.

Art. 67. - Compensation for Loss and Harm. - The holders of mining concessions are under obligation to perform their work by methods and techniques

that minimize damage to soil and neighboring concessions and, in every case,

compensate any damage or harm they may cause in the course of their work.

The repeated failure to observe the methods and techniques referred to above will

be considered a cause for the termination of the concessions.

Art. 68. - to Art. 71. - (Abolished)

Art. 72. - Conservation of Benchmarks. - The holders of mining concessions are

under the obligation to conserve the demarcation signs; failure to do so will result

in a fine which shall be established by the Regional Directorate of Mining in accordance with provisions of Article 216 of this Law.

Art. 73.- Alteration of Benchmarks. - The holders of mining concessions may

not alter or move the benchmarks denoting the limits of their concessions; failure

to comply will result in a fine which shall be established by the Regional Directorate of Mining without prejudice to the penal liability arising therefrom if

they have acted maliciously, according to the dispositions of Article 580 of the

Penal Code, whose sanction shall also be applied to those who demolish, alter or

remove benchmarks of mining concessions.

Art. 74.- Maintenance of and Access to Registers. - The holders of mining rights

must:

a) Maintain accounting books, financial records, technical registers, employment registers, production statistics, records of materials consumed

and energy used and others which adequately reflect the progress of their

operations; and b) Facilitate access of functionaries duly authorized by the National

Directorate of Mining to the books and registers referred to above, so as to evaluate the mining activity performed.

Art. 75.- Inspection of Installations. - The holders of mining rights are obliged to

permit the inspection of their installations and operations by functionaries duly

authorized by the National Directorate of Mining. Such inspections may in no

case interfere with the progress of the mining work.

Art. 76.- Discovery of Water. - The holder of a mining concession who in the

course of work discovers springs or underground streams is obliged to advise the

National Council of Water Resources and provide the studies and technical data

obtained in connection therewith.

Art. 77.- Employment of Local Personnel. - The holders of mining rights are

obliged to use Ecuadorian personnel in a proportion not less than 80% for

the
development of the mining work.

Art. 78.- Training of Personnel.- The holders of mining rights are obliged to have training and education programs for their personnel at all levels. These programs should be communicated periodically to the National Directorate of Mining. They should also allow into their operations students of higher education who are doing practical work in the field of mining and related disciplines, granting them the facilities necessary for their studies.

CHAPTER II

PRESERVATION OF THE ENVIRONMENT

Art. 79.- Environmental Impact Studies.- The holders of mining concessions and plants for processing, smelting and refining must make environmental impact studies and environmental management plans to prevent, mitigate, control, rehabilitate and compensate environmental and social impacts derived from their activities; such studies should be approved by the Environmental Subsecretariat of the Ministry of Energy and Mines.

Art. 80.- Environmental Management Plan.- Every environmental management plan should contain:

1. Description of the project and the environmental means to be applied, which should be oriented to:
 - a) Protection: actions to protect the wild flora and fauna, natural scenery, soil and native communities;
 - b) Prevention and control of contamination, deforestation, erosion and sedimentation;
 - c) Follow-up and monitoring to control contamination, deforestation, erosion and sedimentation;
 - d) Rehabilitation: reforestation, control of erosion and restoration of areas affected;
 - e) Maintenance: programs of maintenance of platforms, pools, equipment, ducts, storage tanks, roads and civil works in general;
 - f) Emergency and contingency: contingency plans for spills of contaminating products into water courses, the sea and the land, to respond to unexpected events and accidents;
 - g) Mitigation: Cleaning up spills of contaminating products, collection, procedures of final disposal of residues, trash, junk and complementary civil works; and,

- h) Compensation: replacement of goods of communities, inhabitants, etcetera affected by the projects;
2. Chronogram of activities;
 3. Map of the area of performance of the project, outlining the site or sites where they will be performed and the ir possible areas of influence;
 4. Treatment to be given to solid wastes, liquid and gaseous effluents before they are discharged into the environment, according to the permissible limits;
 5. Evaluation of compliance with programmed environmental measures;
 6. For the exploration stage, declaration of the environmental effect;
 7. Environmental impact studies with their respective plans for environmental management, for the stages of exploitation, design, construction, operation and dismantling of the project.
 8. Permanent programs of environmental training and conscience-raising for the employees, to stimulate actions that minimize environmental deterioration.

These conditions shall be incorporated in the requisites for obtaining concessions.

Art. 81.- Treatment of Water.- The holders of mining rights who use water in their work should return it to its original course, lake or pond from which it was taken, free from contamination so as not to affect human health or the normal life of flora and fauna.

Art. 82.- Reforestation.- If the mining activity requires open pit works or other techniques which necessitate the clearing of trees, the holder of the mining right will be obliged to proceed to reforest with species native to the area.

Art. 83.- Accumulation of Residues. - In stockpiling mining or metallurgical residues, concessionaires should take strict precautions against contamination of the soil or surrounding area, constructing any dams or dump sites necessary.

Art. 84.- Conservation of Flora and Fauna.- If there exist species of flora or fauna of proven scientific or economic value in the concession areas, they will be

give n s pec ia l trea tment by the mine ope rators to c ontribute to the ir conse rvation. Ar t. 85.- Waste Manage ment. - The ma nagement of waste, solid and liquid

re sidue , and ga seous emiss ions produced by mining ac tivity within the national

te rritory must comply w ith the following requis ite s:

a) Wa ste with the pre se nce of radioac tive material will be put into he rmetically se ale d containe rs acc ording to international standards, so that

they ca n be tra nsported to the radioactive waste burial ground in coordination with the Ecu adoria n A tomic Energy Commission;

b) Wa ste s which by their nature are not biode grada ble , suc h as glas s, pla stics , aluminum, iron, and others shall be tra nsported to pre-establis hed site s for disposa l; and

c) Wa ste s which by their nature are biodegradable, such as tras h and hous ehold wa ste s, shall be put in pre-e sta blished sites and submitte d to a proc ess of degrada tion so as to obta in products such as compost whic h will se rve for programs of reha bilitation of affe cte d are as.

Ar t. 86.- Protection of the Ec osystem. - The ins talla tion of proces sing pla nts,

smelters, re fineries , workshops and other insta lla tions should kee p in mind the

protection of the ec osyste m by avoiding environmenta l conta mina tion, observing

the law s in force on the subjec t, both in this cas e and thos e previously mentioned,

as w ell as inte rna tiona l tre aties, agre eme nts a nd conve ntion s to w hic h Ecuador is a

signatory, a nd the pertine nt dispositions of the R egula tion of this Law .

Art. ... En vi ron men tal Damages.- For all those legal effect s deri ved from the

appl ication of disposit ions of thi s Mining Law and General Regulat ion and speci ally in

the Environm ent al Regul ati on for Mining Acti vit ies in the Republic of Ecuador, the

envi ronmental author ity concern ed wi thi n the Decentr ali zed Syst em of Envir onmental

Managem ent provided in the Law of Envir onm ental Managem ent , is the Subsecr etari at

of E nvi ronmental P rotection of the Mini str y of Energy and Mi nes.

In order to judge envi ronm ental penal crim es, prior to a court order to st

ar t a cr im inal

pr ocedure, the Penal Judge shall request a report prepared by the aforementioned

Subsecretariat for each specific case.

Ar t. 87.- (Abolished) TITLE V
RELATIONS OF THE HOLDERS OF MINING
RIGHTS AMONG THEMSELVES AND THE
OWNERS OF THE LAND

CHAPTER I

AGREEMENTS, PERMITS AND EMERGENCY OPERATIONS

Ar t. 88.- Legal Links Between Title Holders.- The legal links existing between

holders of mining rights and between them and the owners of the land are subject

to the provisions of this Title as far as rights and obligations are concerned.

Ar t. 89.- Voluntary Easements and Agreements.- The holders of mining rights

may agree with the owners of the land on the extent of terra in the y needed for their

constructions and installations for the exclusive purpose of mining activity. They

may also agree on the use of elements and materials necessary for their activity

and payments there for.

Ar t. 90.- Permission to Neighbours.- The holders of mining concessions and

processing, smelting and refining plants shall permit neighboring holders access to

their installations, galleries or pits in the following circumstances:

a) When there exists a well-founded danger that the work being performed could give rise to any damage to the adjacent mine;

b) When cave-ins or weakening in the galleries, pits and other installations,

can be repaired more easily and quickly from the neighboring galleries, pits, or installations, even if it is necessary to open temporarily means of

access. In every case the costs will be for the exclusive account of the beneficiary; and

c) When there exists a suspicion of intrusion

If this permission is denied the interested party can have recourse to the

corresponding Regional Directorate of Mining to obtain it. Ar t. 91.-

Damage Due to Accumulation of Water. - When damage or harm is

being done by the accumulation of water on a nearby or adjacent concess

ion, the injured party should require in writing that the one who is causing the damage drain this accumulation out fully within 48 hours, without prejudice to any indemnity for damages. The cost of draining out this accumulation shall be for the exclusive account of the one causing damage but the injured party may cover the cost, with right to reimbursement.

The injured party may have recourse to the Regional Directorate of Mining of the jurisdiction to obtain compliance with the measures established in this article.

Art. 92.- Modification of Water courses.- When the owner of the land wishes to modify the watercourse for agricultural purposes, and the variation affects any mining activity, he shall request permission from the National Council of Water Resources which will grant it if there is a favourable report from the Regional Directorate of Mining.

Art. 93.- Use of Under ground Water. - The holders of mining rights may use underground water discovered on an adjacent mining concession if the discoverer is not making use of it.

CHAPTER II INTRUSION

Art. 94.- Prohibition of Intrusion. - The holders of mining concessions are forbidden to intrude with their works onto another concession without permission of the neighbour. Any unauthorized intrusion obliges the party doing it to stop work and pay the value of the minerals he has extracted, less the cost of extracting them and pay an indemnity for any harm caused. Art. 95.- Suspension of Work.- When there is a complaint of intrusion of works, the Regional Directorate of Mining of the jurisdiction shall, based on a report of the Regional Technical Service, order the suspension of work in the disputed zone and dictate a resolution appropriate to the controversy.

Ar t. 96.- Criminal Intrusion.- Intrusion which exceeds 20 meters , measured from the boundary of the concession, shall be presumed criminal. Likewise, if the works are continued after a suspension of work has been ordered by the competent authority, the intrusions shall be considered criminal. In such cases the payment for the minerals extracted, or their replacement, shall be made without any deduction and without prejudice to the penal liability of the intruder for committing the crime of usurpation.

CHAPTER II EASEMENTS

Ar t. 97. - Classes of Easement. - From the moment a mining concession is constituted or a plant for processing, smelting and refining is installed, the lands are subject to the following easements:

- a) To be occupied to the full extent required by installations and constructions belonging to the mining activity.
- b) Transit, water conduit, rail lines , landing strips , ferries , ramps , conveyor belts and all other systems of transport and communication;
- c) Those established in the Basic Electrification Law for the case of installations of electrical service; and
- d) Others necessary for the carrying out of mining activities .

Ar t. 98.- Easements of Neighbouring Concessions.- To give or provide ventilation, drainage or access to other mining concessions or to processing plants, smelters or refineries, easements may be constituted on adjacent concessions or on free areas .The costs involved in constituting these easements will be for the exclusive account of the concessionaire benefited or the owner of the plant. If minerals are discovered at the time of constituting said easements, they shall be property of the concessions on which they are located, without any obligation to pay compensation.

Ar t. 99.- Indemnity for Damage.- Easements are constituted after determination of the amount of indemnity for all harm they cause to the owner of the land

or building or concession on which they are set and may not be exercised until the value thereof is agreed.

Ar t. 100.- Constitution and Extinction of Easements. - The constitution of an easement on lands, free areas or concessions is essentially transitory; its exercise and the indemnities to which it gives rise shall be established by mutual agreement between the parties, celebrated in a Public Deed and inscribed in the Mining Register kept by the Registrar of Property. If there is no agreement between the parties the procedure indicated in Title XIV, Chapter III of this Law shall be followed.

These easements expire with the mining rights and cannot be utilized for purposes different from those belonging to the respective concession or plant; they may be extended or reduced according to the activities or requirements of the concession or the plant.

TI T L E V I I

EX T I N C T I O N O F M I N I N G R I G H T S

CHAPTER I

CA USES OF EX T I N C T I O N O F M I N I N G R I G H T S

Ar t. 101. (Abolished) CHAPTER II

RE D U C T I O N A N D R E S I G N A T I O N

Ar t. 102.- Faculty of Concessionaires.- The holders of mining concessions may reduce the mining hectares or resign them totally according to the procedures established in Articles 202 to 208, provided such resignations or reductions do not affect the rights of third parties. The resignation should be done by Public Deed and provide for the cancellation of the respective registers, leaving the mining area free.

CHAPTER II I

EX P I R A T I O N

Ar t. 103.- Effects of Expiration.- Expiration extinguishes the mining rights and converts the mining concession into free and open land.

Ar t. 104.- Termination for Non-Payme nt. - Mining conce ssions terminate imme dia tely and irre voc ably whe n the ow ners have cea sed to pay the pate nt fe es and other ta xes es ta blishe d in this Law , for a period of six months from the da te on whic h the obligation be ca me payable. Te rmina tion will be dec lared and notifie d by the re spective R egiona l Directorate of M ining.

Ar t. 105 to Art. 107.- (A bolis hed)

CHAPTER IV

NU LL ITY OF M INI NG RI GH T S

Ar t. 108.- Nullity of Conc es sions. - A conc es sion of mining rights iss ue d in

contra-version of Ar ticle 14 of this Law is null, as is one is sued on a legally valid

and ins cribe d c onc es sion to the exte nt tha t it is superimpos ed on

it.Ar t. 109.- Declaration of Nullity. - N ullity s ha ll be de cla red by initia tive of public

officia ls or by complaint of third parties duly proved, by the Regional Dire ctorate

of M ining of the jurisdiction, by expre ss re solution citing the re as ons , in which the

clos ing of the cas e is als o ordere d. The nullity produc es the return of the mining

area to the Sta te, leaving it free .

Ar t. 110.- Owne rship Right on Mining Goods .- The ex-holde r does not los e his

ow ne rship of buildings, ma chine ry, installations and other elements of work by

the termination or nullity of the mining rights , a nd ma y remove them.

TI TL E V III

MI NI NG CON TR ACT S

CHAPTER I

LE GA L STAN DA RDS AN D REQUISIT ES FOR C ONT RAC TS

Ar t. 111.- Applicable Standards .- Contra cts rela ted to mining rights and ac tivities are governed by the sta ndards of private law in all res pe cts not modified

by this La w.

Ar t. 112.- R equisite s.- To be valid, mining contrac ts mus t be celebrated by Public

De ed and ins cribed in the Mining Register ke pt by the Registrar of Property of the

re spective jurisdiction.

CHAPTER II

CE SSION , T RA NSFER, I RRE VOC AB LE PROMI SE AND LE ASING

Ar t. 113.- Transfe rable and Transmis sible Rights.- Mining rights, in gene ral,
ma y be ceded or transmitte d among living partie s or by rea son of dea th,
in the
sa me wa y as rea l estate . Tra nsfer or trans mission of mining rights is
subjec t in all
ca se s to the provisions of para gra ph three of A rticle 7.The tra nsfer is
pe rfecte d by inscription in the corresponding book of the Mining
Re giste r kept by the Re gis trar of Prope rty, after which it is notified to
the National
Dire ctorate of Mining for the pertinent le ga l purpos es.

Ar t. 114.- Irre voc able Promise. - It is permitted to cele bra te contrac ts
of
irre voc able promis e of ces sion or trans fer of rights and sha res in a
mining
conc ession or, in ge neral, in rela tion to any othe r mining rights.
In this type of contrac t it is optional for the be ne fic iary of the promise
to cele brate
the definitive contract or not, but is obligatory for the promisor to
celebrate said
de finitive c ontrac t.

Ar t. 115.- Non-Cance lable Contr acts. - Contra cts of ces sion, tra ns fer
or
exchange of rights and sha re s on mining conc ession s and othe r mining
rights
ca nnot be re scinde d on grounds of exces sive injustic e.

Ar t. 116.- L eas e C ontrac ts .- C ontra cts of leas ing on mining conce
ssions or pla nts
for proces sing, smelting and re fining are subje ct to the ordina ry la w.
The less ee
ma y only sublet the pla nt with written authoriz ation of the holder of the
conc ession, without pre judic e to the complia nce of the holde r's
obligations to the
State.

It is prohibite d to sublet mining conce ssions .
Ar t. 117.- Term of Leas e.- Contra cts of leas e of mining conce ssions and
pla nts
for proces sing, smelting and re fining may be ce lebra ted for a term not exc
eeding
that se t out in the mining title. The cons idera tion may be in mone y, in
kind, or
whateve r form the conse nting pa rties agre e.

CHAPTER II I

CONT RAC T OF MIN ING FINA NCI NG

Ar t. 118.- Mining Financing. - A contrac t of mining fina nc ing is one whe re a natural or lega l person, loc al or foreign, commits himse lf to supply funds , goods or spec ific servic es for the de velopment of mining activity to the holder of a mining conce ssion, to be re pa id either in money or in kind. The ra te s of intere st agree d ma y not be higher than the active ra tes fixe d by the Boar d of the Ce ntral Bank of Ec uador and the material shall be valued at the prices prevailing in the inte rna l market. The person who commits himse lf to provide funds , goods or specific servic es for the development of the mining activity is ca lle d a fina nc ier and the re ceive r, the fina nce e. Any matter w ill be gove rne d by the provisions of A rticle 1488 of the Civil C ode .

If the payba ck is in mineral substances the financ ie r must have a trading license as provide d for in this La w.

The financ ie r must registe r in the C entral B ank of Ecua dor.

Ar t. 119.- Early Ter mination.- Whe n the mining financ e contra ct is for a quantity, time or other de te rmining mea sure, any of the pa rties ma y withdraw from it at any time. If the one who withdraw s is the fina nce e he mus t pay what is due; if it is the financ ie r who withdra ws he loses the finance alrea dy cre dited;

howe ver, the pa rties ma y a gree on some other arrange ment.

Ar t. 120.- Incomplia nce of the Financ ie r.- If the mining financ ie r refuse s to provide the res ource s in the pe riod agree d, the fina nce e may sue him for payment or contrac t anothe r financ ing whic h will enjoy pre fe rence over the firs t, as to pa yment, a nd le aving the first lia ble to pay indemnity for a ny harm done.

Ar t. 121.- Fraudulent Non-Complia nce by the Finance e.- Unless othe rwise agree d, the administration of the mining conce ssion during the financing te rm

re ma ins in the hands of the fina nce e.

Howe ver, if the mining fina nce e invests the money or mate rial of the fina nc ing in another project without the consent of the mining financ ie r, the latter will

have the right to request intervention, without prejudice to any personal liability that the financee may incur. Art. 122. - Participation of the Financier. - If the mining financee is found to be unable to return the resources the financier will have the right to participate in the administration of the mine, with preference over any other creditor, until he has collected what is due.

Art. 123. - Right of Intervention. - The mining financier may visit the mine, inspect the work, review the books of account and supporting documents and make any comments he considers pertinent. He will also have the right to request, at his own expense and with justification, the Regional Directorate of Mining of the jurisdiction to name an intervener with the faculty to determine and receive the funds that the petitioner is entitled to.

The intervener may not involve himself in the management of the work nor oppose those who are doing it, nor resist any act of the administration.

CHAPTER IV

MORTGAGES

Art. 124. - The Mortgage. - The universally valid rights that emanate from the mining concession and the plants for processing, smelting, and refining may be mortgaged in the same manner as any other real estate. The universally valid rights that emanate from mining concessions may only be mortgaged against loans devoted exclusively to this activity.

Art. 125. - Extent of the Mortgage. - Unless otherwise agreed, the mortgage on a mining concession also covers the accessory goods referred to in Article 7, but subordinated to any specific pledge that may be constituted on the mine. It is permissible to constitute liens on the other personal property destined for the operation of the concession and, if desired, on the mineral substances extracted from the deposit.

Art. 126. - Expiration of Encumbrances. - The encumbrances on a mining concession expire when it is extinguished, leaving available legal action personally against the holder.

Ar t. 127.- Legal Action.- The creditor may take legal action up to the stage of having the article auctioned but the court may in no case order the suspension of the mining work.

Ar t. 128.- Subordination of Rights .- A mortgage on a mining concession subject to a financing contract duly inscribed shall not take effect unless the mining financier subordinates his rights by a Public Deed inscribed in the Mining Register kept by the Registrar of Property.

Ar t. 129.- Payment by the Mortgagee. - The mortgagee may pay on behalf of the concessionaire the patent fees on the concession. The amount of the payment shall be added to the value of the loan mortgaged.

Ar t. 130.- Auction.- Since concessions are susceptible to mortgage, the creditor may take the execution or other litigation to the stage of having the property auctioned. If it is embargoed, the receiver will be substituted for the interveenor designated by the judge .

Ar t. 131.- Functions of an Intervenor.- Unless otherwise agreed, the functions of the interveenor shall be confined to making an exact account of the products and expenses of the matter in litigation and presenting it at the right time, duly documented. He may not participate in the management of the work nor oppose those who are doing it nor resist any act of the administration. However, he will see that the administrator does not neglect to perform his duty.

Ar t. 132.- Auction Procedure.- The auction of a mortgaged mining concession will be governed by the dispositions of the Code of Civil Procedure, except the subjects covered by Articles 130 and 131 of this Law .

CHAPTER V MINING CONTRACTS OF TRANSITORY UNION

Ar t. 133.- Contracts of Transitory Union.- Natural and legal persons, local and foreign, legally established in the country, may celebrate contracts of transitory union for the development of any phase of mining activity and the performance of

works, projects, jobs, services and supplies for a fixed time.

Ar t. 134.- Characteristics of the Contract.- The contract of transitory union does not constitute a company nor establish a legal personality. The rights and obligations of the parties shall be governed by what is agreed in the contract.

Ar t. 135.- Unlimited Joint and Several Liability.- The joint and several liability of the parties for the acts and contracts of the transitory union and for the obligations undertaken by it to third parties is presumed.

Ar t. 136.- Accounting System and Financial Statements.- Transitory unions are obliged to establish and maintain accounting systems and prepare and present financial statements in accordance with national Legislation.

CHAPTER VI

OPERATION CONTRACTS

Ar t. 137.- Operation Contracts. - Natural or legal persons, local or foreign, legally established in the country, may celebrate mining operation contracts for the performance of any type of mining activity.

Ar t. 138.- Content and Effect of the Contracts. - In mining operation contracts the contractor will invest his own resources for his sole account and risk, supplying all the capital and technology needed, and performing the work specified in the contract, in exchange for a remuneration of a percentage participation in the production or the results. The owner will maintain unchanged

his mining rights and the obligations undertaken towards the State of third parties. TITL E I X

CONDOMINIUMS AND COOPERATIVE S

DEVOTED TO MINING ACTIVITY

CHAPTER I

CONDOMINIUMS AND COOPERATIVE S

Ar t. 139.- Constitution of a Mining Condominium.- A condominium on a mining concession is constituted when the State is sues a mining title to various

natural persons who have requested it in a single document, subject to the pertinent dispositions of this Law .

Ar t. 140.- Responsibility of Participants. - Condominium does not suppose

the existence of a company legally constituted. The participants are jointly liable for the obligations emanating from the condition of mining title holders. The participants shall designate an attorney-in-fact by a Public Deed inscribed in the Mining Register kept by the Registrar of Property. If they do not do so, notice delivered to one of the members shall take effect as legal notice to all.

Ar t. 141.- Rights and Obligations of Cooperatives. - Cooperative s dedica ted to

performing mining activities enjoy the same rights and have the same obligations as this Law establishes for the holders of mining rights and may enter into association with, and celebrate all types of mining contracts with, natural or legal persons, local or foreign.

TI T L E X

S P E C I A L R E G I M E S

CHAPTER I

AR T I SAN MI NI NG

Ar t. 142.- (Abolished) Re placed by:

Ar t S m a l l S c a l e M i n i n g .- Small scale mining consists in that one which takes into account the area of concessions, volume of processing and production, amount of investment s, capital and technological conditions duly qualified by General Regulation.

The Ministry of Energy and Mines will promote the evolution of small scale mining towards medium and large scale mining by means of special programs of technical assistance, environmental management, mining security, training and professional education with the support of national and foreign investment.

Ar t. 143 to Art. 146.- (Abolished)

CHAPTER II

CONSTRUC TI ON MA TER IA LS

Ar t. 147.- (Abolished)

Ar t. 148.- (Abolished)

Re placed by:

Ar t. ... Free Use of Construction Materials for Public Works.- A free use of construction materials for public works shall be made only in areas without concession

and shall include indemnification payments when causing any damage to the owners of

that land. Taking into consideration both social and public purpose, such free use will be

authorized by the Regional Directorate of Mining concerned. CHAPTER II I
SURFACE SALT DEPOSITS

Art. 149. - Free Use of Salt Deposits. - Saline deposits that form on evaporation

springs at the sea shore, lakes, ponds, and springs of salt water may be used freely

in activities of subsistence mining or artisan mining, respecting in all cases pre-

existing rights and complying with the obligations outlined in Chapter II of Title

V of the present Law.

CHAPTER IV

MINING ACTIVITY IN MARINE WATERS AND ON THE SEA BED

Art. 150. - Special Operation Contracts. - The exploitation of mineral substances

of any kind in marine waters and on the seabed is in charge of the National Directorate of Geology which may celebrate operation contracts with local or

foreign companies subject to the requisites and conditions established in the

Special Regulation which will be dictated by the President of the Republic for this purpose.

CHAPTER V

INVESTMENT AGREEMENTS IN MINING RESERVE AREAS

Art. 151. - (Abolished)

Replaced by:

Art. ... Investment Agreements. - Tax regime applicable to investments in the

mining sector will be subject to special treatments and

guarantees by means of agreements referred to in Article 271

of the Political Constitution of the Republic. Without affecting the content of such agreements investments in mining

activities will have juridical and taxable stability for the term

and conditions stated by the Minister of Energy and Mines, by

means of ministerial agreement, taking into consideration the

amount invested. Art. 152. - (Abolished)

TITLE X I

TAXATION AND ECONOMIC DISPOSITIONS

CHAPTER I

EX T E N T O F A P P L I C A T I O N A N D O N I N C O M E T A X

Ar t. 153. - S p e c i a l R e g i m e. - N a t u r a l a n d l e g a l p e r s o n s h o l d e r s o f m i n i n g r i g h t s

c o n t e m p l a t e d i n t h i s L a w, c o n d o m i n i u m s, c o o p e r a t i v e s d e v o t e d t o m i n i n g a c t i v i t y, l e s s e e s, s u b - l e s s e e s, t r a n s i t o r y u n i o n s, m i n i n g o p e r a t i o n c o n t r a c t o r s a n d

h o l d e r s o f p e r m i t s f o r o p e r a t i o n o f p l a n t s f o r t r e a t m e n t, s m e l t i n g a n d r e f i n i n g o f

m i n e r a l s u b s t a n c e s s h a l l, f o r t h e p u r p o s e o f p a y i n g i n c o m e t a x, c o n f o r m t o t h e

s t a n d a r d s o f t h i s c h a p t e r a n d, s u b s i d i a r i l y, t o t h o s e c o n t e m p l a t e d i n t h e L a w o f t h e

I n t e r n a l T a x R e g i m e.

Ar t. 154. - O n G r o s s I n c o m e a n d D e t e r m i n a t i o n o f T a x B a s e. - T h e g r o s s i n c o m e w i l l i n c l u d e a l l o r d i n a r y a n d e x t r a o r d i n a r y i n c o m e r e c e i v e d i n t h e c o u n t r y

a n d t h o s e c o m i n g f r o m a b r o a d r e s u l t i n g f r o m m i n i n g a c t i v i t y p e r f o r m e d i n t h e

R e p u b l i c o f E c u a d o r.

T o d e t e r m i n e t h e t a x b a s e t h e r e w i l l b e d e d u c t e d t h e e x p e n s e s i n c u r r e d t o o b t a i n,

m a i n t a i n a n d c o n s e r v e t h e t a x e d i n c o m e.

I n p a r t i c u l a r t h e f o l l o w i n g d e d u c t i o n s w i l l b e a p p l i e d:

a) C o s t s a n d e x p e n s e s o f p r o s p e c t i n g, e x p l o r a t i o n, e x p l o i t a t i o n, c o n c e n t r a t i o n

o r t r e a t m e n t, s m e l t i n g, r e f i n i n g, t r a d i n g a n d s a l e o f m i n e r a l s a n d t h o s e r e l a t i v e t o t h e p r e s e r v a t i o n a n d r e s t o r a t i o n o f t h e e n v i r o n m e n t;

b) T a x e s o n m i n i n g a c t i v i t y, a s w e l l a s t h e p a t e n t f e e s i n d i c a t e d i n C h a p t e r I I

o f t h i s T i t l e; T h e r e m a y n o t b e d e d u c t e d t h e i n c o m e t a x i t s e l f, t a x e s w h i c h h a v e b e e n

i n t e g r a t e d i n t o t h e c o s t o f g o o d s a n d a s s e t s a n d t a x e s t h a t t h e p a y e r c a n p a s s

o n a n d o b t a i n t a x c r e d i t f o r;

c) I n t e r e s t o n d e b t s c o n t r a c t e d f o r t h e o p e r a t i o n o f t h e b u s i n e s s a n d t h e e x p e n s e s i n c u r r e d a n d c o m m i s s i o n s c o n t r a c t e d f o r t h e c o n s t i t u t i o n, r e n e w a l

o r c a n c e l l a t i o n o f s u c h d e b t s;

I n t e r e s t i s n o t d e d u c t i b l e i n t h e p a r t t h a t e x c e e d s t h e r a t e s a u t h o r i z e d b y t h e

B o a r d o f t h e C e n t r a l B a n k o f E c u a d o r n o r t h e i n t e r e s t a n d f i n a n c i n g c o s t s

o f f o r e i g n c r e d i t s t h a t h a v e n o t b e e n r e g i s t e r e d i n t h e C e n t r a l B a n k o f E c u a d o r.

d) I n s u r a n c e p r e m i u m s c o v e r i n g p e r s o n a l r i s k s o f t h e w o r k e r s, r i s k s o n g o o d s

used in the mining activity and other liabilities or risks that may occur as a result of that activity, including those of environmental contamination;

e) Salaries, wages and remunerations in general, social benefits, participation of the workers in profits, payments for labor indemnities whose value shall be obtained by the items established in the Labor Code, in labor laws or in collective labor contracts. A surplus may only be deducted if the corresponding withholding tax has been retained from the beneficiary of the indemnization. Also deductible are Social Security contributions, provisions for employee pensions and contributions to benefit the workers in medical assistance, sanitation, mining-industrial security, schooling, culture, training, professional education and sporting activities;

f) General administrative expenses, fees, leasing installments, licenses and specific services for the development of the mining activity, including travel expenses of personnel and transport of goods to the extent that it is motivated by the needs and convenience of the mining activity. Payments made to a head office for general administrative expenses, established in contracts approved by the Ministry of Energy and Mines and registered in the Central Bank may be deducted without any retention up to 5% of the tax base for that fiscal year, calculated before the deduction of these expenses;

g) Depreciation and write-offs as referred to in Article 155 of this Chapter; h) Uncollectible credits when the taxpayer proves to the Public Income Service the impossibility of making the collection or effecting the credit, whether due to death, insolvency, disappearance of the debtor, bankruptcy or any other justifiable cause. The credit may be written off even when it has been on the books for less than five years.

i) Losses due to exchange differentials, for obligations contracted in foreign currency. To be permitted this deduction, the obligations must be registered in the Central Bank of Ecuador.

j) Losses suffered in a fiscal year may be compensated by profits obtained in

the following five fiscal years, not exceeding, in any one period, 50% of the profits obtained;

k) The cost of leasing exploitation concessions and sub-leasing plants for treatment, smelting and refining; and

l) Proved loss or damage due to accident, force majeure or crime, affecting

peculiarly the goods of the mining activity or liability to others, insofar as

they are not covered by indemnity or insurance.

Ar t. 155.- Writing off and Depreciation.- All outgoings effected during the period of pre-production, composed of capital outlays, costs and expenses, may be

registered as assets to be written off in four years.

Capital investment incurred after the pre-production period may be written off in

period of four years.

For writing off and depreciation, any of the methods recommended by accounting

technology may be applied. However, once a method is adopted and initiated

cannot be changed.

Ar t. 156.- Withholding Agent for Rental Services.- The holder of a mining right, members of condominiums, cooperatives dedicated to mining activity,

lessees, sub-lessees, transitory unions and mining operation contractors who

contract services of leasing of movable goods or licenses of intellectual property

from any person who is not resident in the country or is only temporarily present, shall act as withholding agent for the corresponding income tax, as contemplated

in the Law of the Internal Taxation Regime.

Ar t. 157.- Rates of Mining Income Tax.- The holders of mining concessions,

members of condominiums, cooperative dedicated to mining activity, lessees,

sub-lessees, transitory unions, mining operation contractors and holders of

authorizations to operate plants for treatment, smelting and refining of mineral

substances will pay as income tax, according to the case, the rates indicated in

Articles 36 & 37 of the Law of the Internal Taxation Regime starting

from the

first year of their mining activities.

Art. 158.- Taxation on Remittances Abroad. - The owners of direct, subregional or neutral foreign investment may remit abroad their profits and dividends up to an average of 20% a year, calculated on the capital registered in

the Central Bank of Ecuador, paying only the tax established in the preceding

article; on the amount that exceeds 20% there will be applied the treatment

contemplated in Articles 38 & 39 of the Law on Internal Taxation Regime for

such remittances.

Art. 159.- Special Deduction. - For the purpose of determining the tax base and

without taking into account for that calculation the participation of the workers in

the profits, there may be deducted from the income the new investment made by

legal persons in mining activities.

CHAPTER II

PATENTS

Art. 160 and Art. 161.- (Abolished)

Art. 162.- Tax Limitation. - Mining entities cannot be burdened with any other

tax be it of a national or local nature. Art. 163.- Powers of Collection. - The Ministry of Economy and Finance shall

exercise coercitive power for the collection of patent fees, taxes, overdue payment

surcharges, fines and other charges such as processing costs derived from

collection.

CHAPTER III

DUTIES AND TAX EXEMPTIONS

Art. 164.- Importation of Mining Implements. - The Committee on Import Duties will establish the lowest customs tariff possible for machinery, laboratories, equipment, work vehicles, parts and supplies necessary for mining

activities in any phase.

The work vehicles eligibles to be imported will be specified in the Regulation.

Art. 165.- Exemption From Value Added Tax. - The importation of mining implements specified in the above article is exempt from any value added tax; in

the case that there is local production of similar characteristics to the goods to be imported, the imported ones shall pay the said tax. For that purpose, the Ministry of Economy and Finance will decide on the tax based on information received from the Ministry of Foreign Commerce.

Trading of mineral substances is also exempt from the Value Added Tax.

Art. 166. - Exemptions on Exports of Minerals. - The export of minerals is free of all taxes or charges with the exception of a 0.5% tax on the F. O. B. value of the export. This tax is destined to the National Fund for Nutrition and Protection of the Ecuadorian Infant Population (F. O. N. I. N.).

Art. 167. - Sale of Minerals to the Central Bank. - Sale of minerals to the Central Bank will be considered as an export sale for the application of the articles of this Law.

Art. 168. - Use of Excess Profits. - After distribution of profit sharing with employees, any excess will be destined by the mining concession holder, obligatorily, to the execution of projects to better the infrastructure and for social projects to benefit the people in the area of influence of their activities.

The execution of the said projects shall be authorized by the appropriate government agencies and shall be independent from those stipulated in Article 66 of this law.

The National Directorate of Mining along with the Ministry of Labor and Human

Resources, and the Ministry of Economy and Finance, in coordination with the state entity with which the execution of said works is related, will verify and control the performance of the same.

CHAPTER IV

REGISTRATION OF INVESTMENT S AND CREDIT S, EXPORT PERMITS AND CONTROL OF CURRENCY S

Art. 169. - (Abolished)

Art. 170. - Registration of Investment and Contracts of Technical Assistance. -

All foreign investment which will be made in the mining sector with cash monies, goods or specific services for mining development, must be registered with the Central Bank of Ecuador, subject to the regulations set forth by the Board of the Central Bank of Ecuador.

Contracts for technical assistance or technology transfer for the mining sector which satisfy the requisites established by the "Common Regime for the Treatment of Foreign Capital and on Trademarks, Patents, Licenses, and Royalties" and its regulations where the stipulated royalty is equal to or less than 3% of the net sales, does not need authorization nor approval from the Ministry of Foreign Commerce, Industrialization and Fisheries.

Said contracts should be properly protocolized, and registered with the Central Bank as well as with the Directorate of Industrial Property. A copy will also be sent to the General Directorate of Foreign Investment and Technology. Art. 171.- Registration of Credits Contracted Abroad.- Credits contracted abroad and destined to any phase of mining activity must be registered with the Central Bank of Ecuador and will be exempt from any tax or fee for the registration of said credit.

The currency from such credits should be sold to the Central Bank for conversion to local currency. The Central Bank is obliged to provide foreign currency for the servicing of this debt with the exception of currency for penalties. In cases approved by the Central Bank, the credits obtained abroad can remain abroad and can be used to purchase capital goods and equipment necessary for mining development. The holder of a mining title should present his case to the Central Bank to receive the proper authorization.

Interest payments made on foreign loans are exempt from all taxes with the exception of those mentioned in number 2, Article 10, of the Internal Tax Regime Law.

Ar t. 172.- (A bolis hed)

Ar t. 173.- Export Pe rmits. - For export of mine ra ls under this La w, it is sufficient

to c omply with the require me nts for the is sue of the corre sponding e xport pe rmit.

The exe mption from taxe s doe s not imply exonera tion from s ervic e fee s.

Ar t. 174.- (Abolishe d)

CHAPTER V

Ar t. 175.- (A bolis hed)TI TL E X II

MI NI NG JUR ISDIC TION AND COMPETE NCE

CHAPTER I

AD MI NISTRA TI VE JUR ISDIC TION AND SE TT LEM ENT OF DI SPUTE S

Ar t. 176. Juris dic tion.- The Na tiona l Dire cto ra te of Mining and the regional

dire ctorates of mining will exe rcise juris diction and competenc e on mining with

the functions a nd attributions confe rre d on the m by the pres ent La w.

Any controve rsies that may aris e betwe e n those subje ct to mining law and adminis tra tive authorities on mining ma tte rs shall be resolved by the

District

Tr ibunals of Public Adm inistration Litigation.

Ar t. 177.- Attr ibutions of the National Dire ctorate of Mining.- The attributions

of the National Dire ctorate of Mining a re as follows :

a) To ensure corre ct application of pre sent Law and the corre ct applica tion of

le ga l dispos itions in mining ma tte rs ;

b) To hear and res olve matters tha t have been acte d upon by the re giona l dire ctorates and have been a ppe ale d to the N ationa l Directorate , a s well a s;

c) To resolve any dis putes of compete nc e that may arise be twe e n re giona l

dire ctorates of mining;

d) To hear and res olve in sole ins tance solic itations of assistanc e from pers ons

entitle d to the adminis tra tive prote ction;

e) To maintain the Na tiona l Register of pe rsons involve d in the trading of mine rals;

f) To inspect mining ac tivities pe rformed by holde rs of mining rights ; and

g) Everything else that corre sponds to it acc ording to this Law and its

re gulations. Ar t. 178.- Attr ibutions of the Regional Mining Dir ec tor ate s. - The attributions

of the regional mining direc torate s, in their respec tive jurisdictions, are as follows:

- a) To issue mining concessions ;
- b) To issue licenses for trading of mineral substances referred to in Article 51;
- c) To authorize the installation of processing plants, smelters, refineries, and treatment of minerals that come from other concessions;
- d) To grant extensions and declarations and annulments in the cases covered by this Law;
- e) To hear and resolve as court of first instance, any cases of opposition, intrusion or easements;
- f) To designate an intervenor in the cases mentioned in Article 123;
- g) To hear and resolve as court of first instance, any cases of reduction of area or resignation of a mining area ; and
- h) Everything else that corresponds to it according to this Law and its regulations.

CHAPTER II

NOTARIALIZED DOCUMENTS AND THEIR INSURPTION IN THE MINING REGISTER

Art. 179.- Functions of the Notary.- Notaries shall draw up mining documents in accordance with Title II of the Notarial Law, without prejudice, and, noting them as mining titles, shall incorporate in the protocol the corresponding administrative resolution, exact map, and a receipt of up-to-date patent fee payments. For the effect of protocolizing these mining titles, mining contracts and other acts contemplated by this Law, they will be taken as having undetermined quantum.

The same treatment will be given in the procedures for inscription in the Mining

Register. To solemnize contracts of mining concessions, the notary shall require prior presentation of the receipt that proves payment of patent fees.

Art. 180.- Mining Register.- Mining titles, acts and contracts referred to in this

Law, should be registered in the Mining Register which will be under the care or

responsibility of the Registrar of Property in the county of jurisdiction. This

registration will be subject to this Law and its regulations and the Law

of

Registration insofar as applicable, within a period of 30 days from the issuance or celebration.

In the case that a concession finds itself in more than one county of jurisdiction, the registration will be made in the county which has the most area of the concession.

The failure to register within the 30 days mentioned, will make null any mining titles, acts and contracts, except in cases of force majeure which are properly justified before the Regional Directorate of Mining, in which case they will

authorize the late inscription. In no case will any inscription be made after 90 days of the granting of a mining title or celebration of any act or contract.

The Registrar of Property will keep the following mining records:

- a) Of mining concessions
- b) Of authorizations for processing plants, smelters and refineries;
- c) Of mining contracts;
- d) Of mortgages, liens, and prohibitions of transfer;
- e) Of reductions and resignations of mining hectares;
- (f)
- g) Of easements; and
- h) Termination of mining rights.

PR OC EDU RES FOR GRANTING MINING RIGHTS

CHAPTER I

PR OC EDU RE FOR GRANTING MINING CONCESSIONS

Art. 181.- Presentation of Application. - The petition for the granting of a mining

concession should be presented to the Regional Directorate of Mining in the

proper jurisdiction. If the area in question is in more than one jurisdiction, the

petition shall be presented to the Regional Directorate in which the most area of

the concession lies.

The method of presentation, requirements and procedures for solicitation of the

concession, including complaints as to cross filing or date of filing are subject to

the dispositions of this Law and its Regulation.

Art. 182.- Concession Title. - At the culmination of the application procedures,

the Regional Director of Mining, by means of a resolution, will grant a title for a mining concession. This title, in order to be valid, must mention the term of the concession and will be subject to completion of requirements mentioned in Article s 179 & 180.

A copy of the mining title, which has been properly inscribed in the Mining Register, should be promptly presented to the Regional Directorate of Mining so

that it can be immediately incorporated into the National Concession Map. (Art. 183.)

(CHAPTER I I)

(Art. 184.)

(Art. 185.) CHAPTER II I

PROCEDURE FOR INSTALLING PROCESSING PLANTS, SMELTERS AND REFINERIES

Art. 186.- Requirements and Presentation of Applications.- Petitions requesting installations of processing plants, smelters, and refineries shall be

presented to the Regional Directorate of Mining in the corresponding jurisdiction.

These petitions will observe the requirements imposed under the regulations of

this Law as to procedures, requisites and processing.

Art. 187.- Authorization for Installation of Plants. - The Regional Director of

Mining, by means of a resolution, will grant permission for the installation of

processing plants, smelters, and refineries. These permits, once properly registered

in the Mining Register, shall be the only documents giving title to this right.

TITLE X IV

PROCEDURES FOR PROTECTION

AND DEFENSE OF MINING RIGHTS

CHAPTER I

ADMINISTRATIVE PROTECTION

Art. 188.- Request for Legal Assistance.- The title holders of mining rights who

needed assistance under the law should present a complaint and petition to this

effect, in writing, to the National Director of Mining. This petition

should contain

a detailed relation of the happenings and an indication of the persons, natural or

legal, or authorities causing the invasion, despoilment or other form of

perturbation. The petition should be accompanied by a copy of the Mining Title as

well as proof of payment of the patent fees.

Art. 189.- Administrative Inspection.- After acceptance to process the complaint, the National Director of Mining will immediately give notice as to a

day, time and location where the act of administrative inspection will take place.

The inspection will take place within 5 days and it will be presided by the chief of

the National Technical Service or his delegate. This official will personally establish the facts that led to the complaint as well as receive testimony and have

expert examinations performed.

Information gathered, as well as observations, will be put in a written report.

Art. 190.- Inspection Report.- Within 5 days after the culmination of the administrative inspection, the chief of the National Technical Service will present

his report to the National Director of Mining, annexing all pertinent documents

and reports.

Art. 191. Resolution.- The National Director of Mining, within 5 days of having

received the inspection report, will issue a resolution as to whether or not the plea

for legal assistance under the law is granted or denied.

Art. 192.- Inadmissible Request for Legal Assistance.- If the defendant in a

complaint has a valid mining title for the area in question, the National Director of

Mining will deny the plea for legal action. This shall not prejudice the exercise of

legal recourse to which the parties are entitled.

Art. 193.- Order of Abandonment and Dislodgement.- The National Director of Mining, on the basis of the petition filed by the complainant and under the

authority of the resolution of legal assistance, shall issue an order of abandonment

to the illegal occupant of the mining area which is the object of the case

. The illegal occupant has 3 days to comply voluntarily, at which point removal by force is authorized. If the illegal occupant does not abandon voluntarily, the National Director of Mining, on request of the complainant, will order removal by force. This dislodgement will be the responsibility of the General Intendant of Police in the corresponding province.

Art. 194.- Penalties for Illegal Occupancy.- Those persons with the intention of obtaining benefit for themselves or others, individually or collectively, by illegally occupying mining concessions, or violating the rights of the State or holders of mining titles, will be punished according to the provisions stated in the first un-numbered article added to Article 575 of the Penal Code, modified by Supreme Decree 2969 published in the Official Register number 714 of November 20, 1978, and with a fine of 10 to 200 minimum monthly salaries as well as confiscation of equipment, tools and production, without prejudice to a demand for administrative protection.

CHAPTER II INTRUSION INTO MINING WORKS

Art. 195.- Reporting Intrusion. - Accusation of intrusion into mining works should be made to the Regional Directorate of Mining in the corresponding area of jurisdiction, accompanied by the concession title as well as certification of payment of patent fees up to date. Immediately, and notifying the parties, the Regional Directorate of Mining will order the Regional Technical Service to inspect the area and issue a report, based on which it shall order the suspension of work in the area of dispute and issue a resolution to settle the controversy.

The decision or resolution of the Regional Director of Mining may be appealed to the National Director of Mining within 10 days of its issuance. The final

decision

will rest with the National Director.

CHAPTER II I

EASEMENTS

Art. 196. - Demand of Easement. - The title holder of a mining concession or a license to operate a processing plant, smelter, or refinery who needs to establish an easement on a piece of land or upon an adjacent concession and has not been able to arrive at an agreement with the owner or legal occupant, may solicit an easement to the Regional Director of Mining so that one may be constituted.

Art. 197. - Conciliation Hearing. - Two days after receiving the request for an easement, the Regional Director shall order the Regional Technical Service to commission one of its officials to hold a conciliation hearing within five days at the site in question. The parties may designate their experts at this hearing. The official designated by the Technical Service will serve as official arbiter.

Art. 198. - Reports. - If there is no agreement reached at the conciliation hearing, or if one of the parties refuses to recognize the authority of the tribunal, the official arbiter will elaborate a report on the following aspects:

- Is the easement possible and necessary;
- Can it be achieved by other means without incurring excessive costs; and
- Does the easement prejudice considerably the work of the landowner or the concession holder where the easement has been requested?

The official arbiter will include a map with his report which delineates the easement which, in his opinion, will be necessary to impose on adjacent concessions or properties.

Experts from either side may present their testimony and maps to the Regional Director of Mining within 8 days of the conciliation hearing.

Art. 199. - Resolution. - Using as a base the report mentioned in the preceding Article, the Regional Director of Mining will issue a resolution which will accept, reject, or modify the easement requested and assign a value to be paid

as an indemnity to the person occupying the land or concession.
Ar t. 200. – Recourse of Appeal. – The decision of the Regional Director may be appealed to the National Director within 3 days of notification of the resolution.

The decision of the National Director will be final.

Ar t. 201. – Protocolization and Inscription. – The resolution regarding the easement will be protocolized in a notary and inscribed in the Mining Register

kept by the Registrar of Property. TITLE XV

PROCEDURES FOR RESIGNATION AND

TERMINATION OF MINING RIGHTS

CHAPTER I

PROCEDURE FOR REDUCTION AND RESIGNATION

Ar t. 202. – Resignation of Mining Hectares. – Rights to one or more mining hectares contained within a mining concession may be given up only when this

giving up does not prejudice third parties. Giving up claim to a portion and not an

entire mining concession will be known as partial resignation.

Ar t. 203. – Voluntary or Conflictive Jurisdiction. – The approval of a voluntary

reduction of mining hectares can become conflictive if such act is appealed by

third persons claiming damage.

Ar t. 204. – Petitions for Resignation. – The petition for the giving up of claim to

one or more mining hectares shall be presented to the Regional Directorate of

Mining in the corresponding jurisdiction and contain an express request to order

the cancellation.

The petition shall attach the following documents:

a) The concession title;

b) Up to date receipts of payment of patent fees; and

c) Up to date certificates of mortgages, easements, and any other liens upon

the concession.

Ar t. 205. – Form and Improvement. – Once the reduction of an area is approved,

the corresponding public deed will be issued, identifying by name the concession

which includes the mining hectares subject of the resignation, mentioning the details of inscription of the concession. There must also be protocolized in the deed the instruments proving compliance with the legal or regulatory requirements that support the resignation.

Art. 206.- Third Parties.- If it appears from the initial papers that the resignation affects or might affect third parties, the Regional Director of Mining shall order

the resigning party to evidence by public deed their consent to the resignation.

If there is no consent from third parties, the Regional Director of Mining shall

order that third parties be notified by publication, one time only, in a newspaper of

national circulation, and if there is any, of local circulation.

Art. 207.- Opposition.- Legal means for objecting to an attempt to resign will

include the following: contracts of promise, mortgage, financing, lease, exploitation, contracts of sale of minerals, and embargoes with respect to the

concession which includes the mining hectares being resigned.

The presentation of one claim against the resignation of mining hectares converts

the process into a conflict that is to be resolved by the Regional Directorate of

Mining. The decision of the Regional Directorate may be appealed to the National

Directorate of Mining within 5 days of the notification of the parties involved.

Art. 208.- Approval of Resignation.- Once the resolution approving the modification of the area is approved and is inscribed in the Mining Register, the

renouncing party will provide a certified copy to the Regional Directorate of

Mining for the modification of the National Concession Map.

CHAPTER II

PROCEDURES FOR TERMINATION OF MINING RIGHTS

Art. 209.- Expiration by Law.- The regional directors of mining, by authorization of this Law, may declare a concession expired when the title holders

have not complied with Article 104 of this law. There is no appeal and the area

will be come free and clear. Art. 210 to Art. 213.- (Abolished)

Ar t. 214.- Annulme nt Pr oce dure. - In the ca se s of annulment base d on ac cusation of a third party, the pr ec eding ar tic le will be applie d in so far as they are applic able.

GE NE RAL DI SPOSI TIONS

Ar t. 215.- Disc ove ry of Radioac tive Minerals .- In the event that radioac tive mine rals or substa nces are found in economic ally exploitable conce ntrations as a re sult of any activity des cribe d in this law , the ow ner of the mining right will re port the find imme dia tely to the Ecuatoria n C ommis sion on Atomic Energy.

Ar t. 216.- Imposition of Fines. - The infra ctions mentioned in Articles 72 & 73 of this la w, will be punis hable by a fine of no le ss than 20 minimum monthly sa laries and no more tha n 100. This fine will be imposed by the regional dire ctors of mining and will be dete rmine d according to the gra vity of the infrac tion. This fine does not pre judice any other le gal or pena l action that could result from these ac tions .

The right to de fense of the allege d violators, w ill be respected in every c ase .

Fine s will be paid to agencies legally establis hed to rece ive such funds and fines will be de stine d for the National Direc torate of Mining via the Ge ne ral State Budget.

Ar t. 217.- Judicial Procedur es. - Controversies arising in re ferenc e to mining contrac ts whether by individuals, le gal entitie s, mixed-ec onomy companies, communa l or artisa n and private se ctors will be unde r the juris dic tion of the Civil Courts and shall be given proce ss ac cording to the argument in ope n court syste m in summary or exec utory mode, ac cording to the cas e, under the Code of Civil

Proc edure. Ar t. 218.- Chamber of Industry. - From the da te of this Law forw ard, the Na tiona l Cha mbe r of Mines of Ec uador, being a Chambe r of Produc tion, will

enjoy the same rights as have been granted by legal and regulatory dispositions to the other chambers of production in the country. This modifies any general laws or regulations pertaining to the chambers of production.

TRANSITORY DISPOSITIONS

Replaced by:

FIRST. – Petitions in Process. – Petitions that were presented to regional mining

directorates or in the National Directorate of Mining in order to obtain mining

exploration or exploitation concession titles according to the preceding Mining Law and

are found to be in process, shall be reformulated according to the current Mining Law

and its Regulation and presented within a time period of thirty days from the date of

publication of that Regulation in the Official Register.

When reformulating petitions the right of preference acquired according to the Mining

Law in force before the present Law will be respected.

In any case, when reformulating petitions, petitioners shall include the receipt of

payment of the administrative process fee.

A failure to reformulate petitions within the term mentioned in first paragraph will cause

deletion of the first petition and automatic elimination of the area from the cadastral map

without any declaration and/or notification.

SECOND. – Substitution of Titles. – The holders of exploration and exploitation

concessions issued in accordance with dispositions of the Mining Law in force before

this Law, must request substitution of the titles at the Directorate of Mining concerned,

by mining concession titles referred to in this Law, within sixty days after its publication

in the Official Register.

When applying for substitution of title, exploration and exploitation concessionaires

shall submit payment of patent fees and royalties, as well as environmental studies and

concession status, including tax payment certification, mining contracts, mortgages,

easements and prohibitions to sell issued by the respective Registrar of

Properly. Said substitution will be made after verifying the existence of exploration and exploitation titles duly registered and in force, of which express evidence should be given in the new title, subject to the dispositions and requirements stated in this Law and its Regulation, with no more process but issuance, legalization and registration in the corresponding mining register, subject to instructions provided by the National

Directorate of Mining.

THIRD.— Effects of Substitution.— Substitution of exploration and exploitation mining concession titles by the mining title to be issued in accordance to this Law, will have the following effects:

New concession term will start the date of registration of the title at the Registrar of

Property.

Payment of conservation patent fees established by this Law will be made from the date

when the term of the substituted exploration concession expires.

In the case of exploitation concession titles, payment of patent fees shall be made till the

date of presentation of the substitution request as established by the Mining Law in force before the present Law.

FOURTH.— Procedures in Process.— Administrative procedures on mining rights

conservation and extinction which compete to the National Directorate of Mining and

the regional directorates, which are still pending to have a resolution at the moment of

issuing this Law, will continue until conclusion in accordance to Mining Law

stipulations in force before the present Law.

FIFTH.— DISPOSITIONS

First.— Regulations.— The President of the Republic will dictate the regulation or

regulations mentioned here in that are necessary for the application of this Law.

Second.— Derogations.— The re are hereby derogated the general and special legal

dispositions, rules and regulations of mining issued before the

promulgation of the present Law, especially Decree Law 06 published in the Official Register 255 on August 22, 1985 and its regulations. Third.- Effective Date. - This law will become effective upon its publication in the Official Register. Its provisions will prevail over other general and specific laws until such time that another law is passed to change or repeal this Law. In consequence, laws or decrees that contradict this precept will not be applicable.

Fourth.- Tax Provisions. - The tax provisions of this law will take effect January

1st, 1991 for calculation and payment of income and corporate taxes. According to Final Third Disposition of the Mining Law in force before the present Law, it will be understood that all reforms introduced by this Law will cause effects regarding all dispositions which need to be modified or derogated for the purposes of concordance and coding. The following articles are specially derogated: 8, 9, 10, 23, 24, 68, 69, 70, 71, 87, 101, 105, 106, 107, 142, 143, 144, 145, 146, 151, 152, 160, 161, 169, 172, 174, 175, 210, 211, 212 and 213. No Law or decree will be applied in any way if they go against the rules of this Law.

Given in Quito, in the full session of Legislative Committees, May 20th, 1991.

Dr. Edelberto Bonilla Oleas - President
Camilo Restrepo Guzmán - General Secretary
National Palace, in Quito, May 28th, 1991

Be it promulgated
Rodrigo Borja
Constitutional President of the Republic
This is a True Copy: I Certify it.

Gonzalo Ortiz Crespo
General Secretary of the Public Administration
(O R-S 695: May 31st



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