

MINING LAW

Title I

FUNDAMENTAL PROVISIONS

Chapter I

GENERAL RULES

Art. 1. The purpose of the Law. This Mining Law governs the exercise of the Ecuadorian State's sovereign rights to manage, regulate, control and govern the strategic mining sector in accordance with the principles of sustainability, precaution, prevention and efficiency. Oil and other hydrocarbons are excluded from this Law.

The State may delegate its participation in the mining sector to mining companies in which it has a majority ownership interest, or to private initiatives or public solidarity economy companies, for the purposes of prospecting, exploration and exploitation, or beneficiation, smelting and refining purposes, as the case may be, in addition to the internal or external sale of mining substances.

Art. 2. Scope of application. In order to regulate the delegation referred to in the previous article, this Mining Law regulates the relationships between the State and mining companies in which the State has a majority ownership interest; individuals or corporate entities, whether domestic or foreign, public, private or those in which the State has a majority share, as well as their relationships among themselves, with respect to the acquisition, conservation and extinction of mining rights and the carrying out of mining activities.

Art. 3.- Supplemental rules.- With regard to relationships between the State and individuals and companies, and those among themselves, the following legislation shall apply, so far as it is applicable to mining matters; Administrative, Litigious-Administrative; food sovereignty; tax, criminal, criminal procedure; companies in which the State has a majority share; corporate; civil; civil procedure; de-centralized autonomous governments; cultural heritage and such other provisions of positive Ecuadorian law regarding mining matters in so far as they apply, provided the matter is not expressly regulated by this Law.

Chapter II

FORMULATION, IMPLEMENTATION AND ADMINISTRATION OF MINING POLICY

Art. 4. Definition and direction of the mining policy. The definition and direction of the State's mining policy is the responsibility and duty of the President of the Republic.

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For the development, implementation and application of such policy, the State shall act through the Mining Ministry and the entities and bodies determined in this Law.

The State shall be responsible for the administration, regulation, control and management of the development of the mining industry, prioritizing sustainable development and the promotion of social participation.

Art. 5. Institutional structure. The mining sector shall be structured as follows:

- a) The Mining Ministry;
- b) The Mining Regulation and Control Agency;
- c) The National Institute of Geological Mining and Metallurgical Research;
- d) The National Mining Company; and
- e) The Municipal governments in their corresponding spheres of competence.

Art. 6. The Mining Ministry. This Ministry, defined by the President of the Republic, is the governing and planning body of the mining sector. The said body is responsible for the implementation of policies, guidelines and plans applicable in the corresponding areas for the sector's development, in accordance with the provisions of the Constitution and the Law, its regulations and the development plans established at a national level.

The State shall determine, pursuant to the provisions of Article 279 of the Constitution in force, and having regard to the principles of good living, as well as economic, environmental, social and cultural requirements, the areas eligible for mining exploration and exploitation, prioritizing the rational use of natural resources, the generation of new development areas and the principle of regional equilibrium.

The National Mining Policy shall aim to promote innovation, technology and research at all levels, allowing for the internal development of the sector. To this end, the Mining Ministry shall coordinate with higher education and scientific and technological institutions in the country.

The State shall establish promotional, technical assistance, training and financing mechanisms for the sustainable development of artisanal mining and small-scale mining. It shall also establish incentive systems for environmental protection and the generation of more efficient production units.

Art. 7. Competence of the Mining Ministry. The Mining Ministry shall have the following responsibilities:

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- a) To exercise the management of public policies in geological-mining areas and the issuance of the agreements and administrative resolutions required for its management;
- b) To represent the State in mining policy matters;
- c) To assess policies, plans and projects for the development, administration, regulation and management of the mining sector;
- d) To implement, in a de-centralized manner, the public policy defined for the development of the sector,
- e) To promote, in coordination with public and/or private institutions, Universities and Polytechnic Schools, scientific and technological research in the mining sector;
- f) To define, in coordination with the governing national planning body, the National Development Plan for the mining sector;
- g) To supervise compliance by individuals and public and/or private corporate entities with the aims, policies and goals defined for the sector;
- h) To establish the parameters and indicators for the monitoring, supervision and evaluation of the management of public companies and the reporting of the results of such implementation and evaluation to the Executive branch;
- i) To establish Consultation Councils that allow for citizen participation when decisions are taken regarding mining policies;
- j) To grant, administer and extinguish mining rights; and,
- k) Any other responsibilities established in the laws and executive decrees currently in force, as well as in the Regulations of this Law.

Art. 8. Mining Regulation and Control Agency. The Mining Regulation and Control Agency is the technical/administrative body responsible for exercising the State's power to monitor, audit, intervene and control the mining activity phases carried out by the National Mining Company, mining companies in which the State has a majority ownership interest, private initiatives, artisanal mining, small-scale mining and subsistence mining, in accordance with the provisions of this Law and its Regulations.

The Mining Regulation and Control Agency, as a public law institution, with legal personality, administrative, technical, economic and financial autonomy and its own equity, is attached to the Mining Ministry and is competent to supervise and adopt administrative actions to contribute to the rational and technical use of mining resources, in exchange for the fair receipt of benefits pertaining to the State due to their exploitation, as well as compliance with social and environmental responsibility obligations assumed by mining rights holders.

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Art. 9. Powers of the Mining Regulation and Control Agency. The Mining Regulation and Control Agency has the following powers:

- a. To ensure the correct implementation of this Law, its regulations and other legislation applicable to mining matters;
- b. To issue regulations and technical plans for the proper operation and development of the sector, in accordance with this Law;
- c. To issue reports regarding the processes for the grant, conservation and extinction of mining concessions; authorizations for the installation and operation of beneficiation, smelting and refinery plants; and the signing of exploitation contracts by the Mining Ministry;
- d. To keep a register and property register of mining concessions and publish them through information technology and electronic means;
- e. To hear and resolve appeals and other remedies with respect to the resolutions of decentralized units brought to its attention;
- f. To hear, process and resolve matters within the administrative sphere;
- g. To inspect the mining activities carried out by holders of mining rights and titles;
- h. To check that no children or adolescents are working or providing services, in any capacity, in the mining activities carried out by mining rights holders and to ensure compliance with article 43 of the Constitution of the Republic;
- i. To penalize mining rights holders, in accordance with the provisions of this Law and its Regulations, if it is established in the checks referred to in subparagraph h) above that there are children and adolescents working and to report the breach of the relevant legislation in force to the authorities responsible for children and adolescents and labor matters;
- j. To designate a Controller in the cases determined by the Law;
- k. To establish concession rights in the mining sector in accordance with the provisions in this Law and its regulations, as well as to collect the sums corresponding to fines and sanctions;
- l. To exercise technical control and apply penalties to ensure the correct application of the mining sector's policies and regulations;
- m. To open, substantiate and decide upon the proceedings designed for the imposition of the penalties established in this Law;
- n. To monitor, evaluate and disseminate market behavior and statistics regarding the mining sector;
- o. To grant licenses for the sale of the mineral substances identified in this law; and,

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- p. Such other responsibilities as may be required under this Law and the applicable regulations.

The Mining Regulation and Control Agency Code shall determine the competencies of the Regional Agencies to be created, within the framework of responsibilities contained in this Law.

Art. 10. The National Institute of Geological, Mining and Metallurgical Research. In accordance with the provisions of article 386 of the Constitution of the Republic of Ecuador, the National Institute of Geological, Mining and Metallurgical Research shall be created as a public institution responsible for carrying out research, technological development and innovation activities in Geological, Mining and Metallurgical matters.

The National Institute of Geological, Mining and Metallurgical Research has legal personality, administrative, technical, economic and financial autonomy, and its own equity; it is attached to the Mining Ministry and it is competent to generate, systemize, focus upon and manage geological information throughout the national territory in order to promote the sustainable development of mineral resources and prevent the occurrence of geological threats and those caused by man, in support of land management.

The organization and operation of this Institute shall be in accordance with the provisions of this Law and its Regulations.

Art. 11. Board of directors of the Mining Regulation and Control Agency. The Mining Regulation and Control Agency shall have a Board of Directors comprised of three members who shall have no labor relationship with this entity. It shall be comprised of two principal members, and their respective alternates, who must be skilled in the matter, appointed by the President of the Republic of Ecuador, and the Mining Ministry or its permanent delegate and respective alternate, who shall be the Chairman of the Board.

The Board shall nominate an Executive Director and establish the most appropriate administrative and financial structure for its effective operation, as well as the powers and duties of its officers.

Art. 12. The National Mining Company. The National Mining Company is a public law company, having legal personality, its own equity, and budgetary, financial, economic and administrative autonomy for the management of mining activity for the sustainable use of the resources that are the subject matter of this Law, in accordance with the provisions hereunder and its Regulations. The Public Mining Company, subject to the specific regulation and control established in the Public Companies Law, must act in accordance with high quality standards and entrepreneurial, economic, social and environmental criteria.

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To fulfill this purpose, the National Mining Company may incorporate *compañías de economía mixta* (companies in which the State has a majority share), enter into associations, joint ventures, strategic alliances, and generally any act or contract permitted by national laws, with individuals or corporate entities, public or private, domestic or foreign.

Art. 13. Administrative systems. Public servants who render their services in the entities and bodies created pursuant to this Law shall be subject to the Organic Civil Service and Administrative Career Law and the unification and standardization of Public Sector remunerations, with the exception of the National Mining Company, which shall be governed by its own rules in accordance with the Constitution of the Republic of Ecuador.

Art. 14. Jurisdiction and competence. Individuals or corporate entities, domestic or foreign, that are mining rights holders, or who carry out mining activities, shall be subject to the laws, judges and courts of the country. In the case of foreign individuals and corporate entities, they shall abide by the provisions of Article 422 of the Constitution of the Republic of Ecuador.

Art. 15. Public utility. Mining operations in all phases, both within and outside of the mining concession, are declared to be of public utility. Thus, any easements deemed necessary may be created within the framework and limits of this Law, taking into account the prohibition and exception set out in article 407 of the Constitution of the Republic of Ecuador.

Chapter III

OWNERSHIP BY THE STATE AND MINING RIGHTS

Art. 16. Ownership of mines and deposits by the State. Non-renewable natural resources and, in general, underground products, minerals and substances whose nature differs from that of the land, including those found in areas covered by territorial sea waters, are the inalienable property of the State and are not subject to the statutes of limitations or seizures. The State's ownership of the subsoil shall be exercised independently of ownership rights over the surface land covering the mines and deposits.

The exploitation of natural resources and the exercise of mining rights shall be governed by the principles of sustainable development, protection and conservation of the environment, social participation and responsibility, respecting the natural and cultural heritage of the exploited areas. Their rational exploration and exploitation shall be carried out, depending upon national interests, by individuals or corporate entities, whether public, private or those in which the State has a majority ownership interest, domestic or foreign, who shall be granted mining rights in accordance with this Law.

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The exploration and exploitation of mining resources shall be based upon an environmentally sustainable strategy that shall prioritize auditing, the control, regulation and prevention of environmental contamination and remediation, as well as the promotion of social participation and citizen review.

Direct exploitation, as well as competitive auctions for mining concessions, shall only be carried out in the areas defined in the National Development Plan, in the Land Management section.

Art. 17. Mining rights. Mining rights shall mean those rights arising out of mining concession certificates, mining exploitation contracts, licenses and permits, as well as authorizations to install and operate beneficiation, smelting and refinery plants, and commercialization licenses.

Chapter IV

PARTIES SUBJECT TO THE MINING LAW

Art. 18. Parties subject to mining law. Parties subject to mining law are legally capable individuals and corporate entities, be they domestic or foreign, public, private or those in which the State has a majority ownership interest, communal interest and self-managed entities whose corporate purpose and activities are in accordance with the legal provisions in force in the country.

Art. 19. Domicile of foreigners. In order to be a mining rights holder, foreign individuals or corporate entities must have a legal domicile in the national territory. They shall receive the same treatment given to any other national individual or corporate entity.

Art. 20. Disqualified persons. The grant of mining concessions to the following is prohibited: any individual who has or has had conflicts of interest or may use privileged information; individuals or corporate entities linked to decision-making bodies in mining activity areas, whether through direct participation or through their shareholders and consanguineous relatives to the fourth degree and their secondary affinity relatives; or former officers of the Ministry of Natural Resources, Ministry of Energy and Mines, Ministry of Mines and Oil or their consanguineous relatives to the fourth degree and their secondary affinity relatives; and the individuals or corporate entities linked to the decision-making institutions of the mining sector set out in Title IV “Contracts”, Chapter I “Capacity, Ineligibility or Nullity” of the Organic National System of Public Contracting Law, among others.

Chapter V

MINING ACTIVITIES

Art. 21. National mining activities. National mining activities may be carried out through public, private companies or companies in which the State has a majority share, community interest companies, associations and family companies, self-managed companies or individuals, in accordance with this Law. The State performs its mining activities through the National Mining Company and may constitute *compañías de economía mixta* (companies in which the State has a majority share). Mining activities carried out by public, community interest companies, self-managed, private corporate entities or those in which the State has a majority interest, or individuals shall all enjoy the same guarantees and are entitled to State protection, as provided for in the Constitution and this Law.

Art. 22. Legal Regime regarding the National Mining Company and private concessionaires. The mining rights obtained and exercised by the National Mining Company shall be subject to the legal regime established in this Law and in accordance with article 316 of the Constitution in force. The private concessionaires in which the National Mining Company has a share shall also be subject to the provisions of this Law and the common legal rules applicable to domestic investments and the development of production activities in the country.

Art. 23. The Controller of mining activities. The Mining Regulation and Control Agency shall appoint a Controller of mining activities, who shall not be under the control and surveillance of the corporate administrative and cooperative authority, when it is proven in a written complaint by an interested party or *ex officio*, that the mining rights holder has breached a provision of this Law or any others governing the mining sector, whose acts may cause damage to partners, shareholders or third parties.

The Mining Regulation and Control Agency shall, in the same administrative act appointing the Controller, establish the operations and documents for which the signature and authorization of the Controller are required. In any event, the Controller shall act as a manager and the duties shall be: to keep and produce in due time an accurate and duly documented record of the concessionaire's products, machinery and expenses; to effectively supervise the works; and to monitor compliance by personnel with their duties, both administrative and in the field.

The fees received by the Controller shall be determined by the Mining Regulation and Control Agency, the payment of which shall be the responsibility of the mining rights holder, through this Regulatory Body.

If the complaint is clearly unfounded, the Mining Regulation and Control Agency shall reject it and impose upon the petitioners or complainants the administrative and civil penalties specified in this law, without prejudice to any criminal penalties determined by the respective legal body.

Chapter VI

SPECIAL MINING AREAS AND PRIOR FAVORABLE ADMINISTRATIVE ACTS

Art. 24. Special Mining Areas. The President of the Republic may, according to article 407 of the Constitution, declare those areas which are not concessioned and where there is a potential for mining development, as Special Mining Areas so that the Mining Ministry, through its attached entities, may prepare property registers, carry out geological-mining research and any other type of activities of a scientific interest within their respective competencies. The Special Mining Area declaration shall expressly provide for the term thereof, which shall not exceed four years; following its expiry, it shall be lifted without the need for any other declaratory provision. In any case, the declaration shall respect legally established rights or any derived from them. No mining concessions shall be granted in such areas during the term.

During the four years following the expiry of the Special Mining Area term, the National Mining Company shall have a preferential right to apply for mining concessions in the said area. Also, if during the same four-year term referred to above, a third party applies for a mining concession that covers in whole or in part land comprised in that Special Mining Area, the National Mining Company shall have a right of first refusal for the grant of a mining concession in such area. The Mining Regulation and Control Agency shall process the procedure for the exercise of the right of first refusal in accordance with the terms and conditions established in the General Regulations of this Law.

Mining areas and mining projects in which the Ecuadorian State has carried out geological investigations, made explorations or has conducted pre-feasibility or feasibility studies, shall be restored to the same.

Art. 25. Protected areas. The extraction of non-renewable resources in protected areas is prohibited. The said resources may be exploited in exceptional cases following a substantiated request from the President of the Republic, and a prior declaration of national interest by the National Assembly, in accordance with the provisions of Article 407 of the Constitution of the Republic of Ecuador.

Art. 26. Prior administrative acts. In order to carry out the mining activities referred to in the following Chapter, in the areas determined hereinbelow, prior substantiated and favorable administrative acts by the following authorities and institutions are obligatorily required, as the case may be:

- a. In all cases, the approval of the Environmental Impact Study and the report regarding the effect on protected areas by the Ministry of the Environment;
 - a. From the Municipal Council, within urban areas and in accordance with land use management and the social/economic development plan for the county;

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- c. From the Ministry of Transport and Public Works with regard to buildings, public highways, railways, ferry cables, and from the Provincial Councils in the case of third class roads;
- d. From the National Telecommunications Secretariat with regard to radio communication stations, antennae and telecommunications facilities;
- e. From the Ministry of Defense, within military areas or facilities or in adjacent lands, areas assigned for the deposit of explosive or inflammable materials, in areas located within the official limits and borders of Ecuador and in authorized ports, sea beaches and seabeds;
- f. From the sole Water authority in all bodies of water, such as lakes, lagoons, rivers or reservoirs or in areas adjacent to those intended for the collection of water for human consumption or irrigation, in accordance with the law governing water resources. The said administrative act shall be as determined in the Constitution of the Republic of Ecuador regarding the order of precedence with respect to the right to access water;
- g. From the National Hydrocarbons Bureau with regard to oil, gas and multi-purpose pipelines, refineries and other oil facilities;
- h. From the Civil Aviation Bureau with regard to airports or airfields or in its adjacent lands;
- i. From the Ministry of Electricity and Renewable Energy in areas in which there are power stations, electricity towers and lines of the inter-connected national system;
- j. From the National Institute of Cultural Heritage in mining prospecting areas that could contain archeological remains or other remains pertaining to the natural or cultural heritage, which is obligatorily required.

Distances and the other technical and environmental requirements for the aforementioned Administrative Acts shall be established in accordance with the criteria envisaged in the respective regulations issued by the competent administrative entities in each case.

These administrative acts shall be granted within a maximum term of sixty days counted from the date the request is filed, which term may not be extended, and it shall be the responsibility of the officer in charge of issuing the administrative act which shall contain the conditions necessary to safeguard the interests of each institution and the rights and guarantees of citizens. The authorities and institutions responsible for issuing the administrative acts referred to herein shall not apply for additional administrative acts in order to extend the term within which they must issue their opinion.

In the event the authorities and institutions referred to above issue unfavorable administrative acts, the mining concessionaire may appeal the said resolution to the Mining Minister who shall issue a substantiated resolution, except in the case of paragraph (f), which shall be appealed through judicial procedures.

Chapter VII

MINING OPERATION PHASES

Art. 27. Mining operation phases. For the purposes of the application of this Law, the mining operation stages are classified as:

- b. Prospecting, which consists of searching for indications of mineralized areas;
- c. Exploration, which consists of determining the size and shape of the deposit, as well as the content and quality of the mineral therein. The exploration may be initial or advanced, and also includes an economic evaluation of the deposit, its technical feasibility and the design for its exploitation;
- d. Exploitation, which includes the set of operations, mining works and labor required for the preparation and development of the deposit and the extraction and transportation of the minerals;
- e. Beneficiation, which consists of a set of physical, chemical and/or metallurgical processes to which the exploited minerals are subjected in order to improve their useful content or metallic percentage;
- f. Smelting, which comprises the process of melting minerals, concentrates or precipitates in order to separate the metallic products desired from the accompanying minerals;
- g. Refining, which consists of the process of converting metallic products into high-purity metals;
- h. Commercialization, which consists of the buying and selling of minerals or the signing of other contracts regarding the negotiation of any product resulting from mining activities; and,
- i. Mine Closure, which consists of the termination of mining activities and the subsequent dismantling of the facilities used in any of the above-mentioned stages, unless they are of public interest, including environmental remediation in accordance with the closure plan duly approved by the competent environmental authority.

The State shall facilitate the industrialization of the minerals produced by exploitation activities, through the promotion of the efficient incorporation of added value, respecting the biophysical limits of nature.

The obligation of environmental repair and remediation is implicit in all mining activity phases in accordance with the Constitution of the Republic of Ecuador, the law and its regulations.

Title II

MINING RIGHTS

Chapter I

PROSPECTING

Art. 28. Freedom to prospect. Any individual or corporate entity, whether domestic or foreign, public, private or those in which the State has a majority share, community interest companies, associations or family and self-managed companies, excluding those prohibited by the Constitution of the Republic and this Law, is able to prospect freely for the purpose of searching for mineral substances, except in protected areas, those areas within the boundaries of mining concessions, in urban areas, populated areas, archeological areas, assets declared to be of public utility and in Special Mining Areas. When applicable, the prior favorable administrative acts referred to in article 26 of this Law must be obtained.

Chapter II

MINING CONCESSIONS

Art. 29. Auction and public tenders for the grant of mining concessions. The Mining Ministry shall convene a public bidding process for the grant of all metal mining concessions. It shall also call a public auction for the grant of mining concessions over expired concession areas or those which have been returned, or have reverted, to the State. The applicants shall participate by presenting their respective offers in accordance with the procedure established in the General Regulations of this Law.

The annual and multi-annual plans of the Mining Ministry must differentiate between areas eligible for the grant of metallic mining concessions for small-scale mining, artisanal mining and large-scale mining.

With regarding to the public bidding process for small-scale mining concessions, only those individuals or corporate entities listed in this category in accordance with the procedures and requirements set out in this Law and its General Regulations may participate in the process.

Individuals and corporate entities included within the small-scale mining category or who are artisanal miners cannot in any case have foreign companies as partners or shareholders.

The General Regulations of this Law shall establish the procedure for auctions and bids, as well as the requirements and conditions for participating in them.

Art. 30. Mining concessions. The State may exceptionally delegate its participation in the mining sector through concessions. A mining concession is an administrative act that grants a

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mining title, over which the owner shall have a personal right; it may be transferred once the Mining Ministry has mandatorily assessed the suitability of the assignee of mining rights. Pledges, assignments of assets as security and other guarantees envisaged in the laws may be granted over such title in accordance with the provisions and requirements provided for in this Law and in its General Regulations.

The Mining Regulation and Control Agency shall authorize the registration of the transfer of mining titles upon receipt of a notification from the concessionaire reporting the transfer of its mining rights, in accordance with the procedures and requirements established in the General Regulations of this Law. The said act shall be perfected upon its registration in the Mining Register, following payment of a registration fee equivalent to 1% of the value of the transaction.

The State, with the corresponding legal reports, shall authorize the transfer of the mining title when at least two years following the date on which the mining title was granted have passed.

The buildings, facilities and other objects permanently employed for the research, extraction and beneficiation of minerals shall be considered to be fixtures of the concession.

The tax and corporate domicile of mining rights holders shall be in the area where the mining concession is located; in the case of concessionaires with mining titles in various provinces, the largest area of the sum of all of them; or the area of the principal exploitation or industrialization project. Compliance with this obligation must be proven when applying for the grant of a mining concession and it cannot be altered without the prior express authorization of the Mining Regulation and Control Agency.

Art. 31. Grant of mining concessions. The State shall exceptionally grant mining concessions by way of an administrative act to individuals or corporate entities, whether domestic or foreign, public, private or those in which the State has a majority share, community interest companies, associations or self-managed companies, in accordance with the provisions of the Constitution of the Republic, this Law and its General Regulations.

Without losing its personal nature, a mining title confers upon the holder the exclusive right to prospect, explore, exploit, beneficiate, smelt, refine, sell and transfer all mineral substances that may exist and be obtained within the area of the said concession, enabling the owner to be the beneficiary of the economic revenues obtained from these processes, within the limits established in this Law and subject to prior compliance with tax obligations. Mining concessionaires may only carry out the activities conferred by these mining titles following compliance with the requirements established in article 26.

A mining title shall constitute security in accordance with the regulations to that effect issued by the Superintendence of Companies and the Superintendence of Banks, once the mining reserves contained in the concessions are duly valued by the Mining Regulation and Control Agency in accordance with the terms of the respective Regulations for the Assessment of Mining Resources and Reserves.

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The grant of non-metallic and construction material mining concessions shall not be subject to the public auction and bidding processes referred to in this Law. The General Regulations shall establish the procedures for this purpose, which shall explicitly set out the requirements regarding technical and financial solvency, investment amounts, locations, areas, terms for the development of exploration and exploitation activities, beneficiation, social responsibility and destinations.

The use of straw men shall be sanctioned in accordance with the Penal Code in force.

Art. 32. Unit of measurement. For the purposes of the application of this Law, the unit of measurement used for the grant of a mining title shall be referred to as a "mining hectare." This unit of measurement constitutes a volume of pyramidal shape, the apex of which is the center of the Earth and its outer limit is the surface of the ground, which planimetrically corresponds to one hundred square meters each side, measured and oriented according to the UTM coordinates system of the Transverse Mercator Projection, used for the National Topographical Map.

Concessions which are located next to international borders, protected areas and/or beach areas are excepted from these rules and the limit of the concession shall be the boundary lines or sea beaches, as the case may be.

Mining titles may be subject to material division or accumulation, within a minimum limit of one mining hectare and a maximum limit of five thousand mining hectares per concession.

Technical aspects regarding the shape, size, relation between the minimum and maximum size of concessions, orientation, boundaries, graphics, verification, positioning, measures, property register systems and any others required for the grant, conservation and extinction procedures of mining rights, shall be set out in the General Regulations of this Law.

Art. 33. Procedure fees for the grant of concession. Those interested in obtaining mining concessions shall pay for each mining concession application procedure a one-off fee equivalent to five basic unified salaries. The value of this fee shall not be reimbursable and shall be deposited in the form established in the General Regulations of this Law.

Applications that do not attach the respective payment receipt shall not be accepted.

Any other costs required by other prescribed administrative acts shall be set out in the General Regulations of this Law.

Art. 34. Conservation patent for the concession. Mining concessionaires shall pay an annual conservation patent fee for each mining hectare by March in each year, which fee shall correspond to the current calendar year up to the payment date, in accordance with the scale set out in the following paragraph. In no case shall the payment date be extended, either by administrative or judicial means.

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The conservation patent from the grant of the concession up until December 31 in the year the initial exploration period expires shall be equivalent to 2.5 percent of a unified basic salary for each concessioned mining hectare. This conservation patent shall be increased to 5 percent of a unified basic salary for each concessioned mining hectare for the advanced exploration period and the period of economic evaluation of the deposit. During the exploitation stage of the mining concession, concessionaires shall pay a conservation patent equivalent to 10 percent of a unified basic salary for each concessioned mining hectare.

The first payment of the conservation patent fee shall be made within a period of thirty days counted from the date the mining title was granted and shall be in respect of the period of time between the date the mining title is granted and December 31 in that year.

Annual conservation patents for small-scale mining are set at two (2) dollars of the United States of America per mining hectare during the initial exploration phase; four (4) dollars of the United States of America per mining hectare during the advanced exploration and economic evaluation of the deposit phase; and, in respect of the area declared to be in commercial production, ten (10) dollars of the United States of America per mining hectare during the exploitation stage.

Art. 35. Dimension of the concession and excess. No mining concession may exceed five thousand contiguous mining hectares.

If there is a free space between two or more concessions that does not comprise a mining hectare, such free space shall be designated as an excess that may be granted to the first adjacent concessionaire who applies for it.

The General Regulations of this Law shall establish the procedure for the application, and grant, of excess areas.

Art. 36. Term and stages of the mining concession. A mining concessions shall be for a term of up to twenty-five years, which term may be renewed for equal periods provided that, prior to its expiration, the concessionaire has presented a written petition to the Mining Ministry to that end and favorable reports have previously been obtained from the Mining Regulation and Control Agency and the Ministry of the Environment.

In the event the Mining Ministry does not issue the relevant resolution within a period of 90 days from the date the abovementioned application is filed, this shall be construed to be positive administrative silence, in which case the mining title shall be renewed for ten years, taking into account any objective re-negotiation the contract may merit. The officer(s) whose omission has resulted in the administrative silence shall be liable in any administrative, civil and criminal proceedings.

The mining concession shall be divided into an exploration stage and an exploitation stage. In turn, the exploration stage shall be divided into periods of initial exploration, advanced exploration and economic evaluation of the deposit.

Art. 37. Exploration stage of the mining concession. Once a mining concession has been granted, the holder shall carry out exploration works in the concession area for a period of up to four years, which shall constitute the initial exploration period.

Nevertheless, prior to the expiry of the said initial exploration period, the mining concessionaire shall be entitled to request from the Mining Ministry another period of up to four years in order to proceed with the advanced exploration period, in which case the application shall contain an express waiver of part of the total surface area of the concession originally granted.

The Mining Ministry shall process this application provided the mining concessionaire has complied with the minimum operational and investment requirements in their mining concession area during the initial exploration period. Once the aforementioned application in the terms set out above has been filed, the Mining Ministry shall issue an administrative resolution declaring the commencement of the advanced exploration period. However, in the event the Mining Ministry does not issue the relevant resolution within a period of 60 days counted from the date the application is filed, this shall be construed to be positive administrative silence. Any officer(s) whose omission has resulted in such administrative silence shall be held liable in any administrative, civil and criminal proceedings.

Once the initial exploration period or the advanced exploration period has ended, as the case may be, the mining concessionaire shall have a period of up to two years to carry out the economic evaluation of the deposit and to request, prior to its expiration, the commencement of the exploitation stage and corresponding completion of the Mining Exploitation Contract, in the terms provided for in this Law. The mining concessionaire shall be entitled to apply for an extension of the period of the economic evaluation of the deposit from the Mining Ministry for a period of up to two years, counted as from the date of the administrative act accepting such application, for which the concessionaire must pay an annual conservation patent for the period of the economic evaluation of the deposit, plus 50 per cent.

In the event a mining concessionaire does not apply for the commencement of the exploitation stage in the terms set out above, the Mining Ministry shall declare the extinguishment of the mining concession.

Art. 38. Filing of exploration reports. By March 31 in each year and throughout the duration of the exploration stage of the mining concession, concessionaires shall file with the Mining Ministry an annual report regarding the exploration activities and investments made in the mining concession area during the previous year and an investment plan for the current year. The reports to be filed shall be duly audited by a professional certified by the Mining Regulation and Control Agency in accordance with the terms set out in the Assessment of Mining Resources and Reserves Regulations.

In the event a concessionaire does not comply with the investment plan referred to above, the expiration of the mining concession may be avoided by paying an economic compensation equivalent to the amount of the investments not made, provided investments equivalent to 80

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percent of such minimum investment have been made. Evidence of payment of this compensation shall be included in the annual report of exploration activities and investments referred to in this article. These amounts shall also be reflected on the balance sheet and income tax returns filed with the Internal Revenue Services.

Payment of the compensation provided for in the previous paragraph does not exempt the concessionaire from the requirement to file the report referred to in this article.

Art. 39. Exploitation stage of the mining concession. Mining concessionaires shall be entitled to apply to the Mining Ministry, during the period of economic evaluation of the deposit, to pass into the exploitation stage and for the subsequent completion of the Mining Exploitation Contract or the Supply of Services Contract, as the case may be, which shall enable it to exercise the rights inherent in the preparation and development of the deposit, as well as to extract, transport, beneficiate and sell the minerals.

No mining concessionaire may have one or more titles that together comprise an area of more than five thousand mining hectares as from the commencement of the exploitation stage. However, notwithstanding the foregoing, the General Regulations of this Law shall set out the technical criteria for the establishment of protection areas for mining projects in the exploitation stage.

The application referred to above shall contain the minimum requirements provided for in this Law and its General Regulations. It must be accompanied by a report duly audited by a professional certified in accordance with the terms of the relevant Regulations. This report shall account for the payment of the corresponding administrative process fees and conservation patents, as well as the minimum exploration operations and investments required by this Law.

The Mining Ministry may ask the mining concessionaire, within a period of 30 days, to expand upon or supplement the information provided in its application. Any information provided by the mining concessionaire shall be confidential and shall not be used or disclosed to third parties except where the owner gives its prior written authorization.

Upon receipt of the abovementioned application in the terms referred to above, the Mining Ministry shall issue an administrative resolution declaring the commencement of the exploitation stage. However, in the event the Mining Ministry does not issue the relevant resolution within a term of 60 days as from the date the abovementioned application is presented, or within a term of 30 days counted from the date the documentation expanding upon, or supplementing, the information presented is filed, this shall be construed as positive administrative silence. Any officer(s) whose omission has resulted in such administrative silence shall be held liable in any administrative, civil and criminal proceedings.

In this case, the mining concessionaire may proceed directly to the exploitation stage in accordance with the model Contract referred to in article 40 or 41 of this Law, where the terms of the contractual relationship shall be agreed.

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Notwithstanding the foregoing, in the event that, as a result of the economic evaluation of the deposit, a mining concessionaire decides not to initiate its construction and assembly, it shall be entitled to apply for the suspension of the commencement of the exploitation stage. This suspension shall not last for more than two years counted as from the date of the administrative act accepting the said application and shall entitle the State to receive an economic compensation equivalent to an annual unified basic salary for each concessioned mining hectare during the term of the suspension.

In the event a mining concessionaire does not apply to commence the exploitation stage or a suspension in the terms referred to above, the mining concession shall be extinguished.

Chapter III

CONTRACTUAL FORMS

Art. 40. Contract for the Supply of Services. The State may execute, through the Mining Ministry, a Contract for the Supply of Services in the terms and conditions established by the Mining Ministry and those offered by providers at the time of the award.

The Contract for the Supply of Services shall contain both the remuneration as well as the obligations of mining suppliers in terms of environmental management, presentation of guarantees, relationships with the communities and activities related to the partial or total closure of the mine. The model of this contract shall be approved by the Mining Ministry through a Ministerial Agreement.

In this case, suppliers shall not be required to pay the royalties established in this Law or the taxes derived from windfall profits. However, notwithstanding the foregoing, funds corresponding to 3% of the sales of the exploited minerals shall be allocated by the State to sustainable local development projects, through municipal governments and parish councils; and, if applicable, to indigenous community entities, for which the corresponding rules shall be issued.

In addition, suppliers shall have the same rights and obligations as those provided for in the mining exploitation contract set out below in the following article.

Art. 41. Mining Exploitation Contract. Within a term of six months from the resolution declaring the commencement of the exploitation stage, the mining concessionaire must sign a Mining Exploitation Contract with the State, through the Mining Ministry, which shall contain the terms, conditions and time periods for the stages of construction and assembly, extraction, transportation and sale of the minerals obtained within the boundaries of the mining concession.

The model of this contract shall be approved by the Mining Ministry.

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Likewise, the contracts shall contain the obligations of the mining concessionaire regarding matters of environmental management, presentation of guarantees, relationships with communities, payment of royalties and activities related to the partial or total closure of the mine, including the payment of all environmental liabilities corresponding to a period equivalent to that of the mining concession.

The Mining Exploitation Contract shall contain the Base Price for the application of the provisions set out in the tax legislation currently in force.

The contract shall establish the mining concessionaire's right to suspend mining activities, subject to payment of economic compensation to the State, in the event technical or market conditions prevent it from complying with the periods established for the activities indicated above.

The mining concession holder shall not carry out exploitation works without having previously executed the respective contract. Notwithstanding the foregoing, the concessionaire shall own any minerals it eventually obtains as a result of exploration activities.

When carrying out activities during the exploitation stage, the mining concessionaire must comply with the environmental rules in force and cannot carry out the said activities without the corresponding Environmental License. The resolution of differences and/or disputes arising out of these contracts may only be submitted to the courts of the Ecuadorian Judiciary or an arbitration entity in Latin America.

Art. 42. Biannual production report. During the exploitation of the deposit, mining concession holders must submit to the Mining Ministry, on a biannual basis, prior to January 15 and July 15 in each year, audited production reports regarding the preceding calendar semester, in accordance with the technical guides prepared by the Mining Regulation and Control Agency. These reports shall be signed by the mining concessionaire or its legal representative and their technical advisor, who shall attach evidence of his/her professional capacity in geology and/or mining fields.

The audits and technical verifications of such reports shall be carried out by Universities or Polytechnic Schools that have Geology, Mining and Earth and/or Environmental Science schools or faculties with sufficient technical capacity to prepare the report, evaluation or verification; or by professionals and/or firms certified by the Mining Regulation and Control Agency.

The costs of the entities carrying out the evaluations shall be exclusively borne by the concessionaire.

Art. 43. Mining/Metallurgical Residues. Mining or metallurgical residues comprise discarded ore or rock, waste rock dumps, tailings, waste, sweepings and slag resulting from any mining or metallurgical activities.

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Mining or metallurgical residues form are incidental to the concession, beneficiation or smelting plant from which they came, even though they may be located outside of them. Concession holders may use them freely.

Art. 44. Abandoned residues concession. The right to beneficiate, smelt, refine or sell any abandoned mining or metallurgical residues may be granted jointly with the rights granted to the mining concession holder over the other mineral substances that may exist within the boundaries of the concession requested, in accordance with the provisions of this Law.

Mineral and metallurgical residues are considered to be abandoned when:

- a) They are from an extinguished mining concession;
- b) They are from a beneficiation or smelting plant, the authorization for which has expired or which has not been in operation for a period of two years, except in the case of force majeure or acts of God that has been proven prior to the expiry of the term; and,
- c) When it is not possible to determine their ownership.

Prior to the grant of the mining concession requested, the Mining Regulation and Control Agency must certify that one of the above-mentioned conditions has been met.

Chapter IV

BENEFICIATION, SMELTING AND REFINERY PLANTS

Art. 45 Authorization for the installation and operation of plants. The Mining Ministry shall authorize the installation and operation of beneficiation, smelting or refinery plants by any individual or corporate entity, whether domestic or foreign, public, private or those in which the State has a majority share, community interest companies, associations or self-managed companies, who make such a request in accordance with the provisions of this Law and in its General Regulations. In order to present the said application, it shall not be a requirement to be a mining concession holder.

For small-scale mining, the State shall authorize the operation of mineral beneficiation plants, constituted exclusively for crushing and grinding, with an installed capacity of 10 tons per day and beneficiation plants that include crushing, grinding, flotation and/or cyanidation with a minimum installed capacity of 50 tons per day.

Individuals or corporate entities that apply for authorization to install and operate beneficiation, smelting or refinery plants must have the respective Environmental License, even if they are concessionaires.

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The requirements to be met in order to obtain such authorization are set out in the environmental legislation currently in force and the General Regulations of this Law.

Art. 46. Rights of mining concessionaires to install plants. Mining concession holders may install and operate beneficiation, smelting and refinery plants by virtue of their concessions without the need to apply for the authorization referred to in the previous article, provided the said plants are only intended to process minerals from the same. The processing minerals from outside the concession shall require the respective authorization.

Art. 47. Biannual reports. Owners of beneficiation, smelting and refinery plants must present to the Mining Ministry biannual reports regarding their operations, setting out the information required by the competent authority, together with a summary of the works and investments made, the production obtained and the technological results of operations.

Art. 48. Rights and obligations. Owners of beneficiation, smelting and refinery plants shall enjoy the rights referred to in Title III, Chapters I and II, and shall be subject to the requirement to comply with the obligations established in Title IV of this Law, as applicable.

Chapter V

SALE OF MINERAL SUBSTANCES

Art. 49. Right of free trade. Mining concession holders may freely sell their production both within the country and abroad.

Art. 50. Trading license. Individuals or corporate entities, even if they are not mining concession holders, who are engaged in the commercialization or export of metallic minerals or the exportation of non-metallic minerals must obtain a corresponding license from the Mining Ministry in accordance with the provisions of the General Regulations of this Law. A similar license must also be obtained by concessionaires who sell metallic minerals or export non-metallic minerals originating from areas outside of their own concession.

Those individuals or corporate entities engaged in the domestic commercialization of non-metallic minerals, as well as artisanal jewelry, do not require this license.

Art. 51. Duration of the license and renewal. Trade licenses granted to individuals or corporate entities referred to in the preceding article shall be valid for a period of three years. These licenses are non-transferable and may be renewed for equal periods in accordance with the provisions of the General Regulations of this Law.

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Art. 52. Register of sellers. The Mining Regulation and Control Agency shall keep a Register of Traders of metallic minerals and exporters of metallic and non-metallic minerals in order to maintain statistical control of internal trading activities and of the exportation of these minerals, as a means of verifying and ensuring compliance with the obligations established in this Law.

Art. 53. Obligations of Traders. Those legally authorized to commercialize mineral substances must:

- a. Become withholding agents, subjecting themselves to the tax legislation in force;
- b. Prepare detailed statements, recording all of the retentions and deductions made; and,
- c. Send monthly reports to the Mining Ministry regarding the origin, volume and value of their purchases; the destination, volume and value of the sales; the retentions made and any other statistical information that may be required by the Mining Ministry. Such reports shall be submitted on simplified forms issued to that effect by the Mining Regulation and Control Agency.

Art. 54. Cancellation of the license. Any breach of the obligations referred to in the preceding article shall result in the cancellation of the license to commercialize, without prejudice to the responsibilities that may apply.

Art. 55. Illegal trade in mineral substances. The following shall be considered to be illegal trade in mineral substances:

- b. Mining concession holders who trade metallic minerals domestically or export metallic or non-metallic minerals originating from other concessions, without the license required in article 50;
- c. Mining producers who sell metallic minerals to people or entities not authorized to commercialize them.

Art. 56. Illegal exploitation of minerals. Those who carry out mining operations, works and workings in any of its phases without any title to do so or without the corresponding legal permission, shall be considered to be illegally exploiting mineral substances.

Art. 57. Legal proceedings and penalties. The illegal exploitation or trade of mineral substances, qualified as such by the administrative authority, shall be punishable by the confiscation of the illegal machinery, equipment and products and the collection of a sum equivalent to the total of the minerals illegally extracted, without prejudice to any other penal actions arising out of these breaches. These penalties shall be applied to all mining subjects. Due process is guaranteed.

Any effects on the environment and damage to the ecosystem and biodiversity produced as a consequence of the illegal exploitation or invasions shall be considered to be aggravating factors at the time resolutions regarding any administrative action are issued.

Title III

RIGHTS OF MINING CONCESSION HOLDERS

Chapter I

RIGHTS IN GENERAL

Art. 58. Continuity of works. Mining activities may be suspended in the event of invasions or as may be required in order to protect the health and life of the mining workers or the communities located within the perimeter of the area where the mining activities are being carried out, in accordance with the provisions of the General Regulations of this Law, when required by Civil Defense or when a failure to comply with the Environmental License is verified by the competent environmental authority. In any case, the provision for the suspension of mining activities shall be ordered exclusively by the Mining Ministry through a substantiated resolution.

Mining concessionaires who are prevented from carrying out their regular mining workings due to duly proven force majeure or Acts of God, may apply to the Mining Ministry for the suspension of the concession term for the period of duration of the impediment. For such purposes, the Mining Ministry shall either accept or deny the said request through a substantiated resolution.

Art. 59. Complementary buildings and installations. Mining concession holders may, within their concession, construct and install beneficiation, smelting and refinery plants, accumulated residue deposits, buildings, camps, storage areas, pipelines, pumping stations or power plants, pipes, workshops, electric power lines, ponds, communication systems, roads, railroads and any other local transportation systems, as well as channels, docks and other shipment facilities, as well as performing any other activities necessary in order to develop their operations and facilities, subject to the provisions in this Law, the environmental legislation in force and all the corresponding legal rules, with the prior agreement of the surface land owner or upon the grant of the relevant easements, in accordance with the provisions of the Constitution of the Republic, this Law and its General Regulations.

Art. 60. Use of water and creation of easements. The execution of mining activities in general and the authorization for the installation of beneficiation, smelting and refinery plants, require authorization from the sole water authority for the economic use of water. The easements that are deemed necessary may be requested in accordance with the procedures established in the Law that regulates water resources.

Art. 61. Authorization for the use of water. Mining concessionaires that obtain permission for such use from the sole water authority shall present to the Mining Ministry the technical study justifying the suitability of the works to be carried out and that have been approved by the competent water authority.

Water discovered during mining works may be used by the mining concessionaire, with the prior authorization of the sole water authority, with the obligation to discharge it in accordance with the requirements, permissible limits and technical parameters established in the applicable environmental legislation.

Chapter II

INTRUSION, ADMINISTRATIVE PROTECTION, INVASIONS OF MINING AREAS AND OPPOSITIONS

Art. 62. Intrusion complaint. Mining concession holders or holders of permits to carry out artisanal mining are prohibited from intruding upon other concessions with their workings. Complaints regarding the intrusion of the works shall be filed before the Mining Ministry, together with the concession title and the up-to-date certificate of payment of patents. The Regulations of this Law shall set out the procedure for these proceedings.

Art. 63. Administrative protection. The holder of a mining right or lawful holder may, through the Mining Regulation and Control Agency, apply for the prevention of the illegal exercise of mining activities, the *de facto* occupation or any other imminent disturbing act against the administrative right provided for in this chapter.

The State, through the Mining Regulation and Control Agency, shall grant administrative protection to the holders of mining rights regarding complaints for intrusion, dispossession, invasion or any other form of disturbance preventing the exercise of its mining activities.

Art. 64. Order for abandonment and eviction. The Mining Regulation and Control Agency shall, based upon the resolution granting protection and the complainant's request, issue a resolution ordering the illegal occupier to abandon the area that is the subject of the administrative complaint within a maximum period of three days, under the threat of eviction in case of non-compliance.

If, notwithstanding the warning referred to above, the illegal occupant does not abandon the area, the Mining Regulation and Control Agency shall, upon a party's request, issue an eviction order which shall be implemented by the competent police authority in the province.

Art. 65. Sanctions for invaders of mining areas. Those who, for personal gain or for that of third parties, individually or collectively invade special or concessioned mining areas or those areas with artisanal permits, infringing the rights of the State or of mining rights holders, shall be sanctioned with a fine of two hundred unified basic salaries, the confiscation of tools, equipment and production obtained, without prejudice to the administrative complaint and penal sanctions that may be applicable in the case.

Art. 66. Filing of oppositions. Mining concession holders may file oppositions alleging an overlap whenever other requests for concessions over their own concessions are filed.

Title IV

OBLIGATIONS OF MINING HOLDERS

Chapter I

OBLIGATIONS IN GENERAL

Art. 67. Labor obligations. Labor obligations undertaken by holders of mining rights and their workers shall be their exclusive responsibility and will in no way extend to the State.

Workers engaged in mining activities shall receive 3% of the share of the profit and the remaining 12% shall be paid to the State, which shall solely and exclusively assign these funds to social investment projects in health, education and housing, through the sectional bodies in the area where the mining project is located. The said project must be harmonized with the National Development Plan.

In the case of workers involved in small-scale mining, they shall receive 10% of a share of the profits and the remaining 5% shall be paid to the State, which shall solely and exclusively assign these funds to social investment projects in health, education and housing, through the sectional bodies in the area where the mining project is located. The said project must be harmonized with the National Development Plan.

All forms of precarious employment in mining activities are strictly prohibited.

Art. 68. Mining Industrial Health and Safety. Mining rights holders have an obligation to protect the mental and physical health and life of their technical personnel and workers, applying the mining/industrial health and safety standards envisaged in the relevant legal and regulatory provisions, providing them with ongoing health and care services, as well as hygienic and comfortable living conditions in stable work camps, in accordance with the plans and

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specifications approved by the Mining Regulation and Control Agency and the Labor and Employment Ministry.

Mining concessionaires must have approved and current internal Occupational Mining Health and Safety Regulations, subject to the provisions of the Mining Safety Regulations and any other relevant Regulations issued for that purpose by the corresponding institutions.

Art. 69. Prohibition on child labor. It is prohibited to have children or adolescents is prohibited working in any capacity in any mining activity, in accordance with the provisions of article 46 numeral 2 of the Constitution of the Republic. A breach of this provision shall be considered to be a serious infringement and shall be punishable with a one-off fine as set out in the Regulations of this Law. In the event of repetition, the Mining Ministry shall cancel the concession and terminate the contract or artisanal permit. In the event of female labor, they shall receive special treatment in accordance with the Regulations of this Law.

Art. 70. Compensation for damages. Mining concession holders are required to carry out their works using methods and techniques that minimize damage to soil, the environment, natural or cultural heritage, adjacent concessions, third parties and, in any event, must compensate any damage or harm they may have caused during the course of their works.

Failure to observe the methods and techniques referred to in the preceding paragraph shall be considered as grounds for the suspension of mining activities, in addition to the corresponding penalties.

Art. 71. Preservation of demarcation landmarks. Mining concession holders and permit holders are required to preserve the demarcation landmarks, under penalty of a fine to be established by the Mining Ministry in accordance with the provisions contained in the General Regulations of this Law.

Art. 72. Alteration of demarcation landmarks. Mining concession holders and permit holders may not alter or move the landmarks denoting the boundaries of their concessions; failure to comply shall result in the Mining Ministry imposing a fine of one hundred unified basic salaries in accordance with the provisions contained in the General Regulations of this Law, without prejudice to any penal liability arising thereof if they have acted maliciously pursuant to the Penal Code, which sanctions shall also be imposed upon whoever demolishes, alters or moves mining concession demarcation landmarks.

Art. 73. Maintenance and access to registers. Mining rights holders must:

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- a) Maintain accounting, financial, technical and employment records, as well as production statistics, work progress reports, records regarding the consumption of materials, energy, water and any others, adequately reflecting the progress of their operations; and,
- b) Facilitate access by officers duly authorized by the Mining Ministry and its related entities to the books and registers referred to in the preceding paragraph, in order to evaluate the mining activity being carried out.

Once this information has been delivered to the Mining Ministry, such information shall be considered public within the framework established by the legislation in force.

Art. 74. Inspection of facilities. Mining rights holders are required to permit the inspection of their facilities and operations by officers duly authorized by the Mining Ministry and the Ministry of the Environment and their related entities. Such inspections shall not in any way interfere with the normal development of the mining works. Failure to permit an inspection, or obstruction of the same, by the person responsible for the said inspection, shall be reported to the Mining Ministry in the respective jurisdiction, which shall suspend the mining activities.

Art. 75. Employment of national personnel. Mining rights holders are required to employ Ecuadorian personnel for the development of their mining work in a proportion of not less than 80%. As for the remaining percentage, specialized Ecuadorian technical personnel shall be preferred; in the event there are none, foreign personnel may be engaged, who must comply with the Ecuadorian legislation in force.

Art. 76. Training of personnel. Mining rights holders are required to maintain ongoing training and education programs and processes for their personnel at all levels. Such programs shall periodically be reported to the Mining Ministry.

Art. 77. Support for local employment and training of technicians and professionals. Mining concessionaires shall preferably engage workers resident in the locations and areas near to their mining projects and shall have human resources and social welfare policies which integrate the workers' families.

Likewise, in their operation plans and in coordination with the Mining Regulation and Control Agency, mining concessionaires shall accept students from the second and third level education in their mining works so they may conduct practices and internships in the mining field and related disciplines, providing such facilities as may be required.

Chapter II

PRESERVATION OF THE ENVIRONMENT

Art. 78. Environmental impact studies and Environmental Audits. Holders of mining concessions and beneficiation, smelting and refinery plants shall, prior to the commencement of mining activities in any phase, in accordance with the provisions of the following article, prepare and submit environmental impact studies in the initial exploration phase and definitive environmental impact studies and environmental management plans in the advanced exploration phase and subsequent phases, in order to prevent, mitigate, control and rehabilitate environmental and social impacts arising out of their activities. Such studies must be approved by the Ministry of the Environment, with the grant of the respective Environmental License.

Mining activities cannot be carried out in the initial exploration, advanced exploration, exploitation, beneficiation, smelting, refining or closure of mines phases without the respective Environmental License granted by the industry Ministry.

The permissible limits and technical standards required regarding the procedure for the presentation and qualification of environmental impact studies and environmental management plans and the granting of environmental licenses shall be established in the environmental legislation currently in force.

All mining activity phases and their approved environmental reports require the presentation of the economic guarantees set out in the environmental legislation and regulations currently in force.

The terms of reference and bids for the preparation of environmental impact studies, environmental management plans and environmental audits shall be drafted by the Ministry of the Environment and other competent public institutions. These responsibilities cannot be delegated to private institutions.

Expenses incurred by the Ministry of the Environment in respect of these terms of reference and bids shall be borne by the concessionaire.

Mining rights holders are required to submit annual environmental audits, enabling the controlling entity to monitor, supervise and verify compliance with environmental management plans.

Art. 79. Water treatment. Mining rights holders and artisanal miners who, with the prior authorization of the sole water authority, use water in their works and processes, shall return such water to the original river channel or lagoon or lake basin from which it was taken, free of contamination or in accordance with permissible limits established in the environmental and water legislation in force, so as not to affect the constitutionally recognized rights of people and nature.

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The treatment to be given to water in order to guarantee its quality and compliance with the relevant environmental quality parameters shall be provided in the respective environmental management system, pursuant to the provisions of the relevant laws and their regulations.

The re-utilization of water through re-circulation systems is an ongoing obligation for concessionaires.

A breach of this provision shall occasion penalties that may result in the expiration of the concession or permit.

Art. 80. Revegetation and reforestation. If the mining activity requires works necessitating the removal of the felling of trees, the mining rights holder shall be required to revegetate and reforest the said area, preferably with native species, in accordance with the environmental legislation and the environmental management plan.

Art. 81. Accumulation of residues and prohibition against discharge of waste. In order to stockpile mining-metallurgical residues, mining rights holders and artisanal miners must take strict precautions in order to avoid contaminating the soil, water, air and/or biota in the locations where the residues are deposited, during all phases, including the closure of the mine stage, by building facilities such as waste rock dumps, waste landfills, tailings impoundments or ponds or such other technically designed infrastructures constructed to guarantee their safe and long-term management.

The discharge of waste rock, tailings or other untreated waste from any form of mining activity in rivers, streams, lakes or other sites where there is a risk of contamination is prohibited.

A breach of this provision shall occasion penalties that may result in the expiration of the concession or permit.

Art. 82. Conservation of flora and fauna. Environmental impact studies and environmental management plans must contain information regarding the flora and fauna species existing in the area. Likewise, mining concessionaires shall conduct monitoring studies and take the relevant measures to mitigate impact on them.

Art. 83. Waste management. Management of waste, solid and liquid residues and gaseous emissions produced by mining activities within the national territory must comply with the provisions set out in the Constitution and the environmental legislation in force.

Art. 84. Protection of the ecosystem. Mining activities in all phases must have measures to protect the ecosystem in place, subject to the provisions of the Constitution and the environmental legislation in force.

Art. 85. Closure of mining operations. Mining concession holders shall include within their annual activity programs relating to the environmental management plan information regarding investments and activities for the closure or partial or total abandonment of operations and for the rehabilitation of the area affected by the exploitation, beneficiation, smelting or refining activities.

Likewise, within a period of not less than two years prior to the closure or total abandonment of exploitation, beneficiation, smelting and refining activities, the mining concessionaire shall submit to the Ministry of the Environment, for its approval, a Closure of Operations Plan, including the recovery of the sector or area, a plan to verify its compliance, the social impacts and compensation plan and the guarantees indicated in the environmental legislation in force, as well as a plan to incorporate new forms of economic development.

Art. 86. Environmental damages. For all legal effects arising out of the application of the provisions of this article and the environmental legislation in force, the legal authority is the Ministry of the Environment.

In respect of environmental crimes against cultural heritage and damages to third parties the provisions in the Constitution of the Republic of Ecuador and the civil and penal legislation in force shall be applied.

Breach of the obligations contained in this Chapter shall give rise to administrative penalties against mining rights holders and holders of the respective permits by the Mining Ministry, without prejudice to any civil and penal actions that may arise. Administrative penalties may include the suspension of the mining activities that form part of the mining project or expiration.

The procedure and requirements required in order to apply the said sanctions shall be contained in the General Regulations of this Law.

Chapter III

SOCIAL MANAGEMENT AND COMMUNITY PARTICIPATION

Art. 87. Right to information, participation and consultation. The State is responsible for implementing the social participation and consultation processes through the corresponding

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public institutions, in accordance with constitutional principles and the legislation in force. The said responsibility cannot be delegated to any private entity.

These processes shall be intended to promote the sustainable development of mining activities, safeguarding the rational utilization of mining resources, respect for the environment, social participation in environmental matters and the development of towns located in the areas of influence of a mining project.

In the event, following a consultation process, there is a majority opposition within the respective community, the decision regarding whether or not to develop the project shall be taken by the Mining Ministry in a substantiated resolution.

All mining concessionaires must respect the right of individuals to access information and the participation and consultation processes of the environmental management of mining activities.

For all consultation processes, the ministry of finance shall allocate the respective budget through the mining ministry.

Art. 88. Information Processes. As from the date the mining concession is granted and throughout all of its stages, concessionaires shall, through the State, properly report to competent authorities, autonomous de-centralized governments, communities and entities that represent social, environmental or trade union interests regarding the potential impacts, both positive and negative, of the mining activity.

The environmental authority shall allow free access to environmental and social studies, when formally requested, as well as to technical reports and resolutions issued by competent authorities in the manner determined in the Law.

Art. 89. Participation and consultation processes. Citizenship participation is a process aimed at considering and incorporating the community's criteria into the social and environmental management of mining projects. The said process shall be conducted in all phases of the mining activity, within the framework of procedures and mechanisms established in the Constitution and the Law.

Art. 90. Special Consultation Procedure of Consultation of the People. The processes of citizenship participation or consultation shall be considered to be a special mandatory procedure for communities, people and nationalities, through their institutions, based upon the principles of legitimacy and representativeness, in those cases in which the mining exploration or exploitation is being carried out in their ancestral lands and territories and when the said works may affect their interests, in accordance with Article 398 of the Constitution of the Republic.

Art. 91. Complaints regarding Social and Environmental Threats or Damages. Mining activities that generate social, cultural or environmental impacts may be subject to a popular complaint action, filed by any individual or corporate entity before the Ministry of the Environment, subject to prior compliance with the requirements and formalities for such complaint, such as recognition of signatures and initials.

The Ministry of the Environment shall take all timely action in order to prevent environmental damages when there is scientific certainty thereof, resulting from mining activities.

In case of doubt regarding the environmental damage resulting from any action or omission, the Ministry of the Environment, in coordination with the Mining Regulation and Control Agency, shall adopt effective and timely protective measures and in the same court document shall concurrently order the actions required to prove the damage be carried out.

Chapter IV

PAYMENT OF ROYALTIES

Art. 92. Mining activity royalties. The State, as the owner of non-renewable natural resources, shall be entitled to receive a royalty from mining concessionaires carrying out exploitation workings, in consideration of the provisions of this Chapter.

Royalties paid by mining concessionaires shall be established based upon a percentage of the sale of the primary mineral and secondary minerals and shall be paid on a biannual basis in the months of March and September in each year. The sums paid as royalties shall be duly reflected in the biannual production reports and declarations filed with the Internal Revenue Services.

Art. 93. Royalties for the exploitation of minerals. The economic benefits for the State shall be subject to the provisions set out in article 408 of the Constitution of the Republic; in other words, the State shall participate in the benefits arising out of the use of these resources in a sum equivalent to not less than the amount received by the concessionaire who exploits them.

To this effect, the mining concessionaire shall pay a royalty equivalent to a percentage of the sale of primary and secondary minerals, which shall be not less than 5% of sales, additional to the corresponding payment of 25% of the income tax, 12% of the profits determined hereunder, 70% corresponding to windfall tax and 12% corresponding to VAT as determined in the tax legislation in force.

Evasion of the payment of royalties shall constitute grounds for expiration, without prejudice to any civil and penal actions that may exist.

60% of the royalties shall be allocated to local productive and sustainable development projects through municipal governments and parish councils and, if applicable, 50% of this percentage to indigenous community entities and/or territorial districts. These resources shall be distributed

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prioritizing the needs of the communities located in the areas of influence directly affected by the mining activity.

Holders of small-mining rights shall pay on account of royalties 3% of the sales the primary and secondary minerals, based upon international market standards.

The royalty percentage for the exploitation of non-metallic minerals shall be calculated upon a production cost basis.

The Regulations for this Law and the Mining Exploitation Contract shall establish the parameters for the application of the payment of royalties, as well as requirements for their distribution.

Title V

RELATIONS OF MINING RIGHTS HOLDERS BETWEEN THEMSELVES AND LANDOWNERS

Chapter I

PERMITS AND EMERGENCY OPERATIONS

Art. 94. Permission for Neighbors. Mining concession holders, land holders and holders of beneficiation, smelting and refinery plants, shall permit owners of neighboring land, or neighboring holders, access to their facilities, drifts or tunnels in the following circumstances:

- a) When there is a well-founded danger that the works being carried out could generate damage to an adjacent miner;
- b) When landslides or deterioration of the drifts, tunnels and other facilities could be repaired more easily and quickly from the neighboring drifts, tunnels or facilities, even if the opening of temporary means of access is required. In any case, costs shall be exclusively borne by the beneficiary; and,
- c) When there is a suspicion of intrusion.

Should this permission be denied, the interested party may go to the Mining Ministry in order to obtain it.

Art. 95. Damages due to accumulation of water. When damages are caused due to the accumulation of water used in mining works in a neighboring or adjacent concession, the injured party shall require in writing that the party which caused the damage, within a period of 48 hours, to fully drain the accumulation, without prejudice to any compensation for damages.

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The cost of the drainage shall be borne exclusively by whomever caused the damage, although the injured party may cover the costs, with a right to reimbursement.

The injured party may go to the Mining Ministry in order to obtain compliance with the measures established in this article, as well as to report the same to the National Water Secretariat.

Art. 96. Use of underground water in neighboring concessions. Mining rights holders may use underground waters discovered in their mining concession or in an adjacent mining concession once the discoverer has ceased to use them, in accordance with the provisions of the Law regulating water resources and control of environmental management.

Chapter II

INTRUSION

Art. 97. Prohibition against intrusion. Mining concession holders are forbidden from intruding with their works upon another concession without the neighbor's permission. Any unauthorized intrusion requires the intruding party to stop work and pay a sum equivalent to the value of the minerals extracted, net of extraction costs, and compensation for any damages caused.

Art. 98. Suspension of works. In the event of a complaint for the intrusion of works, the administrative complaint must be filed with the competent authority of the Mining Regulation and Control Agency, which, following investigation shall order the suspension of works in the area of dispute and shall issue a resolution appropriate to the dispute.

Art. 99. Willful intrusion. Intrusions of more than 20 meters, measured from the concession boundary, shall be presumed to be willful and in bad faith. Similarly, if the works are continued after the suspension of works has been ordered by the Mining Regulation and Control Agency, such intrusion shall be considered to be an intrusion which is willful and in bad faith. In such cases, a sum equivalent to the minerals extracted, or their restitution, shall be made without any deduction and without prejudice to any criminal liability of the intruder who commits the crime of misappropriation.

Chapter III

EASEMENTS

Art. 100. Types of easements. From the moment a mining concession is constituted, or the installation of a beneficiation, smelting and refinery plant is authorized, the surface land is subject to the following easements:

- a) To the extent required by the mining activity facilities and buildings. Mining concessionaires must pay the landowner a monetary sum for the use and enjoyment of the easement, as well as the corresponding payment for any damages caused. In the absence of agreement, the Mining Regulation and Control Agency shall determine the sum.
- b) Those required for transit, water, railroads, airfields, ferry cables, ramps, conveyor belts and any other transportation and communication systems;
- c) Those established in the Electricity Sector Regime Law in the case of electricity service installations; and
- d) Any others necessary in order to develop the mining activities.

Art. 101. Voluntary easements and agreements. Mining rights holders may agree with the landowners easements over the tracts of land required for the proper exercise of their mining rights, whether in the exploration or exploitation stages, as well as for the facilities and building to be used exclusively for mining activities.

In the case of Cultural Heritage areas, authorization from the National Institute of Cultural Heritage shall be required for the grant of easements, which shall be granted on the conditions set out in the administrative act issued by such Institute.

Art. 102. Easements over neighboring concessions. In order to give or provide ventilation, drainage or access to other mining concessions or beneficiation, smelting or refinery plants, easements over adjacent concessions or free areas may be established.

Art. 103. Establishment and extinction of easements. The establishment of an easement over land, free areas or concessions is essentially temporary; it shall be granted by way of a public deed and, in the event it is ordered by a resolution of the Mining Regulation and Control Agency, it shall be registered as a public deed with a notary public. These instruments shall be recorded in the Mining Register.

These easements shall expire with the mining rights and cannot be used for purposes other than those pertaining to the respective concession or plant; they may be extended or reduced according to the operations or requirements of the concession or plant.

Art. 104. Compensation for damages. Easements shall be established following determination of the amount of compensation to be paid in the event of any damage caused to the property owner or the holder of the servient concession and shall not be exercisable until the relevant amount is deposited.

Art. 105. Expenses for the establishment of easements. The expenses required for the establishment of these easements shall be exclusively borne by the relevant beneficiary concessionaire or plant owner.

Title VI

EXTINGUISHMENT OF MINING RIGHTS

Chapter I

EXPIRATION OF THE TERM OF CONCESSION AND PERMITS

Art. 106. Expiration of term. Mining concessions and permits shall be extinguished upon the expiry of the term originally granted or any extension thereof.

The Mining Regulation and Control Agency shall order the cancellation of the respective registers upon the expiration of the term of the mining concession, or when mining concessionaires have not applied to commence the exploitation stage or to renew the concession term within the framework of a Mining Exploitation Contract, in accordance with the provisions of this Law.

Chapter II

REDUCTION AND WAIVER OF CONCESSIONS

Art. 107. Power of concessionaires. Mining concession holders may at any time during the term of their mining concessions, reduce or totally their concessions in accordance with the procedures established in this Law and its General Regulations, provided such waiver or reduction does not affect rights of third parties.

Such waiver shall give rise to the cancellation of the title registration in the respective registers, rendering the area covered by such mining concession free. In the event of a reduction, the remaining area held by the mining concessionaire shall be recorded by an annotation in the margin of the register.

Chapter III

EXPIRATION OF CONCESSIONS AND PERMITS

Art. 108. Expiration of concessions. In the event mining concession or permit holders do not comply with the obligations expressly set out in this Chapter, the Mining Ministry shall be empowered to declare the expiration of such mining concessions and permits.

The process to declare such an expiration shall be initiated *ex officio* by the Mining Ministry, upon request by any of the Ministries related to mining activities, or following a prior complaint by a third party, and shall be subject to the provisions, requirements and procedures set out in the General Regulations of this Law.

The technical and legal qualification of the facts that shall form the basis of the expiration declaration shall be formulated by the Mining Regulation and Control Agency.

Upon notification of the alleged reason for the expiration, mining concessionaires shall have a non-extendable period of 30 days within which to contest the grounds for expiration or to comply with the obligation breached, in which case, the prior payment of a fine equivalent to twenty-five basic unified salaries must be paid. The right to remedy breaches which constitute grounds for expiration shall not apply to the cases set out in articles 110, 115, 116 and 117.

Art. 109. Effects of expiration. Expiration extinguishes the mining rights. With the exception of the ground set out in article 117, a prior judicial judgment shall not be required for an expiration declaration. In this case, the consequences shall take effect from the date of notification and its respective implementation.

Art. 110. Expiration for non-payment. Mining concessions shall expire when owners cease to pay patent fees, royalties and any other fees or taxes established in this Law.

Art. 111. Expiration for failure to present exploration reports or for failure to prove minimum operations and investments. Failure to file an annual report regarding exploration operations and investments made in the mining concession area with the Mining Ministry shall constitute grounds for expiration.

Art. 112. Expiration for failure to present production reports. A mining concession shall expire in the event its holder does not file audited production reports within the period established in article 42 of this Law.

Art. 113. Expiration due to non-authorized exploitation and for presentation of false information. In the event a mining concessionaire carries out exploitation workings, either directly or indirectly, prior to signing the corresponding Mining Exploitation Contract, the mining concession shall expire.

Similarly, a mining concession shall expire in the event the reports referred to in this Law contain false information or information that fraudulently modifies its technical and financial conclusions.

The technical and legal qualification of the facts that shall serve as a basis for the expiration declaration shall be formulated by the Mining Regulation and Control Agency.

Art. 114. Expiration for fraudulent alteration of landmarks. The duly proven fraudulent alteration of demarcation landmarks shall constitute grounds for the expiration of the mining concession.

Art. 115. Expiration due to a declaration of environmental damage. The Mining Ministry may declare the expiration of a mining concession in the event environmental damage has been caused, without prejudice to the concessionaires' obligation to remedy any environmental damage caused.

The qualification of environmental damage, as well as the technical and legal aspects, shall be performed by the Ministry of the Environment a substantiated resolution in accordance with article 78 of this Law. When water resources have been affected as a result of mining activities, the environmental damage qualification must take into account the sole water authority's opinion.

The procedure and requirements for the declaration of environmental damage shall be contained in the General Regulations of the environmental legislation in force.

Art. 116. Expiration due to damage to Cultural Heritage of the State. The Mining Ministry shall declare, following a technical report by the National Cultural Heritage Institute, the expiration of a mining concession in the event its activities have produced serious, permanent or irreparable damage to the cultural heritage of the State, in accordance with the provisions of the Constitution of the Republic and the Cultural Heritage Law.

The procedures and requirements for the declaration of damage to cultural heritage shall be contained in the Regulations issued for this purpose.

Art. 117. Expiration due to violation of human rights. The Mining Ministry shall declare the expiration of a mining concession where a violation of human rights has occurred, whether by the concessionaire or its representatives, as well as by its contractors, especially security

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companies acting on behalf of the concessionaire or whoever is acting as such. A prior final sentence issued by a competent judge determining that there is a human rights violation is required.

Art. 118. Ineligibility to apply for mining concessions. Individuals or corporate entities who have lost their mining concessionaire status due to a breach of one or more legal or contractual obligations arising out of the mining concession cannot obtain a concession again over those areas covered by the original concession, either wholly or partially, or over another mining area, for a period of three years from the date of the relevant administrative act declaring the expiration of the said concession.

Art. 119. Responsibilities and penalties. Any person who performs public function and does not comply with one or more of the legal obligations established in this Law shall be held liable in any administrative, civil and criminal proceedings.

Professionals responsible for delivering legal, technical, economic or environmental information to the competent authorities shall be held civilly and criminally liable for filing false or fraudulent information.

Chapter IV

NULLITY OF MINING RIGHTS

Art. 120. Nullity of concessions. Any mining rights title granted in violation of the provisions of this Law shall be null. Similarly, any concession granted over another legally valid and registered concession shall be null to the extent it overlaps the other concession, provided always this does not create grounds for expiration.

Art. 121. Declaration of nullity. The Mining Ministry is the competent entity to hear and resolve upon the nullity of mining concessions reported by subjects of mining rights or other prejudiced third parties. The nullification results in the return of the mining area to the mining concessionaire with preferential right, or to the State, rendering it free.

Art. 122. Ownership right over mining property. Former holders do not lose their ownership rights over buildings, machinery, facilities and other work items upon the extinguishment of mining rights, and may remove them at their own expense.

Title VII

MINING CONTRACTS

Chapter I

APPLICABLE RULES AND REQUIREMENTS FOR CONTRACTS

Art. 123. Applicable rules. Contracts related to mining rights and activities between concessionaires or those between concessionaires and third parties are governed by the provisions of article 125 of this Law and by the rules of private law, insofar as the latter do not contradict the provisions of this Law.

Art. 124. Requirements. To be valid, mining contracts must be signed by way of a public deed and registered in the Mining Register kept by the Mining Regulation and Control Agency. They must also comply with all the requirements set out in this Law. All contracts shall be published on the websites of the Mining Register.

Chapter II

ASSIGNMENT OR TRANSFER AND IRREVOCABLE PROMISE

Art. 125. Transferable rights. Generally, mining rights may be assigned or transferred with the prior authorization of the Mining Regulation and Control Agency or, in the event of death, freely. Such transfers are perfected by their registration in the corresponding volume of the Mining Register kept by the Mining Regulation and Control Agency. The registration fees shall be set in the General Regulations of this Law.

The assignment and transfer of rights arising out of a mining concession shall be null and shall be worthless if the prior authorization of the Mining Regulation and Control Agency is not given, without prejudice to an expiration declaration as provided for in this Law.

Art. 126. Irrevocable promise. Contracts of irrevocable promise for the assignment or transfer of rights and shares in a mining concession or, generally, in relation to any other mining rights, may be entered into if the same requirements and obligations set out in the previous article are met.

In this type of contract, the promisee can choose whether or not to execute the final contract, although it is obligatory for the promisor to execute the said final contract.

Art. 127. Contracts not subject to rescission due to lesion beyond moiety. Contracts for the assignment, transfer or exchange of rights and shares in mining concessions and other mining rights may not be rescinded on grounds of lesion beyond moiety.

Chapter III

ASSIGNMENTS OF PROPERTY AS SECURITY AND PLEDGES

Art. 128. Assignment of property as security. Property such as buildings; beneficiation, smelting and refinery plants; or the rights arising out of mining titles existing within the concessions, may be assigned as security.

The contracts over the properties referred to above shall be granted by way of a public deed and registered in the Mining Register kept by the Mining Regulation and Control Agency.

Art. 129. Pledges. Movable property to be used in the operation of the concession and the mineral substances extracted from the deposit may constitute a pledge.

Pledge agreements shall be registered by an annotation in the margin of the mining concession register in the Mining Register kept by the Mining Regulation and Control Agency.

Art. 130. Legal actions. In the cases referred to in articles 128 and 129 above, the creditor may take legal actions, including the auctioning of the encumbered property. The judicial authority cannot order the interruption of the mining works.

Title VIII

CONDOMINIUMS, COOPERATIVES AND ASSOCIATIONS ENGAGED IN MINING ACTIVITIES

Sole Chapter

CONDOMINIUMS, COOPERATIVES AND ASSOCIATIONS

Art. 131. Establishment of a mining condominium. A condominium over a mining concession shall be established when the State grants a mining title to several individuals who have made a single application, subject to the relevant provisions of this Law.

Art. 132. Responsibility of owners. Condominiums do not pre-suppose the existence of a legally incorporated company. The owners are jointly liable for the obligations arising out of the mining title they own.

The owners shall appoint a single attorney by way of a public deed, registered in the Mining Register. If not, service of a notification on one of them shall have legal effect on them all.

Art. 133. Rights and obligations of cooperatives, associations, condominiums and small businesses. Cooperatives, associations, condominiums and small businesses engaged in mining activities enjoy the same rights and have the same obligations as established in this Law for mining rights holders. They may therefore become partners, and enter into all forms of mining contracts, with individuals or corporate entities, whether domestic or foreign.

Title IX

SPECIAL REGIMES

CHAPTER I

ARTISANAL MINING AND SUBSISTENCE MINING

Art. 134. Artisanal mining. Mining activities carried out by an individual, a family or an association, which activities are authorized by the State as provided for in this Act and its regulations, and which is characterized by the use of tools and simple and portable machines in order to obtain minerals, the sale of which only covers the basic needs of the person or family involved and does not require an investment of more than one hundred and fifty basic unified salaries, shall be considered to be artisanal and subsistence mining.

In the event of an association of three or more artisanal miners, their investment shall be equivalent to three hundred basic unified salaries and a prior technical, financial, social and environmental report by the Mining Regulation and Control Agency shall be required.

The Mining Ministry shall grant permits for a period of 10 years in order to carry out artisanal mining, which may be renewed for equal periods provided a written request is made prior to its expiration and a favorable report is issued by the Mining Regulation and Control Agency and the Ministry of the Environment. Permits for Artisanal Mining shall not affect the rights of a mining concessionaire with a current title; however, notwithstanding the above, mining concessionaires may authorize artisanal mining works to be carried out within their mining concession area by way of mining contracts which shall require compliance with the environmental and mining legislation in accordance with the special regulations to be issued to that effect.

The Mining Regulation and Control Agency is empowered to regulate the exploitation of minerals and mining safety as may be applicable and shall create a detailed registry of the said

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miners. The Ministry of the Environment shall be responsible for verifying compliance with, and enforcement of, environmental protection rules.

Artisanal miners shall not be subject to the payment of royalties.

Breaches of this law and its regulations shall constitute grounds for the revocation of permits.

With regard to the positive assessment of a transferee, the concept of negative administrative silence shall apply.

Art. 135. Extinguishment of artisanal mining rights. Permits granted to artisanal miners shall be extinguished in the manner and in the conditions established in Title VI, Chapters I and III of this Law.

Art. 136. The Mining Ministry shall promote special technical assistance, environmental management, mining safety and education, and professional training programs for artisanal mining, for which it may enlist the support of universities and polytechnic schools specializing in the corresponding areas.

Chapter II

SMALL-SCALE MINING

Art. 137. Incentive for national mining production. In order to promote full employment, eliminate under-employment and unemployment, and in order to foster productivity and competitiveness and the accumulation of scientific and technological knowledge, the State shall, by delegating to private initiatives, co-operatives and popular solidarity economy associations, promote the development of national mining under a special small-scale mining regime and shall guarantee the right to carry out such activities either individually or collectively in accordance with the principles of solidarity and social responsibility.

Art. 138. Small-scale Mining. Small-scale mining shall be considered to be that which, due to the concession area, processing and production volumes, investment amounts and technological conditions, have:

- a. An operating exploitation and/or beneficiation capacity of up to 300 metric tons per day.
- b. A production capacity of up to 800 metric tons per day with regards to the mining of non-metallic and construction materials.

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Individuals or corporate entities that undertake small-scale mining must be holders of a small-scale mining concession and must comply with the special provisions of this Chapter II. In all matters not regulated by special rules, the general contents of this Law and its General Regulations shall apply.

The Mining Ministry shall promote special technical assistance, environmental management, mining safety and education and professional training programs for small-scale mining. The Ministry of the Environment shall also promote special programs for environmental management in small-scale mining.

Art. 139. Mining concessions for small-scale mining. The State shall grant Small-Scale Mining Concessions to individuals and corporate entities in accordance with the provisions of this Law and its General Regulations, which shall establish a special regime.

Small-scale mining concessions shall be granted by the Mining Ministry in accordance with the procedure established in the Regulations and shall confer on its holder the exclusive right to prospect, explore, exploit, beneficiate, smelt, refine and commercialize all mineral substances that may exist and be obtained in the said concessioned area, without any limitation other than those specified in this Law.

Art. 140. Registration. In order to have access to the rights and benefits conferred upon mining rights holders by this chapter, they must be registered as small-scale miners with the relevant mining administrative authority of the Mining Ministry. The registration procedures and requirements shall be established in the Regulations of this Law.

Art. 141. Obligations. Mining concessionaires carrying out small-scale mining activities shall comply with the obligations of mining concessionaires contained in Title IV of this Law.

Holders of small-scale mining rights shall be subject to compliance with the environmental legislation in force and the approval of, and attendance at, training programs promoted by the National Geological Research Institute.

Chapter III

CONSTRUCTION MATERIALS

Art. 142. Construction material concessions. The State, through the Mining Ministry, shall grant concessions for the use of surface clays, sand, rocks and other materials directly used in the construction industry, with the exception of river beds, lakes, sea beaches and quarries which shall be regulated by the limitation established in the General Regulations of this Law, which shall also define what are construction materials and their exploitation volumes.

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Within the framework of article 264 of the Constitution in force, each Municipal Government shall assume the power to regulate, authorize and control the exploitation of dry and stony materials found in river beds, lakes, sea beaches and quarries in accordance with the Special Regulations that shall establish the requirements, restrictions and procedures for that purpose. The exercise of such power shall be limited to the principles, rights and obligations contemplated by the Municipal Directives issued for that purpose. They shall not establish conditions and obligations other than those established in this Law and its Regulations.

Art. 143. Rights and obligations of construction material concessionaires. Concessionaires shall be empowered to explore the said materials without the need to sign a contract; they may be exploited following the signing of the respective contract and the establishment of any easements required for the proper exercise of the rights arising out of the concession.

Notwithstanding the foregoing, landowners shall have a preferential right to apply for a concession of the area of which they are owners. Should the landowners freely and voluntarily, by way of a public deed, grant authorization for the use of their land as a concession, this authorization shall imply a waiver of the preferential right for the grant of a concession over such land.

Additionally, construction material concessionaires must comply with the obligations stemming from articles 38, 41 and 42, Chapter I of Title III and Chapters I, II and III of Title IV of this Law. Similarly, they must comply with the requirement to pay royalties established in this Law for small-scale mining.

Art. 144. Free use of construction materials for public works. The State, either directly or through contractors, may freely use any construction materials for public works in concessioned or non-concessioned areas.

This shall be authorized by the Mining Ministry, taking into consideration both the social and public aims of the free use. The term and exploitation volumes shall be regulated and may only and exclusively be extended due to the technical production requirements and the duration of the execution of the public works.

Such material may only and exclusively be used for the public works for which the free use was required. Use for other purposes shall constitute illegal exploitation that shall be subject to the provisions established in this law for that purpose.

The State's contractor cannot include within its costs sums corresponding to the construction materials freely used. In the event free use exploitation for other purposes is proven, it shall be punished by a fine equivalent to two hundred basic unified salaries and, in the event of repetition, by the termination of the contract for such public works.

Authorizations for free use shall be subject to compliance with all the provisions of this law, especially those related to environmental matters.

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Contractors who exploit the free uses shall be required to comply with the Environmental Management Plan.

Chapter IV

NON-METALLIC MINERALS

Art. 145. Exploitation of non-metallic minerals. The exploration and exploitation of non-metallic minerals must comply with the general rules applicable to mining concessions in the terms set out in this Law and its General Regulations, including the payment of royalties.

The General Regulations of this Law shall define what are non-metallic mineral substances and the form of the State's participation in the benefits, in accordance with the provisions of the second paragraph of article 408 of the Constitution of Ecuador.

The State's interest shall be taken into consideration with regard to the use of such non-metallic minerals in the construction of infrastructure works of national interest.

Chapter V

MINING ACTIVITIES ON THE SEABED

Art. 146. Research and operation on seabeds. The use of mineral substances of any kind in the seabed shall be the responsibility of the National Geological, Mining and Metallurgical Research Institute and the National Mining Company, which may sign research agreements and supply of services contracts, respectively, with domestic or foreign individuals or corporate entities, subject to the requirements and conditions established in the Special Regulations issued for that purpose by the President of the Republic.

Title X

TAX AND ECONOMIC PROVISIONS

Art. 147. Accelerated depreciation. Mining rights holders who have signed a Mining Exploitation Contract may apply to the Internal Revenue Services for special accelerated depreciation treatment for those fixed assets that have a shorter useful life as a result of the increased wear and tear caused as a result of the operation of a mining project. The Internal Revenue Services, following a report from the Mining Regulation and Control Agency, shall accept or dismiss the application.

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The General Regulations of this Law shall list the goods eligible for accelerated depreciation.

Art. 148. Simplified Tax Regime for artisanal miners. Artisanal miners may use the Simplified Tax Regime for income tax and value added tax purposes, as per the conditions, terms and requirements provided for in the Internal Tax Regime Law.

Art. 149. Gold purchases. Gold purchases made by the Ecuadorian Central Bank are subject to zero-rate VAT.

Title XI

ADMINISTRATIVE, LITIGIOUS-ADMINISTRATIVE AND LEGAL JURISDICTION

Art. 150. Jurisdiction and competence. The Mining Regulation and Control Agency shall have regulatory jurisdiction, competence and control regarding mining matters, with the duties and powers provided for in this Law and its General Regulations.

Any disputes that may arise between those subject to mining law and administrative authorities in mining matters shall be resolved by the Litigious-Administrative District Tribunals.

In any case, any actions shall be in compliance with the provisions pertaining to jurisdictional guarantees, protective action, access to public information and other protection rights contemplated in the Constitution of the Republic.

Art. 151. Levy jurisdiction. The Internal Revenue Services shall exercise its power of levy in order to collect royalties, patents, taxes, default interest, fines, financial compensation on behalf of the State and other charges such as court fees generated by its implementation.

Title XII

PROCEDURE FOR THE WAIVER OF MINING RIGHTS

Art. 152. Waiver of mining hectares. One or more mining hectares within an established mining concession may be waived, provided third party rights are not prejudiced. Total or partial waivers shall be subject to the provisions of the General Regulations.

Art. 153. Voluntary or contentious jurisdiction. A waiver constitutes a voluntary jurisdictional procedure, which may become litigious should any injured third party contest such waivers.

Art. 154. Waiver application. The waiver application shall be filed with the competent department of the Mining Ministry and, within the same, an express application shall be made requesting the cancellation or modification of the respective entries be ordered, depending upon whether the waiver is total or partial. The General Regulations shall establish the requirements and procedures to be complied with for it to be processed and resolved.

Art. 155. Form and perfection. Once the waiver is approved, this act of approval shall be registered as a public deed with a notary public and shall be registered in the Mining Register kept by the Mining Regulation and Control Agency.

Art. 156. Third party rights. If it appears from the background information that the waiver affects or may affect third party rights, the competent Mining Ministry authority to hear the procedure shall order the waiving party to provide a public deed evidencing their consent to the waiver.

If there is no such third party consent, the competent authority of the Mining Ministry shall order such third parties to be notified and summoned, by a single publication in a newspaper of national and/or local circulation.

Art. 157. Opposition. The following constitute grounds of opposition: the existence of preparatory contracts, pledges, working capital loans, leases, exploitation contracts, mineral sale contracts and sequestrations regarding the concession covering the mining hectares to be waived.

For an opposition claim to be processed administratively, it must be brought before the competent department of the Mining Ministry. Its resolution may be appealed up to the highest instance within a term of five days counted from the date the parties are notified.

Art. 158. Approval of waiver. Once the resolution approving the waiver is made and it is perfected by registration in the Mining Register, the applicant shall deliver a certified copy of such acts to the competent office of the Mining Ministry for registry purposes.

GENERAL PROVISIONS

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FIRST. If, as a result of the activities referred to in this Law, radioactive minerals or substances are discovered in economically exploitable concentrations, the mining rights holder shall immediately report the discovery to the Mining Ministry.

SECOND. Breaches of the provisions of this Law, which do not constitute grounds for the extinguishment of the mining rights, shall be punished by the Mining Ministry or its related agencies within the framework of their competence by a fine of no less than twenty, and no more than five hundred, basic unified salaries plus 0.1% of the investment, depending upon the seriousness of the breach, without prejudice of any civil or penal sanctions that may be applicable.

The right to due process shall be respected in all cases. Fines shall be deposited with agencies legally authorized to collect such taxes.

THIRD: The Internal Revenue Service shall collect the sums corresponding to patents and royalties referred to in this Law, which, for such purposes, shall have all the powers and functions granted by the Internal Tax Regime Law, the Tax Code, the Reform Law for Tax Equity in Ecuador and this Law.

FOURTH: Any administrative acts regarding the extinguishment or expiration of mining concessions due to Mandate N° 6 have been implemented.

FIFTH: Any environmental damage creates an objective responsibility.

SIXTH: All forms of mining activity within areas declared to be ancestral territories of people in voluntary isolation is prohibited, in accordance with the provisions of the Constitution of the Republic.

SEVENTH. Officers and public servants whose omission results in administrative silence shall be punished administratively and civilly, according to the seriousness of the offense. If presumptions of the fraudulent liability of the officer whose omission resulted in the said administrative silence are proven, a criminal prosecution may be made.

In the event the corresponding administrative acts are not issued in accordance with the terms established in the articles of this Law, this shall be construed as administrative silence, which must be established by way of a resolution by the competent judicial court.

EIGHTH: Permits for the free use of construction materials shall solely and exclusively be authorized in the province of the Galapagos.

TRANSITIONAL PROVISIONS

FIRST. Mining concession holders who kept their mining concessions by virtue of the provisions of article 8 of Constitutional Mandate N° 6 shall keep their mining rights and may recommence their activities. Within a term of 120 days, as from the date the respective regulations come into force, their procedures must be regularized and harmonized with this legislation.

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In the case of owners of beneficiation plants currently in operation, they shall have a term of one year within which to adapt to this legislation, counted as from the date this Law comes into force.

Breaches of this provision shall result in the extinguishment of the mining title and, therefore, the expiration of mining concessions or permits to operate a beneficiation plant granted before this Law comes into force.

SECOND. Once this Law is enacted by its publication in the Official Gazette, the President of the Republic of Ecuador through an executive decree shall provide for the performance of the administrative acts required for the integration, organization, regulation and control of the bodies created hereby. Until then, the National Mining Bureau, the Regional Mining Bureaus and the Mining Environmental Protection Bureau shall, on a transitional basis, exercise the powers and functions of the Mining Regulation and Control Agency; and the National Geological Bureau the duties of the National Geological, Mining and Metallurgical Research Institute, provided the same do not contradict the rules of this Law.

THIRD: The Property Registrars, within a term of 90 days counted from the date this Law comes into force, shall submit to the Mining Regulation and Control Agency all original information and files regarding registered mining concessions and any other procedures regarding mining activities. All acts and proceedings to be included in the Mining Register shall be subject to the rules of the Registration Law, so far as may be applicable.

FOURTH. The respective regulations shall be enacted within a term of 120 days counted from the date this Law comes into force.

FIFTH. Within a term of 90 days counted from the date this Law comes into force, the Mining Ministry shall issue the Ministerial Agreement containing the terms, conditions and periods according to which the mining areas and mining projects referred to in the final paragraph of article 24 must be returned.

SIXTH. Within a period of 180 days counted from the date this Law comes into force, the Executive branch shall submit to the National Assembly the Promotion, Participation and Training for Small-Scale and Artisanal Mining Bill.

SEVENTH. Within a period of 180 days, the Executive branch shall issue the special regulations to protect the life, health and environment of the Josefina, Portovelo and Nambija areas.

EIGHTH. Within a period of 180 days counted from the date this Law comes into force, the Mining Ministry shall carry out a census of those artisanal miners who do not have authorization to carry out mining activities but can prove they have worked for at least two years prior to the census referred to, so their situation may be regularized.

NINTH. Those beneficiation plants which, at the date this Law comes into force, have a permit, are in operation and would have a capacity less than that referred to above, may continue to operate once the environmental license in the terms determined by this Law and the Regulations is obtained.

FINAL PROVISIONS

FIRST. Repeals. The following laws are hereby repealed: Mining Law 126, published in the Supplement to the Official Gazette N° 695, on May 31, 1991 and its regulations; and Decree Law 2000 – Law regarding the Promotion of Investment and Citizenship Participation, published in Official Gazette N° 690, on August 18, 2000, as soon as the amendments referred to in the abovementioned Mining Law take effect, and any other legal and regulatory provisions that conflict with this Law.

SECOND. Effective date. This Law shall come into force upon its publication in the Official Gazette. Its provisions shall prevail over other laws and may only be amended or repealed by an express provision in another law expressly passed for these purposes. Thus, any laws or decrees that contradict in any way this rule or any others established in the Constitution shall not be applicable.