

ECUADOREAN MINING LAW
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GENERAL DISPOSITIONS

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REPUBLIC OF ECUADOR **MINING LAW**

TITLE I **FUNDAMENTAL DISPOSITIONS**

CHAPTER I **THE EXTENT OF APPLICATION**

Art. 1.- Extent of Application.- This present Mining Law regulates the relations of the State with natural and legal persons, whether local or foreign, and their relations with one another, with respect to the obtaining of rights and the performance of mining operations. Petroleum and other hydrocarbons, radioactive minerals and medicinal mineral waters are excluded from the dispositions of this Law.

Art. 2.- Supplemental Standards.- The rules of the Civil Code, Code of Civil Procedure, Code of Commerce, Company Law and other dispositions of positive law cover mining matters in so far as they apply and provided the subject is not expressly regulated in this Law.

Art. 3.- Jurisdiction and Authority.- Natural or legal persons, local or foreign, who engage in mining activities are subject to the laws, judges and courts of the country. In the case of foreign natural or legal persons, it is implied that they renounce all claims by diplomatic channels or international legal institutions.

Art. 4.- Public Interest.- Mining activity in all its phases, on or outside concessions, is declared to be in the public interest. Consequently, it is proper to constitute easements as necessary, in accordance with this Law.

CHAPTER II STATE AUTHORITY AND MINING RIGHTS

Art. 5.- State Authority Over Mines and Deposits.- All mineral substances existing in the national territory belong to the inalienable and inextinguishable ownership of the State, whatever their origin, form or physical state, and whether they are under the ground, on the surface, on the sea bed or in marine waters. *And, the exploitation shall agree with the lineaments of sustainable development and of environment protection and conservation.*

As provided in the last sub-section of section 1 of Article 46 (*actual Art. 247*) of the Constitution of the Republic, the State may authorize the performance of mining activity for the rational exploitation of mineral resources by natural or legal persons, local or foreign, granting them mining rights, in accordance with this Law.

Art. 6.- Mining Rights.- Mining rights are those which derive from *mining concessions*, as well as permits to install and operate plants for treatment, smelting and refining, and also from trading permits.

Priority in presenting petitions for mining concessions gives preferential rights to receiving them.

Art. 7. Mining Concessions.- A mining concession is an universally valid and property related right, distinct and independent from the ownership of land on which it is located, even when both belong to the same person. The universally valid right which derives from the mining concession is defensible as against third parties, transferable and transmittable, susceptible to mortgage and, in general, to any act or contract except to form part of the common property of a family.

Constructions, installations and other articles permanently linked to the operation are considered real property accessory to the concession.

The Mining concession is susceptible of material division and accumulation within the limit of one mining hectare as a minimum and 5,000 mining hectares as a maximum, by concession.

CHAPTER III

Art. 8.- (Abolished)

Art. 9.- (Abolished)

Art.10.- (Abolished)

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

- a) From the Mayor or President of a Municipal Council, within a city or populated center;
- b) From the Minister of Public Works, within distances of up to 200 meters measured horizontally from buildings, public roads, railroads, ferries, radio stations, antennas and telecommunication installations;
- c) From *the National Council of Water Resources*, on lakes, ponds and dams or in sites devoted to collecting water for cities and within distances of up to 200 meters measured horizontally from them.
- d) From the State Petroleum Company of Ecuador (*Petroecuador*) or its affiliates within distances of up to 200 meters measured horizontally from oil, gas and petroleum product pipelines, refineries and other petroleum installations;

- e) From the General Directorate of the Merchant Marine and Coast in established ports; and
- f) From *the National Electricity Council*, within distances of up to 100 meters measured horizontally, in areas in which there are power stations, pylons and main lines of the National Network.

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

CHAPTER IV THOSE SUBJECT TO MINING LAW

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

Art. 13.- Domicile of Foreigners.- Foreign natural or legal persons, to be owners of mining rights, must have domicile in the national territory. They will receive the same treatment given to any other person, natural or legal, of the country.

Art. 14.- Unqualified Persons.- The following persons may not obtain mining rights, personally or through another party, while in the exercise of their functions and up to one year after leaving them:

- a) In any part of the national territory: the President of the Republic, the Vice President of the Republic, Ministers of State, the General Controller, the Attorney General, *Magistrates* of the Supreme Court, members of the *Constitutional Court*, Ministers of the *District Tax Court*, Ministers of the *Public Administration Litigation Court*, Deputies of Congress, the Manager of the Central Bank, *the President of the Central Bank Board*, the officers and employees of the Ministry of Energy and Mines and its dependencies and the members of the Public Police Force on active duty;
- b) In the jurisdiction where they exercise their functions: provincial governors, intendants, commissioners of Police, chief state representatives and their

lieutenants, mayors, presidents of municipal councils, presidents and ministers of High Courts, notaries, registrars of property, mercantile registrars and their staffs;

- c) The administrators, employees, workers, lessees, contractors, technicians and consultants of the mining concessionaires within a perimeter of 5 kilometers of the concessions where they work; and
- d) Blood relatives of the persons referred to in the preceding sections, to the second degree and their spouses and their blood relatives to the first degree.

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

- a) Mining rights acquired prior to taking office of employment;
- b) Mining rights belonging to the spouse of the ineligible person if such rights had been acquired before the appointment, and those acquired through inheritance, succession or gift; and
- c) Mining companies in which the ineligible person is a partner, established before he was named to public office; they may continue provided he takes no part in their administration or management.

CHAPTER V NATIONAL MINING ACTIVITY

Art. 16.- National Mining Activity.- National mining activity is carried on by state, mixed, communal or mutual and private effort.

The State performs its mining activities through the *General Directorate of Geology* which may set up mixed companies.

Communal or mutual and private companies enjoy the guarantees to which they are entitled and have a right to state protection as provided in this Law.

Art. 17.- Company Actions and Affiliation.- The Superintendency of Companies, as a condition of approving the establishment, domiciling, increase of capital or change of by-laws of companies whose object includes the performance of mining activity in any of their phases, shall require its affiliation to one of the Chambers of Mines of Ecuador according to Law.

CHAPTER VI PHASES OF MINING ACTIVITY

Art. 18.- Phases of Mining Activity.- For the purpose of applying this Law, the phases of mining activity are classified as:

- a) Prospecting, which consists of the search for signs of new mineralized areas;
- b) Exploration, which consists of determining the size and form of the deposit, as well as the content and quality of the mineral present in it. Exploration also includes the economic evaluation of the deposit.
- c) Exploitation, which comprises the group of operations, works and mining labor devoted to the preparation and development of the deposit and the extraction and transport of the minerals;
- d) Beneficiation, which consists of the processing of the exploited minerals to increase their useful content or metal percentage;
- e) Smelting, which comprises the technical procedures designed to separate the metals from the corresponding minerals or concentrates produced in the beneficiation stage;
- f) Refining, which consists of the technical procedures designed to convert the metallic products to metals of high purity; and
- g) Trading, which consists of the buying and selling of minerals or the celebration of other contracts whose object is the negotiation of any product resulting from mining activity.

TITLE II MINING POLICY

CHAPTER I FORMULATION, EXECUTION, AND ADMINISTRATION OF MINING POLICY

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

For the development of said policy, its execution and application, the State shall act by the intermediary of the Ministry of Energy and Mines and the entities and organism determined in this Law.

Art. 20.- Execution of Mining Policy.- The Ministry of Energy and Mines is the State Secretariat charged with planning, execution and administration of mining policy approved by the President of the Republic. Its functions are those established in this Law and its Regulations.

Art. 21.- National Directorate of Mining.- The National Directorate of Mining is the dependency of the Ministry of Energy and Mines charged with administering the process of issuance, conservation and extinction of mining rights in conformity with the regulations of this Law. Its attributions are set out in Article 177. The Ministry of Energy and Mines may create whatever regional directorates of mining are necessary for the fulfillment of its functions, which will have jurisdiction and authority in the territorial section assigned to them. Their attributions are those indicated in Article 178.

Art. 22.- National Mining Inventory Service.- The *National Mining Inventory Service* is a specialized dependency of the National Directorate of Mining, which will have charge of the technical aspects related to the issuance, conservation and extinction of mining rights, and the elaboration, maintenance and up-dating of the mining inventory in the entire country. Its attributions will be set out in the Regulation.

A *Regional Mining Inventory Service* will operate in the jurisdictions in which regional directorates have been established.

Art. 23.- (Abolished)

Art. 24.- (Abolished)

Art. 25.- Administrative Systems.- The officers and employees who give their services in the entities and organisms which this Law creates, will be subject to the Civil Service and Administrative Career Law.

Art... Automatic Credit.- Without prejudicing budgetary allocations which correspond to the Ministry of Energy and Mines to operate the mining public sector dependencies, all resources generated as a result of applying this Law shall be deposited in the single account of the General Budget of the State and shall be automatically credited in what corresponds to the account of the Ministry of Energy and Mines for the operation of both National Directorate of Mining and National Directorate of Geology; to fund the operation of the mining sector administration and the mining-geological infrastructure and the implementation of the environmental measures and mining security.

These resources shall be administered by the Ministry of Energy and Mines according to the dispositions stated in the General Regulation of this Law and under any circumstance they shall not be assigned to other purposes unless those stated in first paragraph of this article.

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

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

- d) Fines established by this Law; and,
- e) Those corresponding to patrimony funds.

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

Such resources shall be directly, opportunely and automatically provided. Provision will be under responsibility of the corresponding Minister and will become effective by means of the transfer from the national treasury to the accounts of the beneficiary dependences and entities.

TITLE III MINING RIGHTS

CHAPTER I PROSPECTING

Art. 26.- Freedom of Prospecting.- Any natural or legal person, local or foreign, has the right to prospect freely for the purpose of seeking mineral substances, except in those areas included within the limits of mining concessions. When the case presents itself, they must obtain the reports referred to in Article 11 of this Law.

CHAPTER II MINING CONCESSION

Art. 27.- to Art. 44.- (Abolished)

Replaced by:

Art.... Mining Concessions.- The State issues mining concessions in favour of natural or legal persons, local or foreign, according to the prescriptions of this Law and its General Regulation.

The mining concession confers to its holder the universal and exclusive right to prospect, explore, exploit, benefit, smelt, refine and trade all the mineral substances which exist and can be obtained within the area, with no more limits than those stated in this Law.

Art.... Unit of Measure.- For the purpose of applying this Law, the unit of measure for concessions shall be denominated the "mining hectare." This unit of measure constitutes a volume of pyramidal shape whose vertex is at the center of the earth; its outside limit is the surface of the earth and corresponds planimetrically to a square of 100 meters on each side, measured and oriented according to the Mercator Transverse Projection system of ruling used by the National Topographic Map.

Exception to the above rules constitutes the side of a concession placed at international borders and/or bordering upon beach areas, national patrimony of protected natural areas, State forestry patrimony and protecting forest and vegetation, in which case the concession limit will be the border line, sea beaches or the protected area limit, according to the case.

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

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

If there is a free space between two or more concessions that does not comprise a "mining hectare", although it contains a total of more than 10,000 square meters, such free space shall be called an "excess". This excess will be granted to the adjacent concessionaire who first request it.

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

Art.... Administrative Process Fees.- Those interested in obtaining mining concessions shall pay the amount of one hundred US dollars on account of fees for each mining concession application. Such payment will be made only once.

The value of this patent fee is not reimbursable and it shall be deposited according to the General Regulation of this Law.

No petition will be accepted if receipt of payment is not annexed.

Art.... Conservation Patent Fee.- The owners of mining concessions shall pay in advance for each mining hectare an annual conservation patent fee in dollars of the United States of America, for each calendar year, during the month of March, according to the following chart:

DURATION OF CONCESSION		ANNUAL AMOUNT PER MINING HECTARE
Since	Until	
Year zero	Year three	US\$ 1.0
Year four	Year six	US\$ 2.0
Year seven	Year nine	US\$ 4.0
Year ten	Year twelve	US\$ 8.0
Year thirteen	Henceforth	US\$ 16.0

First payment of the total conservation patent fee shall be made during the first fifteen days starting from the date of signature of the document where it is stated that the area is suitable to be given in concession and shall correspond to the period of time elapsed between the date of application submittal and December 31st of that year.

The lack of subscription of the aforementioned document or failure to pay the conservation patent fee constitute a sufficient reason to declare abandonment and to file such application in the form stated this Law and its General Regulation.

In addition to fulfillment of the term of concession and reduction or abandonment, there is no other cause for extinction of the mining concession except failure to pay conservation or production patent fees, according to the case.

Art.... Report of Production Start.- Before starting commercial production, the concessionaire shall inform to the Regional Directorate of Mining the date of production start by means of a written statement which has to be on oath. The start of commercial production is subject to approval of environmental impact evaluation studies.

The owner of a mining concession may not perform commercial exploitation works without previously report this start, according to preceding paragraph; however, he may take possession of those minerals he may obtain as a result of exploration works.

Those concessionaires who produce minerals without submitting a written report to the Mining Directorate concerned at the start of commercial production shall be sanctioned with a fine equivalent to the double of the corresponding production patent fee, provided that it is not established as a crime.

Art... Production Patent Fee.- From the start of commercial production onwards, the mining concessionaire shall pay a fixed annual patent fee of sixteen US dollars per each mining hectare reported to be under production.

Art.... Annual Reports.- During commercial exploitation, the owners of mining concessions shall submit until March 31st of each year to the Regional Directorate of Mining concerned, audit reports on production following technical guides prepared by the National Directorate of Mining. These reports will be subscribed by the mining concessionaire and his technical advisor who will be a professional in geology and/or mining.

Audits to these reports shall be contracted by the concessionaires on their own expense, with natural or legal persons, local or foreign duly registered as consultants or mining auditors and registered in the Subsecretariat of Mines, according to the appropriate dispositions of the General Regulation of the Mining Law.

Art.... Mining or Metallurgical Residues.- Mining or metallurgical residues or tailings encompass discarded ore or rock, rubble, debris, washings, sweepings, scoria, slag, and waste resulting from any mining or metallurgical activities.

Mining or metallurgical tailings or residues become a complement to the concession, processing plant, or smelter to which they belong even though they may be located outside their limits. The concession holder may freely take advantage of them.

Art.... Concession of Abandoned Residues.- Abandoned mining or metallurgical residues, along with any other mineral substances that may be found in them within the limits of the concession solicited, can be granted as a concession according to the prescriptions of this Law.

The residues are considered to be abandoned when:

- a) They belong to an expired mining concession;
- b) They belong to a processing plant or smelter which has not been in operation for 2 years, except in cases of force majeure or accident that was duly justified in the available time period; and
- c) When it is not possible to determine from where they come.

Art.... Illegal Exploitation of Minerals.- Those who are not mining concession holders or do not have any legal grounds to operate or work in that which is referred to in Article 18 item (c), are guilty of illegal exploitation of mineral substances and shall be sanctioned as mentioned in Article 57 of this Law.

CHAPTER III PROCESSING PLANTS, SMELTERS, AND REFINERIES

Art. 45.- Authorization for the Installation and Operation of Plants. The State shall authorize the installation and operation of processing plants, smelters, or refineries to any natural or legal person, local or foreign, who requests it according to the terms of Article 186 of this Law and of its Regulation.

Art. 46. Mining Concessionaire's Rights to Install Plants. The holders of *mining concessions* may install processing plants, smelters, and refineries by virtue of their concessions without having to obtain the authorization mentioned in the previous Article, provided said plants only process minerals of those concessions. The processing of minerals from outside the concession needs the respective authorization.

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

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

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

CHAPTER IV COMMERCIALIZATION OF MINERAL SUBSTANCES

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

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

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

The cost of this license or permit is to be determined in the Regulation.

Art. 52.- Validity of License and Renewal.- Trading permits given to natural or legal persons engaged in the activities mentioned in the preceding Article will be valid for a period of three years. These permits are non-transferable and may be renewed for three year periods in accordance with that stipulated in the Regulation of this Law.

Art. 53.- Register of Traders.- The National Directorate of Mining shall maintain a register of all those involved in the trade of metallic minerals and of those involved in exportation of metallic and non-metallic minerals with the object of keeping statistical data on internal trade as well as exports and also as a measure to certify compliance with the obligations established in this Law.

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

- a) Become withholding agents according to the pertinent tax norms of Title XI of this Law;
- b) Prepare detailed declarations indicating all withholdings and deductions made; and
- c) Send monthly reports to the National Directorate of Mining or to the regional directorates in regards to the origin, volume and value of purchases; destination, volume and value of sales; any taxes withheld of any other statistical information that is required. These reports will be made on simple forms issued by the National Directorate of Mining.

Art. 55.- Trading Permit Cancellation.- Incompliance of any of the obligations mentioned in the previous Article will result in the cancellation of the trading permit without prejudice to the responsibilities that correspond to the holder.

Art. 56.- Illegal Trading in Mineral Substances.- The following is considered illegal trade in mineral substances:

- a) *Mining concession* holders that trade domestically in metallic minerals or that export metallic or non-metallic minerals all originating from other concessions, without the license required in Article 51;
- b) Those persons who buy or sell metallic minerals or export metallic or non-metallic minerals without legal authorization; and
- c) Miners who sell metallic minerals to people or entities not authorized to trade in them.

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

In addition to confiscation, the guilty parties will be punished with 1 month to 3 years of prison or a fine equal to 10 to 200 minimum monthly salaries which shall be imposed according to the seriousness and circumstances of the offense in conformity with that mentioned in Article 350 of the Tax Law.

If the first time offender has been given a prison sentence, this sentence can be substituted with a fine, considering that each day in prison is equivalent to one third of a minimum monthly salary. The offender may obtain his freedom by paying this fine and is allowed to deduct any prison time served for that particular offense from the fine.

The crime of illegal trading of mineral substances, described in Article 56 of this Law, shall be punished by the confiscation of the mineral substances involved in the act. Furthermore, the offenders shall be fined an amount double the value of the mineral substances involved in the act.

First time offenses will be tried by the National Director of Mining, and in the second stage of by appeal, by the *District Tax Court*. Process will be given to these cases under the norms of tax fraud noted in Book IV of the Tax Law.

TITTLE IV RIGHTS OF MINING TITLES

CHAPTER I RIGHTS IN GENERAL

Art. 58.- Continuity of Work.- No authority can order the suspension of mining work that is done legally under a mining title, except for those cases mentioned in Articles 94 & 95, or when it is necessary to protect the health and life of miners, or when it is required by the Civil Defense.

Art. 59.- Construction and Complementary Installations.- The title holders of mining concessions may build and install within their concessions: buildings, camps, storage areas, pipelines, pumping stations, conveyors, maintenance shops, electric lines, reservoirs, communication systems, roads, railroads, and any other local transportation systems or installations.

If the concession is declared in exploitation, the holder may install processing plants, smelters, refineries, tailing and residue dumps; as well as engage in any other activity necessary to develop his operations. In all cases the concession holder must abide by that indicated in this Law and all other corresponding legal parameters.

Art. 60.- Water rights and Easements.- The granting of *mining concessions* and the authorization to install treatment plants, smelters, and refineries has with it the implicit right to the use of water and the right to benefit from any easements that are necessary.

Art. 61.- Altering the Course of Water.- Holders of mining rights may alter the course of rivers, as long as it does not affect third parties and as long as it is done with authorization from the *National Council of Water Resources*.

CHAPTER II ADMINISTRATIVE ASSISTANCE AND OPPOSITION

Art. 62.- Administrative Assistance.- The State, by means of the National Directorate of Mining, will give assistance to mining title holders under the law for reasons of intrusion, illegal occupancy, dispossession, or any other act that may impede the free exercise of mining activities. This assistance also implies in cases of authorities who act without jurisdiction or competence.

Art. 63.- Preventive Action.- The title holder or legal possessor of a mining right may solicit the restraint or illegal mining activities, whether in process or imminent, according to the rights of assistance granted under this Chapter.

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

TITLE V OBLIGATIONS OF MINING TITLE HOLDERS

CHAPTER I OBLIGATIONS IN GENERAL

Art. 65.- Labor Obligations.- Labor force obligations contracted by the holders of mining rights with their workers shall be their exclusive responsibility and will in no way become the responsibility of the Ecuadorian State.

Art. 66.- Mining-Industrial Security and Hygiene.- The holders of mining rights are under obligation to preserve the health and life of their technical personnel and workers, applying the standards of mining-industrial security and hygiene provided for in the related legal and regulatory dispositions and providing

them hygienic and comfortable living conditions in stable work camps, following plans and specifications approved by the National Directorate of Mining.

Art. 67.- Compensation for Loss and Harm.- The holders of mining concessions are under obligation to perform their work by methods and techniques that minimize damage to soil and neighboring concessions and, in every case, compensate any damage or harm they may cause in the course of their work.

The repeated failure to observe the methods and techniques referred to above will be considered a cause for the termination of the concessions.

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

Art. 72.- Conservation of Benchmarks.- The holders of mining concessions are under the obligation to conserve the demarcation signs; failure to do so will result in a fine which shall be established by the Regional Directorate of Mining in accordance with provisions of Article 216 of this Law.

Art. 73.- Alteration of Benchmarks.- The holders of mining concessions may not alter or move the benchmarks denoting the limits of their concessions; failure to comply will result in a fine which shall be established by the Regional Directorate of Mining without prejudice to the penal liability arising therefrom if they have acted maliciously, according to the dispositions of Article 580 of the Penal Code, whose sanction shall also be applied to those who demolish, alter or remove benchmarks of mining concessions.

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

- a) Maintain accounting books, financial records, technical registers, employment registers, production statistics, records of materials consumed and energy used and others which adequately reflect the progress of their operations; and

- b) Facilitate access of functionaries duly authorized by the National Directorate of Mining to the books and registers referred to above, so as to evaluate the mining activity performed.

Art. 75.- Inspection of Installations.- The holders of mining rights are obliged to permit the inspection of their installations and operations by functionaries duly authorized by the National Directorate of Mining. Such inspections may in no case interfere with the progress of the mining work.

Art. 76.- Discovery of Water.- The holder of a mining concession who in the course of work discovers springs or underground streams is obliged to advise the *National Council of Water Resources* and provide the studies and technical data obtained in connection therewith.

Art. 77.- Employment of Local Personnel.- The holders of mining rights are obliged to use Ecuadorian personnel in a proportion not less than 80% for the development of their mining work.

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

CHAPTER II PRESERVATION OF THE ENVIRONMENT

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

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

1. Description of the project and the environmental means to be applied, which should be oriented to:
 - a) Protection: actions to protect the wild flora and fauna, natural scenery, soil and native communities;
 - b) Prevention and control of contamination, deforestation, erosion and sedimentation;
 - c) Follow-up and monitoring to control contamination, deforestation, erosion and sedimentation;
 - d) Rehabilitation: reforestation, control of erosion and restoration of areas affected;
 - e) Maintenance: programs of maintenance of platforms, pools, equipment, ducts, storage tanks, roads and civil works in general;
 - f) Emergency and contingency: contingency plans for spills of contaminating products into watercourses, the sea and the land, to respond to unexpected events and accidents;
 - g) Mitigation: Cleaning up spills of contaminating products, collection, procedures of final disposal of residues, trash, junk and complementary civil works; and,
 - h) Compensation: replacement of goods of communities, inhabitants, etcetera affected by the projects;
2. Chronogram of activities:
3. Map of the area of performance of the project, outlining the site or sites where they will be performed and their possible areas of influence;

4. Treatment to be given to solid wastes, liquid and gaseous effluents before they are discharged into the environment, according to the permissible limits;
5. Evaluation of compliance with programmed environmental measures;
6. For the exploration stage, declaration of the environmental effect;
7. Environmental impact studies with their respective plans for environmental management, for the stages of exploitation, design, construction, operation and dismantling of the project.
8. Permanent programs of environmental training and conscience-raising for the employees, to stimulate actions that minimize environmental deterioration.

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

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

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

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

Art. 84.- Conservation of Flora and Fauna.- If there exist species of flora or fauna of proven scientific or economic value in the concession areas, they will be given special treatment by the mine operators to contribute to their conservation.

Art. 85.- Waste Management.- The management of waste, solid and liquid residue, and gaseous emissions produced by mining activity within the national territory must comply with the following requisites:

- a) Waste with the presence of radioactive material will be put into hermetically sealed containers according to international standards, so that they can be transported to the radioactive waste burial ground in coordination with the Ecuadorian Atomic Energy Commission;
- b) Wastes which by their nature are not biodegradable, such as glass, plastics, aluminum, iron, and others shall be transported to pre-established sites for disposal; and
- c) Wastes which by their nature are biodegradable, such as trash and household wastes, shall be put in pre-established sites and submitted to a process of degradation so as to obtain products such as compost which will serve for programs of rehabilitation of affected areas.

Art. 86.- Protection of the Ecosystem.- The installation of processing plants, smelters, refineries, workshops and other installations should keep in mind the protection of the ecosystem by avoiding environmental contamination, observing the laws in force on the subject, both in this case and those previously mentioned, as well as international treaties, agreements and conventions to which Ecuador is a signatory, and the pertinent dispositions of the Regulation of this Law.

Art.... Environmental Damages.- For all those legal effects derived from the application of dispositions of this Mining Law and General Regulation and specially in the Environmental Regulation for Mining Activities in the Republic of Ecuador, the environmental authority concerned within the Decentralized System of Environmental Management provided in the Law of Environmental Management, is the Subsecretariat of Environmental Protection of the Ministry of Energy and Mines.

In order to judge environmental penal crimes, prior to a court order to start a criminal procedure, the Penal Judge shall request a report prepared by the aforementioned Subsecretariat for each specific case.

Art. 87.- (Abolished)

TITLE VI
RELATIONS OF THE HOLDERS OF MINING
RIGHTS AMONG THEMSELVES AND THE
OWNERS OF THE LAND

CHAPTER I
AGREEMENTS, PERMITS AND EMERGENCY OPERATIONS

Art. 88.- Legal Links Between Title Holders.- The legal links existing between holders of mining rights and between them and the owners of the land are subject to the provisions of this Title as far as rights and obligations are concerned.

Art. 89.- Voluntary Easements and Agreements.- The holders of mining rights may agree with the owners of the land on the extent of terrain they need for their constructions and installations for the exclusive purpose of mining activity. They may also agree on the use of elements and materials necessary for their activity and payments therefor.

Art. 90.- Permission to Neighbours.- The holders of mining concessions and processing, smelting and refining plants shall permit neighboring holders access to their installations, galleries or pits in the following circumstances:

- a) When there exists a well-founded danger that the work being performed could give rise to any damage to the adjacent mine;
- b) When cave-ins or weakening in the galleries, pits and other installations, can be repaired more easily and quickly from the neighboring galleries, pits, or installations, even if it is necessary to open temporary means of access. In every case the costs will be for the exclusive account of the beneficiary; and
- c) When there exists a suspicion of intrusion

If this permission is denied the interested party can have recourse to the corresponding Regional Directorate of Mining to obtain it.

Art. 91.- Damage Due to Accumulation of Water.- When damage or harm is being done by the accumulation of water on a nearby or adjacent concession, the injured party should require in writing that the one who is causing the damage drain this accumulation out fully within 48 hours, without prejudice to any indemnity for damages.

The cost of draining out this accumulation shall be for the exclusive account of the one causing damage but the injured party may cover the cost, with right to reimbursement.

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

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

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

CHAPTER II INTRUSION

Art. 94.- Prohibition of Intrusion.- The holders of *mining concessions* are forbidden to intrude with their works onto another concession without permission of the neighbour. Any unauthorized intrusion obliges the party doing it to stop work and pay the value of the minerals he has extracted, less the cost of extracting them and pay an indemnity for any harm caused.

Art. 95.- Suspension of Work.- When there is a complaint of intrusion of works, the Regional Directorate of Mining of the jurisdiction shall, based on a report of the Regional Technical Service, order the suspension of work in the disputed zone and dictate a resolution appropriate to the controversy.

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

CHAPTER III EASEMENTS

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

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

Art. 98.- Easements of Neighbouring Concessions.- To give or provide ventilation, drainage or access to other mining concessions or to processing plants, smelters or refineries, easements may be constituted on adjacent concessions or on free areas.

The costs involved in constituting these easements will be for the exclusive account of the concessionaire benefited or the owner of the plant.

If minerals are discovered at the time of constituting said easements, they shall be property of the concessions on which they are located, without any obligation to pay compensation.

Art. 99.- Indemnity for Damage.- Easements are constituted after determination of the amount of indemnity for all harm they cause to the owner of the land or building or concession on which they are set and may not be exercised until the value thereof is agreed.

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

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

TITLE VII EXTINCTION OF MINING RIGHTS

CHAPTER I

CAUSES OF EXTINCTION OF MINING RIGHTS

Art. 101. (Abolished)

CHAPTER II REDUCTION AND RESIGNATION

Art. 102.- Faculty of Concessionaires.- The holders of mining concessions may reduce their mining hectares or resign them totally according to the procedures established in Articles 202 to 208, provided such resignations or reductions do not affect the rights or third parties.

The resignation should be done by Public Deed and provide for the cancellation of the respective registers, leaving the mining area free.

CHAPTER III EXPIRATION

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

Art. 104.- Termination for Non-Payment.- *Mining concessions* terminate immediately and irrevocably when the owners have ceased to pay the patent fees and other taxes established in this Law, for a period of six months from the date on which the obligation became payable. Termination will be declared and notified by the respective Regional Directorate of Mining.

Art. 105 to Art. 107.- (Abolished)

CHAPTER IV NULLITY OF MINING RIGHTS

Art. 108.- Nullity of Concessions.- A concession of mining rights issued in contra-version of *Article 14* of this Law is null, as is one issued on a legally valid and inscribed concession to the extent that it is superimposed on it.

Art. 109.- Declaration of Nullity.- Nullity shall be declared by initiative of public officials or by complaint of third parties duly proved, by the Regional Directorate of Mining of the jurisdiction, by express resolution citing the reasons, in which the closing of the case is also ordered. The nullity produces the return of the mining area to the State, leaving it free.

Art. 110.- Ownership Right on Mining Goods.- The ex-holder does not lose his ownership of buildings, machinery, installations and other elements of work by the termination or nullity of the mining rights, and may remove them.

TITLE VIII MINING CONTRACTS

CHAPTER I LEGAL STANDARDS AND REQUISITES FOR CONTRACTS

Art. 111.- Applicable Standards.- Contracts related to mining rights and activities are governed by the standards of private law in all respects not modified by this Law.

Art. 112.- Requisites.- To be valid, mining contracts must be celebrated by Public Deed and inscribed in the Mining Register kept by the Registrar of Property of the respective jurisdiction.

CHAPTER II CESSION, TRANSFER, IRREVOCABLE PROMISE AND LEASING

Art. 113.- Transferable and Transmissible Rights.- Mining rights, in general, may be ceded or transmitted among living parties or by reason of death, in the same way as real estate. Transfer or transmission of mining rights is subject in all cases to the provisions of paragraph three of Article 7.

The transfer is perfected by inscription in the corresponding book of the Mining Register kept by the Registrar of Property, after which it is notified to the National Directorate of Mining for the pertinent legal purposes.

Art. 114.- Irrevocable Promise.- It is permitted to celebrate contracts of irrevocable promise of cession or transfer of rights and shares in a mining concession or, in general, in relation to any other mining rights.

In this type of contract it is optional for the beneficiary of the promise to celebrate the definitive contract or not, but is obligatory for the promisor to celebrate said definitive contract.

Art. 115.- Non-Cancelable Contracts.- Contracts of cession, transfer or exchange of rights and shares on mining concessions and other mining rights cannot be rescinded on grounds of excessive injustice.

Art. 116.- Lease Contracts.- Contracts of leasing on *mining concessions* or plants for processing, smelting and refining are subject to the ordinary law. The lessee may only sublet the plant with written authorization of the holder of the concession, without prejudice to the compliance of the holder's obligations to the State.

It is prohibited to sublet *mining concessions*.

Art. 117.- Term of Lease.- Contracts of lease of *mining concessions* and plants for processing, smelting and refining may be celebrated for a term not exceeding that set out in the mining title. The consideration may be in money, in kind, or whatever form the consenting parties agree.

CHAPTER III CONTRACT OF MINING FINANCING

Art. 118.- Mining Financing.- A contract of mining financing is one where a natural or legal person, local or foreign, commits himself to supply funds, goods

or specific services for the development of mining activity to the holder of a *mining concession*, to be repaid either in money or in kind. The rates of interest agreed may not be higher than the active rates fixed by the *Board of the Central Bank of Ecuador* and the material shall be valued at the prices prevailing in the internal market.

The person who commits himself to provide funds, goods or specific services for the development of the mining activity is called a financier and the receiver, the financee.

Any matter will be governed by the provisions of Article 1488 of the Civil Code.

If the payback is in mineral substances the financier must have a trading license as provided for in this Law.

The financier must register in the Central Bank of Ecuador.

Art. 119.- Early Termination.- When the mining finance contract is for a quantity, time or other determining measure, any of the parties may withdraw from it at any time. If the one who withdraws is the financee he must pay what is due; if it is the financier who withdraws he loses the finance already credited; however, the parties may agree on some other arrangement.

Art. 120.- Incompliance of the Financier.- If the mining financier refuses to provide the resources in the period agreed, the financee may sue him for payment or contract another financing which will enjoy preference over the first, as to payment, and leaving the first liable to pay indemnity for any harm done.

Art. 121.- Fraudulent Non-Compliance by the Financee.- Unless otherwise agreed, the administration of the mining concession during the financing term remains in the hands of the financee.

However, if the mining financee invests the money or material of the financing in another project without the consent of the mining financier, the latter will have the right to request intervention, without prejudice to any penal liability that the financee may incur.

Art. 122.- Participation of the Financier.- If the mining financee is found to be unable to return the resources the financier will have the right to participate in the administration of the mine, with preference over any other creditor, until he has collected what is due.

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

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

CHAPTER IV MORTGAGES

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

Art. 125.- Extent of the Mortgage.- Unless otherwise agreed, the mortgage on a mining concession also covers the accessory goods referred to in Article 7, but subordinated to any specific pledge that may be constituted on them.

It is permissible to constitute liens on the other personal property destined for the operation of the concession and, if desired, on the mineral substances extracted from the deposit.

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

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

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

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

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

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

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

CHAPTER V MINING CONTRACTS OF TRANSITORY UNION

Art. 133.- Contracts of Transitory Union.- Natural and legal persons, local and foreign, legally established in the country, may celebrate contracts of transitory union for the development of any phase of mining activity and the performance of works, projects, jobs, services and supplies for a fixed time.

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

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

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

CHAPTER VI OPERATION CONTRACTS

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

Art. 138.- Content and Effect of the Contracts.- In mining operation contracts the contractor will invest his own resources for his sole account and risk, supplying all the capital and technology needed, and performing the work specified in the contract, in exchange for a remuneration of a percentual participation in the production or the results. The owner will maintain unchanged his mining rights and the obligations undertaken towards the State of third parties.

**TITLE IX
CONDOMINIUMS AND COOPERATIVES
DEVOTED TO MINING ACTIVITY**

**CHAPTER I
CONDOMINIUMS AND COOPERATIVES**

Art. 139.- Constitution of a Mining Condominium.- A condominium on a mining concession is constituted when the State issues a mining title to various natural persons who have requested it in a single document, subject to the pertinent dispositions of this Law.

Art. 140.- Responsibility of Participants.- Condominium does not suppose the existence of a company legally constituted. The participants are jointly liable for the obligations emanating from their condition of mining title holders.

The participants shall designate an attorney-in-fact by a Public Deed inscribed in the Mining Register kept by the Registrar of Property. If they do not do so, notice delivered to one of them shall take effect as legal notice to all.

Art. 141.- Rights and Obligations of Cooperatives.- Cooperatives dedicated to performing mining activities enjoy the same rights and have the same obligations as this Law establishes for the holders of mining rights and may enter into association with, and celebrate all types of mining contracts with, natural or legal persons, local or foreign.

**TITLE X
SPECIAL REGIMES**

**CHAPTER I
ARTISAN MINING**

Art. 142.- (Abolished)

Replaced by:

Art.... Small Scale Mining.- Small scale mining consists in that one which takes into account the area of concessions, volume of processing and production, amount of investments, capital and technological conditions duly qualified by General Regulation.

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

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

CHAPTER II CONSTRUCTION MATERIALS

Art. 147.- (Abolished)

Art. 148.- (Abolished)

Replaced by:

Art.... Free Use of Construction Materials for Public Works.- A free use of construction materials for public works shall be made only in areas without concession and shall include indemnification payments when causing any damage to the owners of that land. Taking into consideration both social and public purpose, such free use will be authorized by the Regional Directorate of Mining concerned.

CHAPTER III SURFACE SALT DEPOSITS

Art. 149.- Free Use of Salt Deposits.- Saline deposits that form on evaporation springs at the seashore, lakes, ponds, and springs of salt water may be used freely in activities of subsistence mining or artisan mining, respecting in all cases pre-existing rights and complying with the obligations outlined in Chapter II of Title V of the present Law.

CHAPTER IV MINING ACTIVITIES IN MARINE WATERS AND ON THE SEA BED

Art. 150.- Special Operation Contracts.- The exploitation of mineral substances of any kind in marine waters and on the sea bed is in charge of the *National Directorate of Geology* which may celebrate operation contracts with local or foreign companies subject to the requisites and conditions established in the Special Regulation which will be dictated by the President of the Republic for this purposes.

CHAPTER V INVESTMENT AGREEMENTS IN MINING RESERVE AREAS

Art. 151.- (Abolished)

Replaced by:

Art.... Investment Agreements.- Tax regime applicable to investments in the mining sector will be subject to special treatments and guarantees by means of agreements referred to in Article 271 of the Political Constitution of the Republic. Without affecting the content of such agreements investments in mining activities will have juridical and taxable stability for the term and conditions stated by the Minister of Energy and Mines, by means of ministerial agreement, taking into consideration the amount invested.

Art. 152.- (Abolished)

**TITLE XI
TAXATION AND ECONOMIC DISPOSITIONS**

**CHAPTER I
EXTENT OF APPLICATION AND ON INCOME TAX**

Art. 153.- Special Regime.- Natural and legal persons holders of mining rights contemplated in this Law, condominiums, cooperatives devoted to mining activity, lessees, sub-lessees, transitory unions, mining operation contractors and holders of permits for operation of plants for treatment, smelting and refining of mineral substances shall, for the purpose of paying income tax, conform to the standards of this chapter and, subsidiarily, to those contemplated in the Law of the Internal Tax Regime.

Art. 154.- On Gross Income and Determination of Tax Base.- The gross income will include all ordinary and extraordinary income received in the country and those coming from abroad resulting from mining activity performed in the Republic of Ecuador.

To determine the tax base there will be deducted the expenses incurred to obtain, maintain and conserve the taxed income.

In particular the following deductions will be applied:

- a) Costs and expenses of prospecting, exploration, exploitation, concentration or treatment, smelting, refining, trading and sale of minerals and those relative to the preservation and restoration of the environment;
- b) Taxes on mining activity, as well as the patent fees indicated in Chapter II of this Title;

There may not be deducted the income tax itself, taxes which have been integrated into the cost of goods and assets and taxes that the payer can pass on and obtain tax credit for;

- c) Interest on debts contracted for the operation of the business and the expenses incurred and commissions contracted for the constitution, renewal or cancellation of such debts;

Interest is not deductible in the part that exceeds the rates authorized by the *Board of the Central Bank of Ecuador* nor the interest and financing costs of foreign credits that have not been registered in the Central Bank of Ecuador.

- d) Insurance premiums covering personal risks of the workers, risks on goods used in the mining activity and other liabilities or risks that may occur as a result of that activity, including those of environmental contamination;
- e) Salaries, wages and remunerations in general, social benefits, participation of the workers in profits, payments for labor indemnities whose value shall be obtained by the items established in the Labor Code, in labor laws or in collective labor contracts. A surplus may only be deducted if the corresponding withholding tax has been retained from the beneficiary of the indemnization. Also deductible are Social Security contributions, provisions for employee pensions and contributions to benefit the workers in medical assistance, sanitation, mining-industrial security, schooling, culture, training, professional education and sporting activities;
- f) General administrative expenses, fees, leasing installments, licenses and specific services for the development of the mining activity, including travel expenses of personnel and transport of goods to the extent that it is motivated by the needs and convenience of the mining activity.

Payments made to a head office for general administrative expenses, established in contracts approved by the Ministry of Energy and Mines and registered in the Central Bank may be deducted without any retention up to 5% of the tax base for that fiscal year, calculated before the deduction of those expenses;

- g) Depreciation and write-offs as referred to in Article 155 of this Chapter;

- h) Uncollectible credits when the taxpayer proves to the *Public Income Service* the impossibility of making the collection or effecting the credit, whether due to death, insolvency, disappearance of the debtor, bankruptcy or any other justifiable cause. The credit may be written off even when it has been on the books for less than five years.
- i) Losses due to exchange differentials, for obligations contracted in foreign currency. To be permitted this deduction, the obligations must be registered in the Central Bank of Ecuador.
- j) Losses suffered in a fiscal year may be compensated by profits obtained in the following five fiscal years, not exceeding, in any one period, 50% of the profits obtained;
- k) The cost of leasing exploitation concessions and sub-leasing plants for treatment, smelting and refining; and
- l) Proved loss or damage due to accident, force majeure or crime, affecting pecuniarily the goods of the mining activity or liability to others, insofar as they are not covered by indemnity or insurance.

Art. 155.- Writing off and Depreciation.- All outgoings effected during the period of pre-production, composed of capital outlays, costs and expenses, may be registered as assets to be written off in four years.

Capital investment incurred after the pre-production period may be written off in period of four years.

For writing off and depreciation, any of the methods recommended by accounting technology may be applied. However, once a method is adopted and initiated it cannot be changed.

Art. 156.- Withholding Agent for Rental Services.- The holder of a mining right, members of condominiums, cooperatives dedicated to mining activity, lessees, sub-lessees, transitory unions and mining operation contractors who contract services of leasing of movable goods or licenses of intellectual property from any person who is not resident in the country or is only temporarily present,

shall act as withholding agent for the corresponding income tax, as contemplated in the Law of the Internal Taxation Regime.

Art. 157.- Rates of Mining Income Tax.- The holders of *mining concessions*, members of condominiums, cooperatives dedicated to mining activity, lessees, sub-lessees, transitory unions, mining operation contractors and holders of authorizations to operate plants for treatment, smelting and refining of mineral substances will pay as income tax, according to the case, the rates indicated in Articles 36 & 37 of the Law of the Internal Taxation Regime starting from the first year of their mining activities.

Art. 158.- Taxation on Remittances Abroad.- The owners of direct, sub-regional or neutral foreign investment may remit abroad their profits and dividends up to an average of 20% a year, calculated on the capital registered in the Central Bank of Ecuador, paying only the tax established in the preceding article; on the amount that exceeds 20% there will be applied the treatment contemplated in Articles 38 & 39 of the Law on Internal Taxation Regime for such remittances.

Art. 159.- Special Deduction.- For the purpose of determining the tax base and without taking into account for that calculation the participation of the workers in the profits, there may be deducted from the income the new investment made by legal persons in mining activities.

CHAPTER II PATENTS

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

Art. 162.- Tax Limitation.- Mining entities cannot be burdened with any other tax be it of a national or local nature.

Art. 163.- Powers of Collection.- The *Ministry of Economy and Finance* shall exercise coercitive power for the collection of patent fees, taxes, overdue payment surcharges, fines and other charges such as processing costs derived from collection.

CHAPTER III DUTIES AND TAX EXEMPTIONS

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

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

Art. 165.- Exemption From Value Added Tax.- The importation of mining implements specified in the above article is exempt from any value added tax; in the case that there is local production of similar characteristics to the goods to be imported, the imported ones shall pay the said tax. For that purpose, *the Ministry of Economy and Finance* will decide on the tax based on information received from the *Ministry of Foreign Commerce*.

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

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

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

Art. 168.- Use of Excess Profits.- After distribution of profit sharing with employees, any excess will be destined by the *mining concession holder*,

obligatorily, to the execution of projects to better the infrastructure and for social projects to benefit the people in the area of influence of their activities.

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

The National Directorate of Mining along with the Ministry of Labor and Human Resources, and the *Ministry of Economy and Finance*, in coordination with the state entity with which the execution of said works is related, will verify and control the performance of the same.

CHAPTER IV REGISTERS OF INVESTMENTS AND CREDITS, EXPORT PERMITS AND CONTROL OF CURRENCIES

Art. 169.- (Abolished)

Art. 170.- Registration of Investment and Contracts of Technical Assistance.- All foreign investment which will be made in the mining sector with cash monies, goods or specific services for mining development, must be registered with the Central Bank of Ecuador, subject to the regulations set forth by the *Board of the Central Bank of Ecuador*.

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

Said contracts should be properly protocolized, and registered with the Central Bank as well as with the Directorate of Industrial Property. A copy will also be sent to the General Directorate of Foreign Investment and Technology.

Art. 171.- Registration of Credits Contracted Abroad.- Credits contracted abroad and destined to any phase of mining activity must be registered with the Central Bank of Ecuador and will be exempt from any tax or fee for the registration of said credit.

The currency from such credits should be sold to the Central Bank for conversion to local currency. The Central Bank is obliged to provide foreign currency for the servicing of this debt with the exception of currency for penalties.

In cases approved by the *Central Bank*, the credits obtained abroad can remain abroad and can be used to purchase capital goods and equipment necessary for mining development. The holder of a mining title should present his case to the Central Bank to receive the proper authorization.

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

Art. 172.- (Abolished)

Art. 173.- Export Permits.- For export of minerals under this Law, it is sufficient to comply with the requirements for the issue of the corresponding export permit.

The exemption from taxes does not imply exoneration from service fees.

Art. 174.- (Abolished)

CHAPTER V

Art. 175.- (Abolished)

**TITLE XII
MINING JURISDICTION AND COMPETENCE**

**CHAPTER I
ADMINISTRATIVE JURISDICTION AND SETTLEMENT OF
DISPUTES**

Art. 176. Jurisdiction.- The National Directorate of Mining and the regional directorates of mining will exercise jurisdiction and competence on mining with the functions and attributions conferred on them by the present Law.

Any controversies that may arise between those subject to mining law and administrative authorities on mining matters shall be resolved by the *District Tribunals of Public Administration Litigation*.

Art. 177.- Attributions of the National Directorate of Mining.- The attributions of the National Directorate of Mining are as follows:

- a) To ensure correct application of present Law and the correct application of legal dispositions in mining matters;
- b) To hear and resolve matters that have been acted upon by the regional directorates and have been appealed to the National Directorate, as well as;
- c) To resolve any disputes of competence that may arise between regional directorates of mining;
- d) To hear and resolve in sole instance solicitations of assistance from persons entitled to the administrative protection;
- e) To maintain the National Register of persons involved in the trading of minerals;
- f) To inspect mining activities performed by holders of mining rights; and
- g) Everything else that corresponds to it according to this Law and its regulations.

Art. 178.- Attributions of the Regional Mining Directorates.- The attributions of the regional mining directorates, in their respective jurisdictions, are as follows:

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

CHAPTER II NOTARIZED DOCUMENTS AND THEIR INSCRIPTION IN THE MINING REGISTER

Art. 179.- Functions of the Notary.- Notaries shall draw up mining documents in accordance with Title II of the Notarial Law, without prejudice, and, noting them as mining titles, shall incorporate in the protocol the corresponding administrative resolution, exact map, and a receipt of up-to-date patent fee payments.

For the effect of protocolizing these mining titles, mining contracts and other acts contemplated by this Law, they will be taken as having undetermined quantum. The same treatment will be given in the procedures for inscription in the Mining Register.

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

Art. 180.- Mining Register.- Mining titles, acts and contracts referred to in this Law, should be registered in the Mining Register which will be under the care or responsibility of the Registrar of Property in the county of jurisdiction. This registration will be subject to this Law and its regulations and the *Law of Registration* insofar as applicable, within a period of 30 days from their issuance or celebration.

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

The failure to register within the 30 days mentioned, will make null any mining titles, acts and contracts, except in cases of force majeure which are properly justified before the Regional Directorate of Mining, in which case they will authorize the late inscription. In no case will any inscription be made after 90 days of the granting of a mining title or celebration of any act or contract.

The Registrar of Property will keep the following mining records:

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

TITLE XIII
PROCEDURES FOR GRANTING MINING RIGHTS

CHAPTER I
PROCEDURE FOR GRANTING *MINING CONCESSIONS*

Art. 181.- Presentation of Application.- The petition for the granting of a *mining concession* should be presented to the Regional Directorate of Mining in the proper jurisdiction. If the area in question is in more than one jurisdiction, the petition shall be presented to the Regional Directorate in which the most area of the concession lies.

The method of presentation, requirements and procedures for solicitation of the concession, including complaints as to cross filing or date of filing are subject to the dispositions of this Law and its Regulation.

Art. 182.- Concession Title.- At the culmination of the application procedures, the Regional Director of Mining, by means of a resolution, will grant a title for a *mining concession*. This title, in order to be valid, must mention the term of the concession and will be subject to completion of requirements mentioned in Articles 179 & 180.

A copy of the mining title, which has been properly inscribed in the Mining Register, should be promptly presented to the Regional Directorate of Mining so that it can be immediately incorporated into the National Concession Map.

(Art. 183.)

(CHAPTER II)

(Art. 184.)

(Art. 185.)

CHAPTER III
**PROCEDURE FOR INSTALLING PROCESSING PLANTS,
SMELTERS AND REFINERIES**

Art. 186.- Requirements and Presentation of Applications.- Petitions requesting installations of processing plants, smelters, and refineries shall be presented to the Regional Directorate of Mining in the corresponding jurisdiction. These petitions will observe the requirements imposed under the regulations of this Law as to procedures, requisites and processing.

Art. 187.- Authorization for Installation of Plants.- The Regional Director of Mining, by means of a resolution, will grant permission for the installation of processing plants, smelters, and refineries. These permits, once properly registered in the Mining Register, shall be the only documents giving title to this right.

TITLE XIV
**PROCEDURES FOR PROTECTION
AND DEFENSE OF MINING RIGHTS**

CHAPTER I
ADMINISTRATIVE PROTECTION

Art. 188.- Request for Legal Assistance.- The title holders of mining rights who need assistance under the law should present a complaint and petition to this effect, in writing, to the National Director of Mining. This petition should contain a detailed relation of the happenings and an indication of the persons, natural or legal, or authorities causing the invasion, despoilment or other form of perturbation. The petition should be accompanied by a copy of the Mining Title as well as proof of payment of the patent fees.

Art. 189.- Administrative Inspection.- After acceptance to process the complaint, the National Director of Mining will immediately give notice as to a day, time and location where the act of administrative inspection will take place. The inspection will take place within 5 days and it will be presided by the chief of the *National Technical Service* or his delegate. This official will personally

establish the facts that led to the complaint as well as receive testimony and have expert examinations performed.

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

Art. 190.- Inspection Report.- Within 5 days after the culmination of the administrative inspection, the chief of the *National Technical Service* will present his report to the National Director of Mining, annexing all pertinent documents and reports.

Art. 191. Resolution.- The National Director of Mining, within 5 days of having received the inspection report, will issue a resolution as to whether or not the plea for legal assistance under the law is granted or denied.

Art. 192.- Inadmissible Request for Legal Assistance.- If the defendant in a complaint has a valid mining title for the area in question, the National Director of Mining will deny the plea for legal action. This shall not prejudice the exercise of legal recourse to which the parties are entitled.

Art. 193.- Order of Abandonment and Dislodgement.- The National Director of Mining, on the basis of the petition filed by the complainant and under the authority of the resolution of legal assistance, shall issue an order of abandonment to the illegal occupant of the mining area which is the object of the case. The illegal occupant has 3 days to comply voluntarily, at which point removal by force is authorized.

If the illegal occupant does not abandon voluntarily, the National Director of Mining, on request of the complainant, will order removal by force. This dislodgement will be the responsibility of the General Intendant of Police in the corresponding province.

Art. 194.- Penalties for Illegal Occupancy.- Those persons with the intention of obtaining benefit for themselves or others, individually or collectively, by illegally occupying *mining concessions*, or violate the rights of the State or holders of mining titles, will be punished according to the provisions stated in the first un-

numbered article added to Article 575 of the Penal Code, modified by Supreme Decree 2969 published in the Official Register number 714 of November 20, 1978, and with a fine of 10 to 200 minimum monthly salaries as well as confiscation of equipment, tools and production, without prejudice to a demand for administrative protection.

CHAPTER II INTRUSION INTO MINING WORKS

Art. 195.- Reporting Intrusion.- Accusation of intrusion into mining works should be made to the Regional Directorate of Mining in the corresponding area of jurisdiction, accompanied by the concession title as well as certification of payment of patent fees up to date.

Immediately, and notifying the parties, the Regional Directorate of Mining will order the Regional Technical Service to inspect the area and issue a report, based on which it shall order the suspension of work in the area of dispute and issue a resolution to settle the controversy.

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

CHAPTER III EASEMENTS

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

Art. 197.- Conciliation Hearing.- Two days after receiving the request for an easement, the Regional Director shall order the *Regional Technical Service* to commission one of its officials to hold a conciliation hearing within five days at

the site in question. The parties may designate their experts at this hearing. The official designated by the Technical Service will serve as official arbiter.

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

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

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

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

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

Art. 200.- Recourse of Appeal.- The decision of the Regional Director may be appealed to the National Director within 3 days of notification of the resolution. The decision of the National Director will be final.

Art. 201.- Protocolization and Inscription.- The resolution regarding the easement will be protocolized in a notary and inscribed in the Mining Register kept by the Registrar of Property.

**TITLE XV
PROCEDURES FOR RESIGNATION AND
TERMINATION OF MINING RIGHTS**

**CHAPTER I
PROCEDURE FOR REDUCTION AND RESIGNATION**

Art. 202.- Resignation of Mining Hectares.- Rights to one or more mining hectares contained within a mining concession may be given up only when this giving up does not prejudice third parties. Giving up claim to a portion and not an entire mining concession will be known as partial resignation.

Art. 203.- Voluntary or Conflictive Jurisdiction.- The approval of a voluntary reduction of mining hectares can become conflictive if such act is appealed by third persons claiming damage.

Art. 204.- Petitions for Resignation.- The petition for the giving up of claim to one or more mining hectares shall be presented to the Regional Directorate of Mining in the corresponding jurisdiction and contain an express request to order the cancellation.

The petition shall attach the following documents:

- a) The concession title;
- b) Up to date receipts of payment of patent fees; and
- c) Up to date certificates of mortgages, easements, and any other liens upon the concession.

Art. 205.- Form and Improvement.- Once the reduction of an area is approved, the corresponding public deed will be issued, identifying by name the concession which includes the mining hectares subject of the resignation, mentioning the details of inscription of the concession. There must also be protocolized in the

deed the instruments proving compliance with the legal or regulatory requirements that support the resignation.

Art. 206.- Third Parties.- If it appears from the initial papers that the resignation affects or might affect third parties, the Regional Director of Mining shall order the resigning party to evidence by public deed their consent to the resignation.

If there is no consent from third parties, the Regional Director of Mining shall order that third parties be notified by publication, one time only, in a newspaper of national circulation, and if there is any, of local circulation.

Art. 207.- Opposition.- Legal means for objecting to an attempt to resign will include the following: contracts of promise, mortgage, financing, lease, exploitation, contracts of sale of minerals, and embargoes with respect to the concession which includes the mining hectares being resigned.

The presentation of one claim against the resignation of mining hectares converts the process into a conflict that is to be resolved by the Regional Directorate of Mining. The decision of the Regional Directorate may be appealed to the National Directorate of Mining within 5 days of the notification of the parties involved.

Art. 208.- Approval of Resignation.- Once the resolution approving the modification of the area is approved and is inscribed in the Mining Register, the renouncing party will provide a certified copy to the Regional Directorate of Mining for the modification of the National Concession Map.

CHAPTER II PROCEDURES FOR TERMINATION OF MINING RIGHTS

Art. 209.- Expiration by Law.- The regional directors of mining, by authorization of this Law, may declare a concession expired when the title holders have not complied with Article 104 of this law. There is no appeal and the area will become free and clear.

Art. 210 to Art. 213.- (Abolished)

Art. 214.- Annulment Procedure.- In the cases of annulment based on accusation of a third party, the *preceding article* will be applied in so far as they are applicable.

GENERAL DISPOSITIONS

Art. 215.- Discovery of Radioactive Minerals.- In the event that radioactive minerals or substances are found in economically exploitable concentrations as a result of any activity described in this law, the owner of the mining right will report the find immediately to the Ecuadorian Commission on Atomic Energy.

Art. 216.- Imposition of Fines.- The infractions mentioned in Articles 72 & 73 of this law, will be punishable by a fine of no less than 20 minimum monthly salaries and no more than 100. This fine will be imposed by the regional directors of mining and will be determined according to the gravity of the infraction. This fine does not prejudice any other legal or penal action that could result from these actions.

The right to defense of the alleged violators, will be respected in every case.

Fines will be paid to agencies legally established to receive such funds and fines will be destined for the National Directorate of Mining via the General State Budget.

Art. 217.- Judicial Procedures.- Controversies arising in reference to mining contracts whether by individuals, legal entities, mixed-economy companies, communal or artisan and private sectors will be under the jurisdiction of the Civil Courts and shall be given process according to the argument in open court system in summary or executory mode, according to the case, under the Code of Civil Procedure.

Art. 218.- Chamber of Industry.- From the date of this Law forward, the National Chamber of Mines of Ecuador, being a Chamber of Production, will enjoy the same rights as have been granted by legal and regulatory dispositions to the other chambers of production in the country. This modifies any general laws or regulations pertaining to the chambers of production.

TRANSITORY DISPOSITIONS

Replaced by:

FIRST.- Petitions in Process.- Petitions that were presented to regional mining directorates or in the National Directorate of Mining in order to obtain mining exploration or exploitation concession titles according to the preceding Mining Law and are found to be in process, shall be reformulated according to the current Mining Law and its Regulation and presented within a time period of thirty days from the date of publication of that Regulation in the Official Register.

When reformulating petitions the right of preference acquired according to the Mining Law in force before the present Law will be respected.

In any case, when reformulating petitions, petitioners shall include the receipt of payment of the administrative process fee.

A failure to reformulate petitions within the term mentioned in first paragraph will cause filing of the first petition and automatic elimination of the area from the cadastral map without any declaration and/or notification.

SECOND.- Substitution of Titles.- The holders of exploration and exploitation concessions issued in accordance with dispositions of the Mining Law in force before this Law, must request substitution of the titles at the Directorate of Mining concerned, by mining concession titles referred to in this Law, within sixty days after its publication in the Official Register.

When applying for substitution of title, exploration and exploitation concessionaires shall submit payment of patent fees and royalties, as well as environmental studies and concession status, including tax payment certification, mining contracts, mortgages, easements and prohibitions to sell issued by the respective Registrar of Property.

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

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

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

Payment of conservation patent fees established by this Law will be made from the date when the term of the substituted exploration concession expires.

In the case of exploitation concession titles, payment of patent fees shall be made till the date of presentation of the substitution request as established by the Mining Law in force before the present Law.

FOURTH.- Procedures in Process.- Administrative procedures on mining rights conservation and extinction which compete to the National Directorate of Mining and the regional directorates, which are still pending to have a resolution at the moment of issuing this Law, will continue until conclusion in accordance to Mining Law stipulations in force before the present Law.

FINAL DISPOSITIONS

First.- Regulations.- The President of the Republic will dictate the regulation or regulations mentioned herein that are necessary for the application of this Law.

Second.- Derogations.- There are hereby derogated the general and special legal dispositions, rules and regulations of mining issued before the promulgation of the present Law, especially Decree Law 06 published in the Official Register 255 on August 22, 1985 and its regulations.

Third.- Effective Date.- This law will become effective upon its publication in the Official Register. Its provisions will prevail over other general and specific laws until such time that another law is passed to change or repeal this Law. In consequence, laws or decrees that contradict this precept will not be applicable.

Fourth.- Tax Provisions.- The tax provisions of this law will take effect January 1st, 1991 for calculation and payment of income and corporate taxes.

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

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

Dr. Edelberto Bonilla Oleas - President

Camilo Restrepo Guzmán - General Secretary

National Palace, in Quito, May 28th, 1991

Be it promulgated
Rodrigo Borja
Constitutional President of the Republic

This is a True Copy: I Certify it.
Gonzalo Ortiz Crespo
General Secretary of the Public Administration
(OR-S 695: May 31st 1991)

