

Thursday, June 04, 1992

ENERGY AND MINES

Consolidated Text of the General Mining Law

SUPREME DECREE No. 014-92-EM

(*) The present Supreme Decree was published on 06-03-02 without attaching the Consolidated Text, which was published on this date.

(**) In accordance with the Sole Interim Provision of Decree Law No. 25998 published on 12-26-92, contracts signed pursuant to Article 35 of Legislative Decree No. 109 prior to the entry into force of this Consolidated Text shall be governed by the provisions contained therein and those in effect at the time of their signing.

(***) In accordance with Article 5 of Supreme Decree No. 015-2001-EM published on 03-29-2001, as of the entry into force of this decree, all mentions of the Public Mining Registry shall be understood as referring to the National Institute of Concessions and Mining Cadastre (*Instituto Nacional de Concesiones Y Catastro Minero* - INACC).

CONCORDANT STATUTES:

Supreme Decree No. 018-92-EM
Supreme Decree No. 023-92-EM
Supreme Decree No. 025-92-EM (Unified Text of Administrative Procedures)
Directorial Resolution No. 163-92-EM-DGM; Art. 1
Supreme Decree No. 019-93-EM (Unified Text of Administrative Procedures)
Supreme Decree No. 024-93-EM
Supreme Decree No. 03-94-EM (Regulations)
Supreme Decree No. 07-94-EM
Supreme Decree No. 40-94-EM; Art. 1
Law No. 26615
Supreme Decree No. 055-99-EM (Unified Text of Administrative Procedures)
Law No. 27343
Law No. 27474
Supreme Decree No. 015-2001-EM
Supreme Decree No. 026-2001-EM
Supreme Decree No. 029-2001-EM
Ministerial Resolution No. 271-2003-EM-DM
Regulations No. 052-2004-SUNARP-SN (Regulations for Entries in the Mining Rights Registry)
Executive Resolution No. 2965-2005-INACC-J
Supreme Decree No. 033-2005-EM (Regulations for Mine Closure)
Executive Resolution No. 4696-2006-INACC-J (Allocates amount collected as payment of the Good Standing Fee [*Derecho de Vigencia*] to keep mining rights in effect and for filing Applications for Mining Concessions [*Petitorios Mineros*] in the month of September 2006).
Supreme Decree No. 084-2007-EM (Regulates the Mining Rights and Cadastre System (*Sistema de Derechos Mineros y Catastro* - SIDEMCAT) and modifies regulations for the mining procedure to adapt them to the regionalization process)

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The General Mining Law was enacted by Legislative Decree No. 109 and the Law on Promotion of Investment in the Mining Sector was enacted by Legislative Decree No. 708, the latter law partially amending the General Mining Law;

Interim Provision Nine of Legislative Decree No. 708 establishes that the Consolidated Text of the General Mining Law incorporating the provisions of the aforementioned Legislative Decree shall be approved by Supreme Decree countersigned by the Ministry of Energy and Mines.

Pursuant to the provisions of Article 211.26 of the Peruvian Constitution;

DECREES:

Article 1. – The Consolidated Text of the General Mining Law forming part of this Supreme Decree and consisting of fifteen Sections, fifty-four Chapters, two hundred twenty-six Articles, sixteen Interim Provisions and eight Final Provisions is hereby approved.

Article 2. - The amendments introduced by Legislative Decree No. 708 to Legislative Decree No. 109 contained in the Consolidated Text approved by the present Supreme Decree shall apply from the date of entry into force of Legislative Decree No. 708, save those in which the text indicates a different date. (*)

(*) Legislative Decree No. 708, the complete text of which has been incorporated into the present Consolidated Text, was enacted on 11-06-91 and published in the "El Peruano" Official Gazette on 11-14-91.

Article 3. - While the rational decentralization and/or de-concentration plan is being prepared according to the needs of the regions as described in Article 2.9 of Decree Law No. 25418, Framework Law on the Government of Emergency and National Reconstruction, the functions assigned to the Administrative Mining Authorities by the General Mining Law shall be governed by the provisions of Supreme Decree No. 002-92-EM/VMM.

Issued at the Government House in Lima on June second, nineteen ninety two.

Signed by the Constitutional President of the Republic

JAME YOSHIYAMA TANAKA
Minister of Energy and Mines

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GENERAL MINING LAW

CONSOLIDATED TEXT

PREAMBLE

I. The present Law encompasses everything relative to the use of mineral substances in the soil and subsoil of national territory, as well as the maritime domain. Crude oil and analogous hydrocarbons, guano deposits, geothermal resources and medicinal mineral waters are excluded from the scope hereof.

(Preamble, paragraph I, Legislative Decree No. 109)

II. All mineral resources belong to the State, whose ownership is inalienable and imprescriptible.

The State evaluates and preserves the natural resources, for which purpose it must develop a basic information system to promote investment, regulate the mining activity nationwide; and oversee that activity in accordance with the basic principle of administrative simplification.

Mineral resources are exploited through State and private enterprises, under the concession system.

(Art. 17, Legislative Decree No. 708)

III. The State protects small- and medium-scale mining and promotes large-scale mining.
(*)

(Preamble, paragraph IV, Legislative Decree No. 109)

(*) Paragraph preplaced by Article 4 of Law No. 27651 published on 01-24-2002, the text of which is the following:

III. The State protects and promotes small-scale mining and artisanal mining, as well as medium-scale mining, and promotes large-scale mining."

IV. The mining concession is bound by an obligation consisting of an investment for the production of mineral substances.

(Art. 28, Legislative Decree No. 708)

V. The mining industry is of public interest and the promotion of investments in mining activity is of national interest. (*) CORRECTED BY ERRATA.

(Art. 1, Legislative Decree No. 708)

CONCORDANT STATUTES: Supreme Decree No. 021-2003-EM
 Supreme Decree No. 022-2003-EM
 Supreme Decree No. 023-2003-EM

VI. The following are mining industry activities: informal exploration, prospecting, exploration, production, general work, beneficiation, commercialization and mining transportation.

The classification of mining activities falls to the State.

In order to engage in the aforementioned activities, the State or private entities shall comply with the provisions established in the present Law.

(Preamble, paragraph VII, Decree Law No. 109 and Art. 20 (b), Legislative Decree No. 708)

CONCORDANT STATUTES: Attachment Supreme Decree No. 033-2005-EM, Art. 2

VII. Except for informal exploration, prospecting and commercialization, mining activities are carried out exclusively under the concession system, which accessed following procedures that are public policy. Concessions are granted to both State and private enterprises, without distinction or privilege.

(Art. 18 and 19, Legislative Decree No. 708)

SECTION ONE

MINING ACTIVITIES AND WAYS OF PERFORMING THEM

SECTION I

INFORMAL EXPLORATION AND PROSPECTING

Article 1.- Informal exploration is the action aimed at revealing evidence of mineralization through elementary mining work.

Prospecting is research designed to identify areas of potential mineralization using physical and chemical data and measurements with precision instruments and techniques.

(Definitions, Legislative Decree No. 109)

Article 2.- Informal exploration and prospecting are free throughout national territory. These activities may not be performed by third parties in mining concession areas, non-claimable areas or fenced-in or cultivated lands, except with prior written permission from the holder or owner, as applicable.

Informal exploration and prospecting are prohibited in urban or urban expansion areas; in areas reserved for national defense; at archeological sites; and on public properties, except with prior authorization from the competent entity.

(Art. 18, Legislative Decree No. 708).

CHAPTER II

COMMERCIALIZATION

Article 3.- The commercialization of mineral products is free, internally and externally, and does not require the grant of a concession.

(Art. 20, final paragraph, Legislative Decree No. 708)

Article. 4.- The mineral products purchased from persons authorized to sell them are not subject to repossession. Purchases from non-authorized persons

subjects the buyer to the applicable liability. The purchaser is obligated to verify the origin of the mineral substances.

(Art. 38, Legislative Decree No. 708).

Article. 5. - Supreme Decree No. 005-91-EM/VMM on the free commercialization of gold is hereby given the force of Law.

(Art. 23, Legislative Decree No. 708)

CHAPTER III

OTHER MINING ACTIVITIES

Article 6.- The State may, by express law, declare certain mineral substances to be reserved.

(Art. 5, Legislative Decree No. 209)

Article 7.- Exploration, production, beneficiation, general work and mining transportation activities may be executed by national or foreign individuals and legal entities through the concessions system.

(Art. 8, Legislative Decree No. 109)

SECTION TWO

CONCESSIONS

CHAPTER I

MINING CONCESSIONS (*)

(*) In accordance with Article 1 of Supreme Decree No. 31-94-EM published on 06-24-94, the admission of applications for Mining Concessions is suspended from that date until 12-31-94.

Article 8.- Exploration is the mining activity aimed at demonstrating the dimensions, position, mineralogical characteristics, reserves and values of mineral deposits.

Production is the activity of extracting the minerals contained in a deposit.

Development is the activity performed to enable the production of the mineral contained in a deposit.

(Definitions, Legislative Decree No. 109)

Article 9.- The mining concession grants its holder the right to explore and produce the mineral resources found within a solid area of indefinite depth, limited by the vertical planes corresponding to the sides of a closed square, rectangle or polygon, the vertices of which are referred to Universal Transversal Mercator (UTM) coordinates.

The mining concession is distinct and separate property from the land where it is located.

The integral and accessory parts of a mining concession remain real property even if they are located outside its perimeter, except if differentiation of the accessories is stipulated by contract.

The integral parts of the mining concession include the work performed to make use of such substances. The accessory parts are all the personal properties owned by the concessionaire which are permanently applied to the economic purpose of the concession.

(Art. 20 (a), Legislative Decree No. 708 and Art. 16, Legislative Decree No. 109).

Article 10. - The mining concession grants its holder a right *in rem*, consisting of the sum of the attributes which this Law affords the concessionaire.

Concessions are irrevocable as long as the holder complies with the obligations required by this law to keep them in effect. (*)

(Art. 17, legislative Decree No. 109)

(*) In accordance with Article 6 of Decree Law No. 25998 published on 12-26-92, the principle established in the first paragraph of this article is also applicable to beneficiation, mining transportation and general work concessions.

Article 11.- The basic unit of surface measurement for the mining concession is a geometric figure delimited by UTM coordinates with an area of 100 hectares, in accordance with the Grid System to be made official by the Ministry of Energy and Mines (*) CORRECTED BY ERRATA.

Concessions shall be granted in areas of 100 to 1,000 hectares, in grids or a set of grids bordering on at least one side, except in the maritime domain, where they may be granted in grids of 100 to 10,000 hectares.

The area of the mining concession may be divided into grids of no less than 100 hectares. For this purpose, the application submitted by the concessionaire shall suffice.

(Art. 20 (a), Legislative Decree No. 708).

Article 12.- If there are claims or applications for mining concessions filed prior to December 15, 1991 within an area enclosed by a grid, the new applications shall only cover the free areas of the grid or set of grids.

(Art. 20 a), Legislative Decree No. 708)

CONCORDANT STATUTES: Supreme Decree No. 35-94-EM; Art. 1
 Executive Resolution No. 04200-2000-RPM
 Supreme Decree No. 03-94-EM, Art. 16

Article 13.- Mining concessions granted after December 15, 1991 shall be classified into metallic and non-metallic, based on the type of substance, without any overlapping or priority between them.

The mining concession may be converted to a different substance than the one for which it was initially granted; for this purpose, a statement submitted by the concessionaire shall suffice.

(Art. 21, Legislative Decree No. 708).

Article 14.- In accordance with the provisions of Decree Law No. 21419, Legislative Decree No. 613 and Supplementary Provision Seven of the Law on Promotion of Investments in the Agrarian Sector, Legislative Decree No. 653, neither metallic concessions nor extensions of non-metallic extensions may be established on protected agricultural areas or on rural lands for agricultural use, excluding the natural pastures between the latter.

In urban or urban expansions areas, the title to the concession shall be granted after authoritative resolution from the respective Provincial Council

For this purpose, if the Provincial Council does not issue a decision within sixty calendar days after the filing of the application, it shall be deemed approved.

(Art. 22, Legislative Decree No. 109)

Article 15.- The non-metallic concession for saline substances up to the first processing of the product is subject to this Chapter, their use and commercialization being regulated by the applicable provisions.

(Art. 25, Legislative Decree No. 109)

Article 16.- Radioactive substances are no longer reserved for the State and are therefore open to private mining activity.

(Art. 27, Legislative Decree No. 708)

CHAPTER II

BENEFICIATION CONCESSIONS

Article 17.- Beneficiation is the group of physical, chemical and/or physiochemical processes performed to extract or concentrate the valuable parts of a mineral aggregate and/or to purify, smelt or refine metals. It includes the following stages:

1. Mechanical Preparation.- Process by which a mineral is reduced in size, classified and/or washed.

2. Metallurgy.- Group of physical, chemical and/or physiochemical processes performed to concentrate and/or extract the valuable mineral substances.

3. Refining.- Process for purifying the metals in the products obtained from the previous metallurgical procedures.

(Definitions, Legislative Decree No. 109 amended by Article 20 (b), Legislative Decree No. 708)

Article 18.- The beneficiation concession grants its holder the right to extract or concentrate the valuable part of a mineral aggregate and/or to smelt, purify or refine metals through a group of either physical, chemical and/or physiochemical processes.

(Art. 20 (b), legislative Decree No. 708).

"The group of physical, chemical and/or physiochemical processes performed by artisanal mining producers to extract or concentrate the valuable parts of a mineral aggregate and/or to purify, smelt or refine metals is not included within the scope of this Section. In order to carry out these processes, it shall only be necessary to file an application accompanied by technical information and an Environmental Impact Statement signed by a competent professional in the field. The respective authorization shall be issued by the General Mining Directorate." (*)

(*) Paragraph added by Article 5 of Law No. 27651 published on 01-24-2002.

CHAPTER III

GENERAL WORK CONCESSIONS

Article 19.- General work is any mining activity that provides auxiliary services such as ventilation, drainage, lifting or extraction to two or more concessions belonging to different concessionaires.

(Definitions, Legislative Decree No. 109)

Article 20.- The general work concession grants its holder the right to provide auxiliary services to two or more mining concessions.

(Art. 20 (c), Legislative Decree No. 708)

Article 21.- If waters containing usable mineral matters are discovered in the course of general work, the use of such waters shall belong to the general work concessionaire unless otherwise agreed.

(Art. 78, Legislative Decree No. 109)

CHAPTER IV

MINING TRANSPORTATION CONCESSION

Article 22.- Mining transportation is any system used for the continuous mass transportation of mineral products using non-conventional methods.

The systems to be used may be:

- Conveyor belts;
- Piping; or,
- Cable car.

The General Mining Directorate may add new systems to this definition with a favorable report from the Ministry of Transportation and Communications and opinion from the Mining Council.

(Definitions, Legislative Decree No. 109, Article 20 (d), Legislative Decree No. 708)

Article 23.- The mining transportation concession confers upon its holder the right to install and operate a continuous mass transport system for mineral products between one or more mining centers and a port or beneficiation plant or refinery, or in one or more sections of these routes.

(Art. 20 (d), Legislative Decree No. 708)

SECTION THREE

THE STATE IN THE MINING INDUSTRY

Article 14. - The State is entitled to engage in all activities in the mining industry, without exception.

(Art. 28, Legislative Decree No. 109)

Article 25. - The Ministry of Energy and Mines may only authorize non-claimable areas to the Institute of Geology, Mining and Metallurgy (*Instituto Geológico, Minero y Metalúrgico* - INGEMMET) for terms of no more than two calendar years, for the sole purpose of allowing said Institution to perform regional mining prospecting work, respecting vested rights.

Each of these areas shall not cover more than one hundred thousand (100,000) hectares.

INGEMMET, at its own risk, may make the studies containing the information on its regional prospecting work available to the public for a price one month before expiration of the granted term, at the end of which they shall be freely available . (*) CORRECTED BY ERRATA (*).

(Art. 25, Legislative Decree No. 708)

(*) Article amended by the Sole Article of Law No. 28196 published on 03-27-2004, the text of which is the following:

"Article 25.- The Ministry of Energy and mines may only authorize non-claimable areas to the Institute of Geology, Mining and Metallurgy - INGEMMET, for terms of no more than two calendar years, for the sole purpose of allowing said institution to perform regional mining prospecting work, respecting vested rights and areas bordering on the country's archeological sites.

Each of these areas cannot cover more than one hundred thousand (100,000) hectares.

INGEMMET, at its own risk, may make the studies containing the information on its regional prospecting work available to the public for a price one month before expiration of the granted term, at the end of which they shall be freely available, with the following exceptions:

a) The Agency for Promotion of Private Investment - PROINVERSION or its replacement, in agreement with the Regional Governments, may take charge of the process of promoting investment in all or part of such areas when approved by its Board of Directors within the two-year term indicated in the first paragraph of this Article, ratified by supreme resolution; and establishing the mechanism for compensating the expenses incurred by INGEMMET. In this case, the incorporated areas shall have the status of areas where claims and/or applications for mining concessions are not allowed, and shall remain as such depending on the outcome of the process, until legal entitlement to the mining concession is granted. The National Institute of Concessions and Mining Cadastre - INACC shall grant the mining concessions for those areas to the successful bidder who acquires title or exercises the option, as established in the contract. If the transfer agreement or mining option agreement is not signed within the term of two (2) years after the aforementioned supreme resolution is issued, the respective areas shall be declared freely available.

b) PROINVERSION or its replacement may ask the Ministry of Energy and Mines to incorporate an area of up to one hundred thousand (100,000) hectares into the investment promotion process in accordance with the technical-economic studies for the project and within the respective radius with respect to the mining concessions included in said promotion process, respecting vested rights. These incorporated areas shall have the status of areas where claims and/or applications for mining concessions are not allowed until legal entitlement to the mining concession is granted.

c) The incorporation to which the above paragraph refers shall be approved by supreme decree with the affirmative vote of the Council of Ministers and for a term of two (2) years. If the aforementioned term expires and the transfer agreement or mining option agreement have not been signed within the time period set forth in the bidding conditions, the areas shall be declared freely available."

Article 26. When agencies or offices of the National Public Sector acquire concessions granted to private enterprises on any basis, they must put such concessions up for public auction within three months following the acquisition. If there are no bidders, they shall be declared freely available for claims in accordance with the rules established herein for such purposes.

(Art. 31, Legislative Decree No. 109)

Article 27.- State mining activities, with the exception of commercialization, shall be performed by the Empresa Minera de Perú directly and/or through affiliates or subsidiaries.

(Art. 50, Legislative Decree No. 109 and Art. 26, Legislative Decree No. 708).

Article 28.- The selling prices and/or rates for treatment and/or refining services for the mineral products shall be those that are appropriate for each product based on representative international quotes and within the general terms for international transactions. In the absence of representative international quotes, the selling price and/or rates for treatment and/or refining services shall be set following regular international standards.

(Art. 36, Legislative Decree No. 109)

Article 29. - In purchases and/or treatment and/or refining services by the domestic market of mineral products which are exported, the price to be paid for

such products shall be calculated in accordance with the preceding article. In the case of purchases, the expenses and losses incurred in placing the products on the international market shall be deducted.

(Art. 38, first paragraph, Legislative Decree No. 109)

Article 30.- The importation of mineral products required by the domestic market shall be governed by the terms and prices of the international market. The re-exportation of the mineral products shall also be subject to the provisions of Article 28.

(Art. 38, second paragraph, Legislative Decree No. 109)

SECTION FOUR

PERSONS DISQUALIFIED FROM ENGAGING IN MINING ACTIVITY

Article 31.- The President of the Republic, members of the Legislative Branch and the Judicial Branch, Ministers of State and government officials who have this ranking, Auditor General, Attorneys General of the Republic and officials and employees of the Energy and Mines Sector appointed or assigned to Senior Management, the Mining Council, the General Mining Directorate, the Mining Oversight Office, the Regional Mining Authorities and the Public Mining Registry may not engage in mining activities during the exercise of their duties or jobs.

The personnel of the agencies or offices of the National Public Sector and Decentralized Government Agencies which have regulatory functions or perform mining activities are also unable to engage in mining industry activities.

(Art. 60, Legislative Decree No. 109)

Article 32.- Political authorities and members of the Armed and Police Forces may not engage in mining industry activities in the territory under their jurisdiction.

(Art. 61, Legislative Decree No. 109)

Spouses and family members who are financially dependent on the persons mentioned in the above articles may not engage in mining activities.

(Art. 62, Legislative Decree No. 109)

Article 34. The prohibition contained in the preceding articles does include mining activities related to rights obtained prior to the election or appointment of the individuals in question, or those acquired by inheritance or bequest after the election or appointment, or those that the spouse brings to the marriage.

(Art. 63, Legislative Decree No. 109)

Article 35. - Acquisition of all or part of the concessions by the individuals mentioned in Articles 31 to 33 is null and void, and what is acquired shall pass to the State at no cost.

Nullity shall be declared by the Head of the Public Mining Registry, ex-officio or upon request when the case is subject to administrative jurisdiction. Once the title to the concession is recorded, an administrative law action may be brought before the courts within the term of 30 days.

(Arts. 64 and 178, Legislative Decree No. 109 and Art. 43, Legislative Decree No. 708).

Article 36.- The partners, directors, representatives, workers and contractors of individuals or legal entities dedicated to mining activity cannot acquire concessions for themselves within a radius of ten kilometers from any point on the perimeter enclosing the area where the concessions of the persons to whom they are related are located, save express authorization from the concessionaire. This prohibition includes the family members who are financially dependent on disqualified persons.

The affected individuals are entitled to be replaced in the respective case file with a term of ninety days from publication of the notice or the service of notice to which Article 122 of this Law refers. If the affected individual does not make use of this right in the aforementioned term, the impediment shall disappear.

(Article 65, Legislative Decree No. 109)

SECTION FIVE

COMMON RIGHTS OF CONCESSIONAIRES

Article 37. Concessionaires enjoy the following rights:

1. In concessions granted on barren land, the right to free mining use of the surface area of the concession, for the economic purposes thereof, without the need or any additional application.

2. To ask the mining authority for the right of free mining use of arid lands located outside the concession for the same purpose.

3. To ask the mining authority for authorization to establish easements on third party lands as needed for the rational use of the concession. The easement shall be established after compensation of the appraised value, if applicable.

The mining authority shall order expropriation ex-officio or upon request of the affected owner if the easement impairs the right of ownership.

4. To request authorization to establish mining use or easements, if applicable, on surface lands of other concessions, provided they do not impede or hinder the mining activity of the concessionaires.

5. To build the facilities on neighboring concessions needed for the access, ventilation and draining of their own concessions, transportation of the minerals and safety of the workers after paying the appropriate compensation if they cause damage and at no charge whatsoever for the servient concession, leaving the minerals resulting from the work performed at the site, cost-free for these concessions. The holders of the servient concessions may use these

facilities by paying the respective compensation, the amount of which shall be set by the mining authority in the absence of an agreement between the parties.

6. To execute the work having the same objectives mentioned in the above paragraph on arable land, with authorization from the General Mining Directorate.

7. To request expropriation of real properties intended for another economic purpose, after compensation of the appraised value, if, in the mining authority's judgment, the area is needed for rational use of the concession and if it is proven that the mining industry has greater importance than the affected activity.

In cases where expropriation involves real properties located in urban or urban expansion areas, the opinion of the Ministry of Transportation, Communications, Housing and Construction or the appropriate Regional Agency shall be requested. (*) CORRECTED BY ERRATA.

8. To use the water needed for domestic service for the workers and for concession operations, in accordance with the applicable legal provisions.

9. To make use of the mineral substances contained in the waters they discover with their work.

10. To inspect the work of neighboring or bordering mining concessions when they suspect invasion or when they fear flood, landslide or fire due to the poor condition of the facilities of such concessions due to the work performed there.

(Art. 79, Legislative Decree No. 109).

11. To hire specialized companies registered with the General Mining Directorate to perform exploration, development, production and beneficiation work. (*)

(*) Paragraph 11 added by Article 2 of Legislative Decree No. 868 published on 11-01-96.

CONCORDANT STATUTES: Supreme Decree No. 043-2001-EM

SECTION SIX

OBLIGATIONS OF CONCESSIONAIRES

CHAPTER I

IN MINING CONCESSIONS

Article 38. In accordance with the provisions of Article 122 the Peruvian Constitution, the mining concession creates an obligation consisting of investment for the production of mineral substances.

Production must not be less than the equivalent in domestic currency of US\$ 100.00 per year per hectare granted for metallic substances and the equivalent in domestic currency of US\$ 50.00 per year per hectare granted for non-metallic substances (*)

(* Second paragraph replaced by Article 6 of Law No. 27651 published on 01-24-2002, the text of which is the following:

Production must not be less than the equivalent in domestic currency of US\$ 100.00 per year per hectare granted for metallic substances and the equivalent in domestic currency of US\$ 50.00 per year per hectare granted for non-metallic substances. In the case of small-scale mining producers, production must not be less than the equivalent in domestic currency of US\$ 50.00 per year per hectare granted, whatever the substance. In the case of artisanal mining producers, production must not be less than the equivalent in domestic currency of US\$ 25.00 per year per hectare granted, whatever the substance."

Production must be obtained no later than the end of eighth year, counted from the year in which the application for the concession was filed. (*)

(* Third paragraph replaced by Article 1 of Law No. 27341 published on 08-18-2000, the text of which is the following:

(* Third paragraph replaced by Article 1 of Law No. 27341 published on 08-18-2000, the text of which is the following:

"Production must be obtained no later than the end of sixth year, counted from the year in which the application for the concession was filed."

Production must be evidenced with itemized sale statements.

In the case of domestic sales, itemized sale statements must be issued by commercialization or beneficiation companies duly registered in the Public Mining registry, or by companies not engaged in mining activities registered with the National Office of Public Registries.

The itemized sale statements must be submitted to the mining authority on the form provided by the authority within 180 days following the end of each calendar year with respect to the sales for that year. (*)

(Art. 28, Legislative Decree No. 708)

(* In accordance with Article 3 of Legislative Decree No. 913 published on 04-09-2001, it is hereby established that in the case of concessions owned by companies incorporated into the promotion of private investment process, the time period mentioned in this article is computed as of the year in which the transfer to the private sector occurs, as established in the regulations.

CONCORDANT STATUTES: Supreme Decree No. 029-2001-EM
Ministerial Resolution NO. 271-2003-EM-DM, Art. 1

Article 39. As of the year in which the application was filed, the mining concessionaire is obligated to pay the Good Standing Fee.

The Good Standing Fee is the equivalent in domestic currency of US\$ 2.00 per year per hectare granted or requested.

For small-scale mining producers and holders of non-metallic mining concessions, the Good Standing Fee shall be the equivalent in domestic currency of US\$ 1.00 per year per hectare granted or requested.

The Good Standing Fee for the year in which the application for the mining concession is filed must be paid and evidenced when the application is filed.

The Good Standing Fee for the second year, computed as of January 01 of the year following that in which the application for the mining concession was filed, must be paid by June 30 of the second year. The same rule shall apply for the following years. (*)

(Art. 20, Legislative Decree No. 708)

(*) Article replaced by Article 3 of Legislative Decree No. 868 published on 11-01-96, the text of which is the following:

"Article 39. - As of the year in which the application is filed, the mining concessionaire is obligated to pay the Good Standing Fee.

The Good Standing Fee is the equivalent in domestic currency of US \$2.00 per hectare per year granted or requested." (*)

(*) Paragraph replaced by Article 2 of Law No. 27341 published on 08-18-2002, the text of which is the following:

"The Good Standing Fee is US\$ 5.00, or its equivalent in domestic currency, per year per hectare requested or granted."

For small-scale mining producers and holders of non-metallic mining concessions, the Good Standing Fee shall be the equivalent in domestic currency of US\$ 1.00 per year per hectare granted or requested. (*)

(*) Paragraph replaced by Article 2 of Law No. 27341 published on 08-18-2000, the text of which is the following:

"For small-scale mining producers, the Good Standing Fee is US\$ 1.00, or its equivalent in domestic currency, per year per hectare requested or granted.

The Good Standing Fee for the year in which the application for the mining concession is filed must be paid and evidenced when the application is filed.

The Good Standing Fee for the second year, computed as of January 1 of the year following that in which the application for the mining concession was filed, must be paid by June 30 of the second year. The same rule shall apply for the following years.

In accordance with Article 9 of the present Law, the mining concession is a distinct and separate real property from the land where it is located; therefore, payment of the Good Standing Fee which the holder of the mining right is obligated to make is independent of the taxes that must be paid by the land owner." (*)

(*) Article replaced by Article 1 of Legislative Decree No. 913 published on 04-09-2001, the text of which is the following:

"Article 39.- As of the year in which the application is filed, the mining concessionaire is obligated to pay the Good Standing Fee.

The Good Standing Fee is US\$ 3.00, or its equivalent in domestic currency, per year per hectare requested or granted.

For small-scale mining producers, the Good Standing Fee is US\$ 1.00, or its equivalent in domestic currency, per year per hectare requested or granted." (*)

(*) third paragraph replaced by Article 7 of Law No. 27651 published on 01-24-2002, the text of which is the following:

"For small-scale mining producers, the Good Standing Fee is US\$ 1.00, or its equivalent in domestic currency, per year per hectare requested or granted. For artisanal mining producers, the Good Standing Fee is US\$ 0.50, or its equivalent in domestic currency, per year per hectare requested or granted."

The Good Standing Fee for the year in which the application for the mining concession is filed must be paid and evidenced when the application is filed.

The Good Standing Fee for the second year, computed as of January 1 of the year following that in which the application for the mining concession was filed, must be paid by June 30 of the second year. The same rule shall apply for the following years.

In accordance with Article 9 of the present Law, the mining concession is a distinct and separate real property from the land where it is located; therefore, payment of the Good Standing Fee which the holder of the mining right is obligated to make is independent of the taxes that must be paid by the land owner." (1)(2)(3)(4)

(1) In accordance with Article 2 of Emergency Decree No. 079-2001 published on 07-07-2001, the payment deadline for the year 2001 is extended until 10-31-2001.

(2) In accordance with Article 1 of Emergency Decree No. 123-2001 published on 10-31-2001, the payment deadline for the year 2001 is extended until 12-31-2001.

(3) In accordance with Article 1 of Emergency Decree No 034-2002 published on 07-03-2002, the deadline for making the payment for the year 2002 in the Madre de Dios department is extended until 07-15-2002.

(4) In accordance with Article 1 of Law No. 28104 published on 11-21-2003, the legal term for payment of the Good Standing Fee and penalties for the mining rights covered by this article due and payable on June 30 of this year is hereby established for one last time as up to 12-30-2003.

CONCORDANT STATUTES: Supreme Decree No. 029-2001-EM
Executive Resolution No. 2748-2006-INACC-J
Executive Resolution No. 2608-2006-INCACC-J (Extends the term for payment of the Good Standing Fee and penalty for the year 2006).

Article 40. - In the event of failure to comply with the provisions of Article 38 as of the first half of the ninth year, counted from the year in which the application for the mining concession was filed, the concessionaire must pay a penalty equivalent to US\$ 2.00 in domestic currency per year per hectare until the year in which the annual minimum production is met.

If the small-scale mining producer fails to comply with the provisions of Article 38 as of the first half of the ninth year, counted from the year in which the application for the mining concession was filed, it must pay a penalty equivalent to US\$ 1.00 in domestic currency per year per hectare until the year in which the annual minimum production is met.

If the non-compliance persists, as of the fourteenth year, the penalty shall be the equivalent in domestic currency of US\$ 10.00 per year per hectare. For the small-scale mining producer, the amounts indicated in this paragraph will be reduced to half. The applicable penalty must be paid along with the Good Standing Fee and evidenced on the occasion of its payment.
(*)

(Art. 30, Legislative Decree No. 708)

(*) Article replaced by Article 3 of Law No. 27341 published on 08-18-2000, the text of which is the following:

" Article 40. In the event of failure to comply with the provisions of Article 38 as of the first half of the seventh year, counted from the year in which title to the mining concession was granted, the concessionaire must pay a penalty of US\$ 6.00, or its equivalent in domestic currency, per year per hectare until the year in which the annual minimum production is met. In the case of small-scale mining producers, the penalty will be US\$ 3.00, or its equivalent in domestic currency, per year per hectare until the year in which the annual minimum production is met.

If the non-compliance persists, as of the twelfth year, the penalty will be US\$ 20.00 or its equivalent in domestic currency per year per hectare. For the small-scale mining producer, the penalty as of the twelfth year will be US\$ 7.00 or its equivalent in domestic currency per year per hectare. The applicable penalty must be paid along with the Good Standing Fee and evidenced on the occasion of its payment." (1)(2)(3)(4)

(1) In accordance with the first Interim and Supplementary Provision of Law No. 27341 published on 08-18-2000; for purposes of the application of the provisions of this article, installments are established for the payment of the penalty.

(2) In accordance with Article 1 of Emergency Decree No. 079-2001 published on 07-07-2001, the payment deadline for the year 2001 is extended to 10-31-2001.

(3) In accordance with Article 1 of Emergency Decree No. 123-2001 published in 10-31-2001, the payment deadline for the year 2001 is extended to 12-31-2001.

(4) Article replaced by Article 8 of Law No. 27651 published on 01-24-2001, the text of which is the following:

"Article 40. In the event of failure to comply with the provisions of Article 38 as of the first half of the seventh year, counted from the year in which the title to the mining concession was granted, the concessionaire must pay a penalty of US\$ 6.00, or its equivalent in domestic currency, per year per hectare until the year in which the annual minimum production is met. In the case of small-scale mining producers, the penalty will be US\$ 1.00, or its equivalent in domestic currency, per year per hectare until the year in which the annual minimum production is met. In the case of artisanal mining producers, the penalty will be US\$ 0.50, or its equivalent in domestic currency, per year per hectare up to the year in which the annual minimum production is met.

If the non-compliance persists, as of the twelfth year, the penalty will be US\$ 20.00 or its equivalent in domestic currency per year per hectare. For the small-scale mining producer, the penalty as of the twelfth year will be US\$ 5.00 or its equivalent in domestic currency per year per hectare. The penalty for the artisanal mining producer as of the twelfth year will be US\$ 3.00, or its equivalent in domestic currency, per year per hectare. The applicable penalty must be paid along with the Good Standing Fee and evidenced on the occasion of its payment."
(1)(2)(3)(4)

(1) In accordance with Article 1 of Emergency Decree No. 034-2002, published on 07-03-2002, the deadline for making the payment for the year 2002 in the Madre de Dios department is extended up to 07-15-2002.

(2) In accordance with Article 1 of Law No. 28104 published on 11-21-2003, the legal term for payment of the Good Standing Fee and penalties for the mining rights covered by this article due and payable on June 30 of this year is hereby established for one last time as up to 12-30-2003.

CONCORDANT STATUTES: Supreme Decree No. 029-2001-EM
Ministerial Resolution No. 271-2003-EM-DM
Executive Resolution No. 2748-2006-INACC-J
Executive Resolution No. 061-2007-INACC-J

Article 41.- The concessionaire may be exempted from paying the penalty if it demonstrates having made investments in the previous year equivalent to no less than ten times the amount of the penalty it must pay for the concession or the administrative economic unit, as applicable.

This investment must be evidenced with a copy of the Income Tax Return and with proof of payment of the Good Standing Fee.

(Art. 31, Legislative Decree No. 708)

CONCORDANT STATUTES: Ministerial Resolution No. 271-2003-EM-DM, Art. 1

Article 42. Mining activity concessionaires who cease to produce according to the parameter established by Article 38 of the present law after the mining stage has begun shall also pay the charges established in Article 40 in addition to the Good Standing Fee.

(Art. 33, Legislative Decree No. 708)

Article 43.- All concessionaires who perform exploratory drilling within national territory may freely make use of up to fifty percent of the length of each drill core and/or sample they obtain from drilling, and are obligated to keep an archive of the remaining fifty percent of the samples and drill cores for easy identification and location at the site.

(Art. 86, Legislative Decree No. 109)

CHAPTER II

GROUPING

Article 44.- In order to fulfill the work obligations established in the preceding Chapter, the holder of more than one mining concession of the same class and nature may group them into Economic-Administrative Units provided they are located with a 5-kilometer radius when non-ferrous metallic or primary gold metallic ores are involved; a 20-kilometer radius when iron, carbon or non-metallic ore is involved; and a 10-kilometer radius in the metallic detrital gold or detrital heavy ore deposits.

The mining concession grouping constitutes an economic-administrative unit and requires a resolution approving it from the General Mining Directorate.(*)

(Art. 101, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM).

(*) In accordance with Article 1 of Supreme Decree No. 052-99-EM published on 09-28-99, the functions contained in this Article are hereby assigned to the Public Mining Registry.

Article 45. - The production or investment made in an Administrative Economic Unit (EAU) cannot be attributed to other mining concessions not included in that Unit. When two or more mining concessions are covered under the EAU system, the penalty shall be calculated based on the oldest concession application.

(Art. 32, Legislative Decree No. 708).

CHAPTER III

IN BENEFICIATION CONCESSIONS

Article 46. - When applying for a beneficiation concession, the applicant shall pay an amount calculated according to the following scale as the Good Standing Fee.

- Up to 350 MT/day, 0.5 of a Tax Unit (*Unidad Impositiva Tributaria* - UIT)
- From 350 to 1,000 MT/day, 1.00 Tax Unit
- From 1,000 to 5,000 MT/day, 1.5 Tax Units
- For each additional 5,000 MT/day, 2 Tax Units

MT/day refers to installed capacity and in the case of expansions, shall only be paid on the increase.

Beneficiation concessions for non-metallic substances shall pay half the Good Standing Fee. (*)

(Art. 102, Legislative Decree No. 109 and Art. 34, Legislative Decree No. 708).

(*) Article replaced by Article 4 of Legislative Decree No. 868 published on 11-01-96, the text of which is the following:

"Article 46.- As of the year in which an application for a beneficiation concession is filed, the concessionaire shall be obligated to pay the Good Standing Fee in an annual amount based on its installed capacity, as follows:

- Up to 350 MT/day, 0.0014 of a Tax Unit per each MT/day
- From 350 to 1,000 MT/day, 1.00 Tax Unit
- From 1,000 to 5,000 MT/day, 1.5 Tax Units
- For each additional 5,000 MT/day, 2 Tax Units

MT/day refers to installed treatment capacity. In cases of expansion, the payment accompanying the application is on the increase in capacity.

CHAPTER IV

IN GENERAL WORK AND MINING TRANSPORTATION CONCESSIONS

Article 47. When applying for a general work or mining transportation concession, the applicant shall pay 0.003% of a Tax Unit per linear meter of the planned work as Good Standing Fee.

(Art. 103, Legislative Decree No. 109 and Art. 34, Legislative Decree No. 708

CHAPTER V

COMMON OBLIGATIONS (*)

(*) In accordance with Article 1 of Directorial Resolution No. 087-2000-EM-DGM published on 05-19-2000, as of the effective date of the concession, mining concessionaires are obligated to keep a record of incidents for each mining unit.

Article 48. - All mining activity concessionaires are obligated to execute the work inherent to the concession in accordance with the systems, methods and techniques aimed improving the activity and subject to the safety, health and environmental protection standards applicable to the mining industry.

Over the course of such activities, damage to third parties must be avoided as much as possible, and the concessionaire is obligated to compensate them for any damages and losses caused.

(Art. 104, Legislative Decree No. 109)

Article 49.- Mining activity concessionaires are obligated to provide free access to the mining authority at any time for oversight of compliance with their obligations.

(Article 105, Legislative Decree No. 109)

Article 50. Mining activity concessionaires are obligated to submit a Consolidated Annual Statement containing the information to be specified by Ministerial Resolution. This information shall be confidential in nature.

Failure to comply with this obligation shall be penalized with a fine.

The fines shall not be less than zero point one percent (0.1%) of a Tax Unit or higher than fifteen (15) Tax Units, based on the scale of fines for infractions to be established by Ministerial Resolution. (*)

(*) Paragraph replaced by Article 9 of Law No. 27651 published on 01-24-2002, the text of which is the following:

The fines shall not be less than zero point one percent (0.1%) of one (1) Tax Unit or higher than fifteen (15) Tax Units, based on the scale of fines for infractions to be established by Ministerial Resolution. In the case of small-scale mining producers, the maximum amount shall be two (2) Tax Units, and in the case of artisanal mining producers, the maximum amount shall be one (1) Tax Unit."

Failure to pay the agreed fines shall result in forced collection.

Based on the statement mentioned in the first paragraph of this article, the Ministry of Energy and Mines shall redistribute the information required by the National Public Sector, and mining activity concessionaires shall not be required to submit additional statements by other Agencies or Offices of the National Public Sector.

(Art. 106, Legislative Decree No. 109 and Art. 36, Legislative Decree No. 708)

CONCORDANT STATUTES: Ministerial Resolution No. 420-2003-MEM-DM
Ministerial Resolution No. 272-2003-EM-DM
Directorial Resolution No. 226-2003-MEM-DGM
Directorial Resolution No. 386-2004-MEM-DGM
Ministerial Resolution No. 184-2005-MEM-DM
(Consolidated Annual Statement Form)
Directorial Resolution No. 151-2005-MEM-DMG
(Establishes deadlines and procedures for filing the Consolidated Annual Statement).
Directorial Resolution No. 320-2006-MEM-DGM

Article 51. The mining activity concessionaire is obligated to admit engineering students specializing in mining, metallurgy, geology and industrial and chemical engineering into its workplace, to the extent possible, so that they can complete their practicum courses during the vacation periods, as well as facilitate visits by such students to its facilities.

Once the requirements of the aforementioned specializations have been met, vacancies may be filled by university students from other areas of specialization.

(Art. 107, Legislative Decree No. 109)

Article 52.- The person who extracts mineral substances without any right to do so shall return the improperly extracted minerals or the value thereof to the State, without deducting any cost and without prejudice to the applicable legal action.

(Final Provision Seven, Legislative Decree No. 708)

Article 53.- If the concessionaire invades another's concession without authorization during the execution of the work inherent to its own concession or the ancillary tasks and construction work, it is obligated to stop its work and return the value of the minerals extracted to the aggrieved party without deducting any cost whatsoever and paying a compensation if it has also caused damage.

In the event that the invasion was greater than 10 meters measured perpendicularly from the plane that limits the invaded mining right, the invader must pay double the sums mentioned in the above paragraph.

(Final Provision Eight, Legislative Decree No. 708).

Article 54.- In the event of litigation over the validity of a concession, the obligation to pay the monetary obligations to keep the concession in effect subsists. The plaintiff is also obligated to comply with the monetary obligations within the time periods established in this law for the duration of the trial, under penalty of discontinuance with respect to disputed concession.

Once the plaintiff has made the payment, it must so evidence in the respective case file.

After the dispute has concluded, the losing litigant may request reimbursement of any amounts it may have paid.

(Art. 110, Legislative Decree No. 109).

Article 55- The concessionaire who, with authorization from the mining authority, executes work intended for the economic purpose of its concession in a neighboring concession is obligated to deliver the extracted minerals to the concessionaire thereof and compensate said concessionaire for the damages caused.

(Art. 111, Legislative Decree No. 109)

Article 56.- The shutdown or reduction of mining activity that involves a reduction in personnel shall require an opinion from the Mining Oversight Office in the proceeding initiated in accordance with the pertinent legislation.

(Art. 112, Legislative Decree No. 109)

SECTION SEVEN

DISTRIBUTION OF STATE INCOME

Article 57. - The income obtained from the Good Standing Fee and penalty established in Section Six hereof constitute resources of the State and shall be distributed as follows:

a) Forty percent (40%) of what is collected to Local Governments in the area where the application or concession in question is located.

b) Thirty percent (30%) to INGEMMET.

c) Thirty percent (30%) to the Ministry of Energy and Mines and to the Public Mining Registry, in equal parts, for maintenance and development of the Concessions and Mining Cadastre System, as well as the Metallurgical Mining Information System. (*)

(Art. 35, Legislative Decree No. 708).

(*) Article replaced by Article 4 of Law No. 27341 published on 08-18-2000, the text of which is the following:

"Article 57. - The income obtained from the Good Standing Fee and penalty established in Section Six hereof constitute directly collected resources and shall be distributed as follows:

a) 40% (forty percent) of what is collected to Local Governments in the area where the application or concession in question is located.

b) 35% (thirty five percent) of what is collected will be distributed between the district municipalities of the department or departments where the application or concession in question is located whose population is classified as living in extreme poverty, as established in the Regulations to the present Law;

c) 15% (fifteen percent) of what is collected to INGEMMET; and

d) 10% (ten percent) of what is collected to the Ministry of Energy and Mines and to the Public Mining Registry, in equal parts, for the maintenance and development of the Concessions and Mining Cadastre System, as well as the Metallurgical Mining Information System." (1)(2)

(1) In accordance with Interim and Supplementary Provision Two of Law No. 27341 published on 08-18-2000, the distribution of the Good Standing Fee to which this article refers shall apply as of 2001.

(2) Article modified by Article 1 of Emergency Decree No. 003-2001 published on 01-13-2001, the text of which is the following:

"Article 57. - The income obtained from the Good Standing Fee and penalty established in Section Six hereof constitute directly collected resources and shall be distributed as follows:

a) 40% (forty percent) of what is collected to local governments in the area where the application or concession in question is located.

b) 35% (thirty five percent) of what is collected will be distributed between the district municipalities of the department or departments where the application or concession in question is located whose population is classified as living in extreme poverty, as established in the Regulations to this Law;

c) 10% (ten percent) of what is collected to INGEMMET;

d) 5% (five percent) of what is collected to the Ministry of Energy and Mines for maintenance and development of the Metallurgical Mining Information System.

e) 10% (ten percent) of what is collected to the Public Mining Registry for maintenance and development of the Mining Concessions and Cadastre." (*)

(*) Article replaced by Article 1 of Legislative Decree No. 913 published on 04-09-2001, the text of which is the following:

"Article 57. - The income obtained from the Good Standing Fee and penalty established in Section Six hereof constitute directly collected resources and shall be distributed as follows:

a) 40% (forty percent) of what is collected to local governments in the area where the application or concession in question is located.

b) 35% (thirty five percent) of what is collected to the district municipalities of the department or departments where the application or concession in question is located whose population is classified as living in extreme poverty, as established in the Regulations to this Law;

c) 10% (ten percent) of what is collected to INGEMMET;

d) 5% (five percent) of what is collected to the Ministry of Energy and Mines for maintenance and development of the Metallurgical Mining Information System.

e) 10% (ten percent) of what is collected to the Public Mining Registry for maintenance and development of the Concessions and Mining Cadastre System and the Good Standing Fee Distribution System." (*)

(*) Article modified by Article 1 of Law No. 28327 published on 08-11-2004, the text of which is the following:

"Article 57. - The income obtained from the Good Standing Fee and penalty established in Section Six hereof constitute directly collected resources and shall be distributed as follows:

a) 75% (seventy five percent) of what is collected to the district municipality or municipalities where the application or concession in question is located for the execution of investment and development programs in their respective districts; if the application or concession in question is located in two or more district municipalities, the distribution shall be made in equal parts;

b) 10% (ten percent) of what is collected to INGEMMET;

c) 5% (five percent) of what is collected to the Ministry of Energy and Mines for maintenance and development of the Metallurgical Mining Information System.

d) 10% (ten percent) of what is collected to the National Institute of Concessions and Mining Cadastre (INACC) for maintenance and development of the Concessions and Mining Cadastre System and the Good Standing Fee Distribution System."

(*) Article amended by Article 2 of Law No. 29169 published on December 20, 2007, the text of which is the following:

"Article 57. - The income obtained from the Good Standing Fee and Penalties established in Section VI hereof constitute directly collected resources and shall be distributed as follows:

a) 75% (seventy five percent) of what is collected to the district municipality or municipalities where the application or concession in question is located for the execution of investment and development programs in their respective districts; if the application or concession in question is located in two (2) or more district municipalities, the distribution shall be made in equal parts;

b) 20% (twenty percent) of what is collected to the Institute of Geology, Mining and Metallurgy - INGEMMET;

c) 5% (five percent) of what is collected to the Ministry of Energy and Mines for maintenance and development of the Metallurgical Mining Information System.

d) The regional governments shall receive the percentages indicated in subparagraphs b) and c), which correspond to the payment made by the Small-Scale Mining Producers and the Artisanal Mining Producers, for performing the functions in mining matters transferred to them as part of the decentralization process, especially those related to environmental protection."
(1)(2)

(1) In accordance with Article 3 of Law No. 29169 published on December 20, 2007, it is hereby established that the provisions of this subparagraph shall apply as of the payments made from the month following its publication.

(2) In accordance with Article 1 of Directorial Resolution No. 042-2007-MEM-DGM published on February 20, 2007, the National Institute of Concessions and Mining Cadastre (INACC) is hereby delegated the responsibility for assigning the amounts collected for payment of the Good Standing Fee and the penalty to the beneficiary institutions as established in this article.

CONCORDANT STATUTES:

Supreme Decree No. 015-2001-EM, Art. 33
Directorial Resolution No. 119-02-EM-DGM
Executive Resolution No. 0186-2004-INAAC-J
Executive Resolution No. 2672-2004-INAAC-J
Executive Resolution No. 3527-2004-INAAC-J
Executive Resolution No. 3803-2004-INAAC-J
Executive Resolution No. 0451-2005-INAAC-J
Directorial Resolution 051-2005-MEM-DGM

Executive Resolution No. 0844-2005-INACC-J
Executive Resolution No. 1403-2005-INACC-J
Executive Resolution No. 2264-2005-INACC-J
Directorial Resolution No. 033-2005-EF-76.01 (Directive
No. 013-2005-EF-76.01), Specifications for the Registry
and Allocation of Expenses, Numeral IV)
Executive Resolution No. 2652-2005-INACC-J
Executive Resolution No. 3994-2005-INACC-J
Executive Resolution No. 5106-2005-INACC-J
Executive Resolution No. 5375-2005-INACC-J
Directorial Resolution No. 019-2006-MEM-DGM
Executive Resolution No. 0164-2006-INACC-J
Executive Resolution No. 1853-2006-INACC-J
Executive Resolution No. 2349-2006-INACC-J
Executive Resolution No. 2350-2006-INACC-J
Executive Resolution No. 3671-2006-INACC-J
Executive Resolution No. 3999-2006-INACC-J
Executive Resolution No. 4094-2006-INACC-J
Executive Resolution No. 5388-2006-INACC-J
Executive Resolution No. 0641-2007-INACC-J
Executive Resolution No. 1132-2007-INACC-J
Executive Resolution No. 1436-2007-INACC-J
Resolution No. 109-2007-INGEMMET-PCD

SECTION EIGHT

TERMINATION OF CONCESSIONS AND THEIR FATE

CHAPTER I

TERMINATION

Article 58.- Concessions terminate by expiration, abandonment, annulment, waiver and cancellation.

(Art. 114, Legislative Decree No. 709)

EXPIRATION

Article 59.- Failure to make timely payment of the Good Standing Fee or penalty, as applicable, for two (2) consecutive or three non-consecutive years is grounds for expiration of the mining concessions. (*)

(Art. 37, Legislative Decree No. 708).

(*) Article replaced by Article 5 of Legislative Decree No. 868 published on 11-01-96, the text of which is the following:

"Article 59.- Failure to make timely payment of the Good Standing Fee or the penalty, as applicable, for two (2) consecutive years results in the expiration of claims, applications and mining concessions, as well as beneficiation, general work and mining transportation concessions.

Failure to make the payment for one year may be corrected by making and evidencing the payment in the current year within the time period established in Article 39 of this Law.

In any event, payment shall be attributed to the previous due and unpaid year." (1)(2)

(1) In accordance with Interim Provision One of Legislative Decree No. 868 published on 11-01-96, the amendment of this article in accordance with this Legislative Decree is applicable to the payment of the Good Standing Fee as of 1996, if the mining rights have not expired.

(2) Article amended by the Sole Article of Law No. 28196 published on 03-27-2004, the text of which is the following:

"Article 59. Failure to make timely payment of the Good Standing Fee or the penalty, as applicable, for two (2) consecutive years results in the expiration of claims, applications and mining concessions, as well as beneficiation, general work and mining transportation concessions. Failure to make the payment for one year may be corrected by making and evidencing the payment in the current year within the time period established in Article 39 of this Law. In any event, payment shall be attributed to the previous due and unpaid year.

Mining, beneficiation, general work and mining transportation concessions shall not be subject to expiration once five (5) years have elapsed since the alleged grounds occurred without the administrative authority having issued the Expiration Resolution. This time period shall not be applicable if the respective administrative or judicial proceedings have been initiated before the term expires."

Article 60. Not putting beneficiation concessions into production within the time period granted by the mining authority, as well as failure to make timely payment of the Good Standing Fee for two consecutive years or three non-consecutive years, shall be grounds for expiration of beneficiation concessions. (*) CORRECTED BY ERRATA (*)

(Art. 117, paragraph 1), Legislative Decree No. 109).

(*) Article repealed by Final Provision One of Legislative Decree No. 868 published on 11-01-96.

Article 61.- Grounds for expiration of the general work and mining transportation concessions are failure to perform the construction and installation within the set time period and failure to comply with the conditions for granting the concession, as well as failure to make timely payment of the Good Standing Fee for two consecutive or three non-consecutive years. (*) CORRECTED BY ERRATA. (*)

(*) First paragraph repealed by Final Provision One of Legislative Decree No. 868 published on 11-01-96.

Once the general work concession expires, the mining authority shall proceed to notify the concessionaires, giving them a term of 30 days to state their willingness to replace the previous concessionaire in the title to the concession. Once the aforementioned term has expired, if two or more concessionaires have expressed an interest, they shall proceed to designate a common attorney-in-fact, save if the interested parties have stated their decision to establish a legal business entity in accordance with the General Companies Law.

If the time period established in this Article has elapsed without any of the concessionaires having expressed their interest in replacing the general work concessionaire, the case file for the concession shall be archived.

(Art. 118, Legislative Decree No. 109 and Article 43 (b), Legislative Decree No. 708).

CHAPTER III

ABANDONMENT

Article 62. - Failure by the interested party to comply with the mining rules of procedure applicable to obtaining title is grounds for abandonment of concession applications.

(Art. 119.1, Legislative Decree No. 109).

CHAPTER V

ANNULMENT

Article 63. The application having been by a disqualified person in accordance with Articles 31, 32 and 33 of this Law is grounds for annulment of the concessions.

(Art. 120, Legislative Decree No. 109)

CHAPTER V

CANCELLATION

Article 64. Applications or concessions shall be cancelled when they overlap priority rights or when the right is not locatable.

(Art. 131, Legislative Decree No. 109)

Article 65.- The areas belonging to terminated, abandoned, annulled and waived concessions and applications and those that were rejected when filed cannot be applied for until they are published as claimable.

(Article 122, Legislative Decree No. 109).

CHAPTER VI

FATE

Article 66.- The expiration, abandonment, annulment, waiver and cancellation of the concessions and applications shall be declared by Executive Resolution issued by the Head of the Public Mining Registry, in each individual case or collectively, making the pertinent entry in said Registry.

(Art. 123, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Supreme Decree No. 002-92-EM/VMM).

Article 67.- Beneficiation, general work and mining transportation concessions not subject to a new application by nature are exempt from the declaration of freely claimable status.

(Art. 126, Legislative Decree No. 109 and Art. 20, Legislative Decree No. 708).

Article 68.- The areas belonging to expired, abandoned, annulled and waived concessions and applications cannot be applied for in whole or in part by the previous concessionaire or his family members up to the second degree by blood or marriage for two years after they are published as claimable.

(Art. 127, Legislative Decree No. 109)

Art. 69.- Under the new application, the applicant acquires any mining work that was executed inside the concession or on arable land by the previous concessionaire at no charge.

(Art. 128, Legislative Decree No. 109)

Article 70.- In the cases of expiration abandonment, annulment or waiver of concessions and applications, the new applicant may:

1. Use the surface lands surrounding the concession that were used by the previous concessionaire.

2. Continue to mine any land that was expropriated by the previous concessionaire, at no cost.

3. Keep any easements that were established for the economic purpose of the concession, in the same terms and conditions as those under which they were established.

(Article 129, Legislative Decree No. 109)

SECTION NINE

GUARANTEES AND MEASURES FOR PROMOTING INVESTMENT

CONCORDANT STATUES: Supreme Decree 024-93-EM (Regulations)

CHAPTER I

GENERAL PROVISIONS

Article 81.- The provisions contained in this Section apply to all persons engaged in mining activity, whatever their form of business organization.

(Art. 130, Legislative Decree No. 109)

CHAPTER II

BASIC BENEFITS

Article 72. - In order to promote private investment in the mining activity, mining concessionaires are granted the following benefits:

a) Tax, currency exchange and administrative stability;

b) In order to grant the mining activity the necessary international competitiveness, taxation only taxes the income that is distributed by mining concessionaires. For this purpose, when dividends are distributed, the mining concessionaire shall pay the Income Tax it owes, calculated on the amount to be distributed, without prejudice to the tax on the dividend owed by the shareholders;(1)(2)

(1) In accordance with Article 4 of Law No. 27347 published on 09-06-2000, the benefit of investment of non-distributed profits to which Article 72 (b) of this Consolidated Text refers is hereby eliminated.

(2) In accordance with the Sole Interim Provision of Law No. 27343 published on 09-06-2000, any taxpayers who had approved investment programs at that time may continue using the tax benefit provided for in this subparagraph.

CONCORDANT STATUTES: Supreme Decree No. 07-94-EM
Supreme Decree No. 027-98-EF, Art. 1

c) The State shall allow the mining concessionaire to deduct any domestic taxes imposed on its production, whether it is exported or, subject to international quotes, sold in the country.

d) Investments made by mining concessionaires in infrastructure constituting a public utility shall be deductible for income tax purposes, provided the investments were approved by the competent sector authority.

CONCORDANT STATUTES: Ministerial Resolution No. 577-2007-MTC-02

e) Investments made in public utility infrastructure are not part of the taxable base for the taxes owed by mining concessionaires, provided they were approved by the competent sector authority, nor are those assets aimed at meeting the housing and welfare obligations to which Article 206 of the present Law refers.

f) The share in income produced by the mining of mineral resources to which Article 121 of the Peruvian Constitution refers translates into the redistribution of a percentage of the Income Tax paid by mining concessionaires.; (*)

(*) In accordance with Article 1 of Supreme Decree No. 88-95-EF published on 05-25-95, the Mining Royalty to which this paragraph refers shall be equivalent to twenty percent (20%) of the Income Tax.

CONCORDANT STATUTES: Ministerial Resolution No. 104-95-EF-15

g) Compensation for the cost of the health benefits for their employees and dependents, with respect to the contributions to which Article 14 of the Peruvian Constitution refers;

h) Non-discrimination in currency exchange matters with regard to regulation, exchange rate or other economic policy measures;

i) Freedom to remit profits, dividends and financial resources, and freely available foreign currency in general;

j) Free internal or external commercialization of production.

k) Administrative simplification to accelerate procedures, based on the presumption of truth and positive administrative silence in administrative proceedings;

l) No discriminatory treatment with respect to other sectors of economic activity.

The State shall contractually guarantee the stability of these benefits under the rules in effect when the investment programs indicated in Articles 79 and 83 of the present Law are approved.

(Art. 2, Legislative Decree No. 708).

CONCORDANT STATUTES: Ministerial Resolution No. 577-2007-MTC-02

CHAPTER III

TAX REGIME

Article 73. - As of 1993, mining activity concessionaires who export or internally sell products whose price is fixed based on international quotes shall be entitled to deduct the taxes imposed on their production from the Income Tax and the Corporate Assets Tax; therefore, the same benefits, mechanisms and legal provisions that apply in the case of non-traditional exports shall be applicable to them.

If a mining activity concessionaire has no Income Tax or Corporate Assets Tax to pay during the year or over the course of a month, it may offset the non-applied balances with any other tax that is revenue for the Public Treasury. If these options cannot be exercised, the balance may be transferred to third parties. (*)

(Art. 3, Legislative Decree No. 708)

(*) Article repealed by Article 2 of Decree Law No. 25764 published on 10-15-92.

Article 74.- The acquisition value of the concessions shall be amortized as of the fiscal year in which the minimum production obligation must be met according to law, within a term which the mining activity concessionaire shall determine at that time based on the probable life of the deposit, calculated by taking into account the proven and probable reserves and the mandatory minimum production according to law. The term thus established shall be reported to the Tax Administration when filing the Annual Income Tax Return for the fiscal year in which amortization begins, attaching the respective calculation.

The acquisition value of the concessions shall include the price paid or the application expenses, as appropriate.

In addition, it shall include the investments in prospecting and exploration up to the date on which minimum production must be met according to law, except if the concessionaire opts to deduct the prospecting and/or exploration expenses in the fiscal year in which such expenses are incurred.

When the mining concession is abandoned or declared terminated for any reason before mandatory minimum production is met, its acquisition value shall be completely amortized in the fiscal year in which this occurs. If the economically exploitable reserves are exhausted or the concession is released or declared terminated before its acquisition value is fully amortized, the taxpayer may opt between amortizing the balance immediately or continuing to amortize it annually until the extinguishing its cost within the originally established term.

(Art. 135, Legislative Decree No. 109)

Article 75.- The exploration expenses incurred once the concession is in the mandatory minimum production stage may be fully deducted in the fiscal year or amortized as of that fiscal year as an annual percentage based on the probable life of the mine established at the close of said fiscal years, which shall be determined based on the volume of the proven and probable reserves and the minimum production required by law. (*) CORRECTED BY ERRATA.

The development and preparation expenses that make it possible to mine the deposit for more than one fiscal year may be fully deducted in the fiscal year in which they are incurred or amortized in said fiscal year and in the following years up to a maximum of two additional years.

The taxpayer must opt in each case for one of the deduction systems mentioned in the preceding paragraphs at the close of the fiscal year in which the expenses were incurred, reporting its selection to the Tax Administration when filing the Annual Income Tax Return, indicating, if applicable, the term in which amortization will take place and the calculations performed.

If the economically exploitable reserves are exhausted or the concession is released or declared terminated before the investment in exploration, development or preparation is completely amortized, the taxpayer may opt between immediately amortizing the balance or continuing to amortize it annually until extinguishing the amount thereof within the originally established term.

The option to which this article and the preceding article refer shall be exercised with respect to the expenses for each fiscal year. Once a system is chosen, it cannot be changed for the fiscal year's expenses.

(Arts. 136 and 137, Legislative Decree No. 109)

Article 76.- Mining activity concessionaires are only subject to the applicable municipal taxes in urban areas.

(Art. 34, Law No. 24030).

CONCORDANT STATUTES: Legislative Decree No. 868, Final Provision Two

Article 77.- All mining activity concessionaires shall deduct one and one half percent (1.5%) of their Net Income for the operation of the Institute of Geology, Mining and Metallurgy.
(*)

(Art. 139, Legislative Decree No. 109, amended by Article 9, Legislative Decree No. 608.)

(*) Compare with Article 1 (k) and Article 3 of Law No. 25702 published on 09-02-92.

CHAPTER IV

TAX STABILITY REGIME

Article 78.- Mining activity concessionaires who commence or are performing operations larger than 350 MT/day and up to 5,000 MT/day or those that make the investment provided for in Article 79 hereof shall enjoy the tax stability guaranteed them by means of contract signed with the State for a term of ten years, counted as of the fiscal in year in which execution of the investment is evidenced. (*) CORRECTED BY ERRATA.

(Article 155, Legislative Decree No. 109 and Art. 7, Legislative Decree No. 708)

CONCORDANT STATUTES: Ministerial Resolution No. 011-94-EM-VMM, Art. 1

Article 79.- Mining activity concessionaires who submit investment programs for the equivalent of US\$ 2,000,000.00 in domestic currency shall be entitled to enter into the contracts to which the preceding article refers.

The contractual benefit shall only apply to the mining company activities in which the investment is made.

Mining activity concessionaires who enter into these contracts may, at their option, forward the stabilized contractual system to the investment stage for a maximum of three consecutive fiscal years, which shall be deducted from the term guaranteed by the contract.

(Art. 7, Legislative Decree No. 708)

Article 80. - The stability contracts to which the preceding two articles of this Law refer shall guarantee the mining activity concessionaire the following benefits:

a) Tax stability, under which the concessionaire shall only be subject to the tax regime in effect when then the investment program is approved, and no other tax created afterward shall be applicable to it. Nor shall they be subject to any changes that may be introduced into the regime for determining and paying the applicable taxes, except if the mining activity concessionaire opts to pay taxes according to the modified regime. This decision must be reported to the Tax Administration and the Ministry of Energy and Mines within one hundred twenty days counted from the date on which the regime was modified.

Nor shall any legal rules eventually issued containing the obligation for mining activity concessionaires to acquire

bonds or securities of any other type or make advance tax payments or loans to the State be applicable to them; (*)

(*) In accordance with Article 2.1 of Law No. 27343 published on 09-06-2000, it is hereby clarified that the faculty contained in this subparagraph is not a different faculty than the one indicated in Article 88 of the cited legal provision, and it must be understood that only a total option for the common regime is allowable.

CONCORDANT STATUTES: Resolution No. 235-2006-SUNAT (Approves provisions and forms for the annual income tax and financial transactions tax return for the 2006 taxable fiscal year.

f) Free availability of the foreign currencies generated by their exports, in the country or abroad.

If the mining activity concessionaire sells its production locally, the Central Reserve Bank of Peru and the national financial systems shall sell it the foreign currency required for payment of goods and services, equipment procurement, debt service, commissions, profits, dividends, royalty payments, capital repatriation, professional fees and, in general, any other expenditure that the concessionaire needs or is entitled to make in foreign currency;

(c) Non-discrimination insofar as concerns the exchange rate used to convert the FOB value of exports and/or the value of local sales to domestic currency, it being understood that the best exchange rate should be granted for foreign trade operations if there is any type of control or system for exchange rate differences. This non-discrimination guarantees all exchange rate matters in general;

d) Free commercialization of the mineral products;

e) Stability of the special regimes, when they are granted, for tax refunds, temporary admission and the like;

(Article 155, Legislative Decree No. 109 and Article 8, Legislative Decree No. 708).

Article 81.- In order to enjoy the benefits indicated in the preceding article, mining activity concessionaires falling within the scope of articles 78 and 79 of the present Law shall submit an investment program with execution period having the nature of a sworn statement to the General Mining Directorate.

The program must be approved within forty five calendar days. If this period elapses and the General Mining Directorate has not issued a decision, the program shall be automatically deemed to be approved on the final day.

Compliance with the program shall be evidenced with a sworn statement countersigned by independent auditor.

(Art. 9, Legislative Decree No. 708)

Article 82.- In order to promote investment and facilitate the financing of mining projects with an initial capacity of no less than 5,000 MT/day or expansions

designed to reach a capacity of no less than 5,000 MT/day for one or more Administrative Economic Units, mining activity concessionaires shall enjoy the tax stability guaranteed them by means of contract signed with the State for a term of fifteen years, counted as of the fiscal year in which execution of the investment or the expansion, as applicable, is evidenced.

For the purposes of the contract to which the preceding paragraph refers, Administrative Economic Unit is understood to mean the group of mining concessions located within the limits indicated by Article 44 of the present Law, the processing plants and all other assets constituting a single production unit due to shared supply, administration and services, which shall be qualified in each case by the General Mining Directorate.

(Arts. 157 and 160, Legislative Decree No. 109).

Article 83.- Mining activity concessionaires who submit investment programs for no less than the equivalent of US\$ 20,00,000.00 in domestic currency for the start of any mining industry activity shall be entitled to enter into the contracts to which the preceding paragraph refers.

Investments in existing mining activities shall require an investment program of no less than the equivalent of US\$ 50,000,00.00 in domestic currency.

As an exception, persons who make investments of no less than the equivalent of US\$ 50,000,000.00 in domestic currency in State-run companies subject to the privatization process, in accordance with Legislative Decree No. 674, shall be entitled to gain access to these contracts.

The contractual benefit shall only apply to the mining company activities in which the investment is made.

The mining activity concessionaire who enters into these contracts may, at its option, forward the contractual system established in the investment stage for a maximum of 8 consecutive fiscal years, which shall be deducted from the term guaranteed by the contract.

(Art. 11, Legislative Decree No. 708)

Article 84. - The contracts to which the preceding article refers shall guarantee the mining activity concessionaire the benefits indicated in Article 80 of the present Law, as well as the faculty to increase the annual rate of depreciation of the machinery, industrial equipment and other fixed assets up to the maximum limit of twenty percent a year as overall rate based on the inherent characteristics of each project. (*)

(Art. 157, Legislative Decree No. 109 and Arts. 8 and 11, Legislative Decree No. 708)

(*) First paragraph replaced by Article 5 of Law No. 27341 published on 08-18-2000, the text of which is the following:

"Article 85. The contracts to which the preceding article refers shall guarantee the mining activity concessionaire the benefits indicated in Article 80 of the present Law, as well as the faculty to increase the annual rate of depreciation of the machinery, industrial equipment and other fixed assets up to the maximum limit of 20% (twenty percent) a year as overall rate based

on the inherent characteristics of each project, with the exception of buildings and structures, for which the maximum limit shall be 5% (five percent) a year."

"For the contracts to which Article 82 refers, the mining activity concessionaire may ask, as part of the contract, to keep the accounting books in US dollars or in the currency in which it made the investment, for which purpose the following requirements must be met:

a) Keep the accounting books in the indicated foreign currency for periods of at least five (05) fiscal years each time. At the end of this period, the concessionaire may chose between continuing with the same system or changing to domestic currencies. The outstanding balances at the time of conversion shall be posted in the original currency.

b) During the time that the accounting books are kept in foreign currency, the Company shall be excluded from the rules for comprehensive adjustment for inflation.

c) The contract shall specify that in the case of taxes to be paid in domestic currency, the exchange rate must be the most favorable for the Treasury." (*)

(*) Paragraph supplemented by Article 1 of Decree Law No. 26121 published on 12-30-92.

Article 85.- In order to enjoy the guaranteed benefits, mining activity concessionaires falling within the scope of Articles 82 and 83 of the present Law shall submit a technical-economic feasibility study, which shall have the nature of a sworn statement and must be approved by the General Mining Directorate within a maximum term of ninety calendar days. If this period elapses and the General Mining Directorate does not issue a decision, the study shall be automatically deemed to be approved on the final day, which shall be the date that applies for the purposes of setting the date of the tax stability regime and the guarantees that were applicable as of the aforementioned date.

To furnish proof of the amount of the investment made, a sworn statement countersigned by an independent auditor must be submitted.

(Art. 12, Legislative Decree No. 708).

Article 86.- The contracts which guarantee the benefits established in this Section are standard and the pro-forma documents shall be prepared by the Ministry of Energy and Mines.

These contracts shall incorporate all the guarantees established in this Section.

The pro-forma contracts shall be approved by Ministerial Resolution in the case provided for in Articles 78 and 79, and by Supreme Decree with the favorable vote of the Council of Ministers in the case set forth in Articles 82 and 83 of the present Law.

The contracts shall be signed by the Deputy Minister of Mines representing the State in the case provided for in Articles 78 and 79, and by the Ministry of Energy and Mines in the case set forth in Articles 82 and 83 of the present Law, on one hand; and on the other, the mining activity concessionaires. A copy of such contracts shall be remitted to the National Tax Administration Superintendence (*Superintendencia Nacional de Administración Tributaria - SUNAT*).

(Art. 13, Legislative Decree No. 708).

CONCORDANT STATUTES: Ministerial Resolution No. 011-94-EM/VMM
 Supreme Decree No. 04-94-EM
 Supreme Decree No. 14-94-EM

Article 87.- If any of the taxes forming part of the guaranteed regime is repealed during the term of the respective contract signed pursuant to the provisions of this Section, the mining activity concessionaire must continue paying taxes in accordance with the repealed regime.

If any of the taxes forming part of the guaranteed regime is repealed by replacement with a new tax that is permanent in nature, the mining activity concessionaire shall pay the new tax for up to a yearly amount not exceeding the sum it would have had to pay under the original tax regime.

If the replacement is temporary, the concessionaire may either continue paying the temporarily replaced tax, or avail itself of the new temporary tax while it is in effect. This same rule shall apply in the event that the tax is temporarily replaced and the replacement then becomes permanent, i.e. is replaced by another permanent tax.

(Art. 15, Legislative Decree No. 708)

Article 88.- Mining activity concessionaires who have signed the contracts to which this Section refers may at any time make the once only and definitive decision to opt for the common tax regime, if they so deem more favorable, which shall constitute the new stabilized framework and remain unchanged for the remaining term of the contract. In this case, they must report it to the National Tax Administration Superintendence (SUNAT) and the Ministry of Energy and Mines. (*)

(Art. 14, Legislative Decree No. 708)

(*) Article replaced by Article 3 of Law No. 27343 published on 09-06-2000, the text of which is the following:

"Article 88.- Mining activity concessionaires who have signed the contracts to which this Section refers may at any time make the once only and definitive decision to opt for total waiver of the tax stability regime, and the common regime shall apply."

Article 89.- Failure by the mining activity concessionaire to comply with application of the guaranteed tax regime shall result in the pertinent sanctions in accordance with the Tax Code and all other applicable regulations; save if the sworn statements that gave rise to the contract are false, in which case the contract shall be null and void, without detriment to the respective criminal liability.

(Art. 16, Legislative Decree No. 708).

Article 9.- Persons who enter into joint venture agreements with mining activity concessionaires that have been granted the guarantees

covered by this Section shall have the same guarantees as those granted to the mining concessionaire, in accordance with the percentage or amount of their share in the joint venture agreement.

(Art. 5, Legislative Decree No. 708).

SECTION TEN

SMALL-SCALE MINING PRODUCERS

Article 91.- Small-scale mining producers are those who hold up to 5,000 hectares between applications and/or mining concessions, and whose production and/or beneficiation capacity does not exceed 350 MT/day for metallic minerals and 500 MT/day for non-metallic substances, with the exception of construction materials, for which the range shall be 500 m³/day.

The small mining producer shall furnish proof of its status by means of an annual sworn statement, submitted along with the proof of payment of the Good Standing Fee. (*)

(Art. 45, Legislative Decree No. 708)

(*) Article replaced by Article 6 of Legislative Decree No. 868 published on 11-01-96, the text of which is the following:

"Article 91. Small-scale mining producers are those that hold the following on any basis:

1. Up to one thousand (1,000) hectares between claims, applications and mining concessions.

2. An installed production and/or beneficiation capacity of up to one hundred fifty (150) metric tons per day; with the exception of construction materials, alluvial gold substances and detrital heavy metals, for which it shall be up to two hundred (200) cubic meters per day.

Proof of the status of small-scale mining producer shall be submitted to the General Mining Directorate by sworn statement submitted every two years. (1) (2)"

(1) In accordance with Interim Provision Two of Legislative Decree No. 868 published on 11-01-96, the status of small-scale mining producer obtained prior to the amendment of this article in accordance with this Legislative Decree shall remain in effect up to the expiration of the classification as such by the General Mining Directorate.

(2) Article replaced by Article 10 of Law No. 27651 published on 01-24-2002, the text of which is the following:

"Article 91.- Small-scale mining producers are those that:

1. Hold up to two thousand (2,000) hectares between claims, applications and mining concessions.

2. Possess an installed production and/or beneficiation capacity of 350 metric tons per day on any basis, with the exception of construction materials,

sands, placer gold gravels and detrital heavy metals, for which the limit shall be an installed production and/or beneficiation capacity of up to three thousand (3,000) cubic meters per day.

Artisanal mining producers are those that:

1. Are habitually dedicated to the mining and/or direct beneficiation of minerals as a means of sustenance, personally or as a group of individuals or legal entities, performing their activities with manual methods and/or basic equipment.

2. Hold up to one thousand (1,000) acres on any basis between claims, applications or mining concessions, or have signed agreements or contracts with the mining concessionaires as established by the Regulations to the present Law.

3. Have an installed production and/or beneficiation capacity of 25 metric tons per day on any basis, except for the producers of construction materials, sands, placer gold gravels and detrital heavy metals, for which the limit shall be an installed production and/or beneficiation capacity of up to two hundred (200) cubic meters per day.

Proof of the status of capacity of small-scale mining producer or artisanal mining producer shall be provided to the General Mining Directorate by sworn statement submitted every two years."

Article 92.- Small-scale mining producers whose production centers are located in emergency areas and those that resume activities by December 31, 1993 may avail themselves of the provisions of Articles 78, 79 and 80 of the present Law if they invest at least half the amount indicated in Article 79.(*)

(Art. 10, Legislative Decree No. 708).

(*) Article replaced by Article 12 of Law No. 27651 published on 01-24-2002, the text of which is the following:

"Article 92. - Small-scale mining producers, including artisanal mining producers, may avail themselves of the provisions of articles 78, 79 and 80 of the present Law if they invest at least the equivalent of US\$ 500,000.00 for small-scale mining producers and US\$ 50,000.00 for artisanal mining producers.

SECTION ELEVEN

MINING JURISDICTION

CHAPTER I

ADMINISTRATIVE AUTHORITIES

Article 93. The administrative jurisdiction in mining matters belongs to the Executive Branch and shall be exercised by the Mining Council, the General Mining Directorate, the Mining Oversight Office, the Regional Mining Agencies and the Public Mining Registry. The authorities assigned to the General Mining Directorate, Mining Oversight Office CORRECTED BY ERRATA and Regional Mining Agencies may be modified by Supreme Decree (*).

(Art. 178, Legislative Decree No. 109)

CHAPTER II

MINING COUNCIL

Article 94.- The authorities of the Mining Council are:

- 1) To hear and decide the motions for review at the final administrative level.
- 2) To decide on the damages and losses claimed through administrative channels.
- 3) To decide the grievances filed over denial of the motion for review.
- 4) To answer the inquiries submitted to it by the National Public Sector Agencies on matters within its purview, provided they do not pertain to any case involved in administrative or judicial proceedings.
- 5) To standardize administrative case law on mining matters.
- 6) To propose the tariffs concerning the matters covered by the present Law to the Ministry of Energy and Mines.

CONCORDANT STATUTES: MINISTERIAL RESOLUTION 225-93-EM-VMM, Art. 1

- 7) To propose the legal and administrative provisions it deems necessary for the enhancement and better application of mining law to the Ministry of Energy and Mines.
- 8) To prepare its Regulations on Organization and Duties.
- 9) To exercise all other authorities indicated by the laws and regulations, or those inherent to its purpose.

(Art. 179, Legislative Decree No. 109)

Article 95.- The Mining Council consists of five regular members who shall hold their positions for a term of five years, during which they cannot be removed provided they are not guilty of manifest negligence, incompetence or immorality, in which cases the Ministry of Energy and Mines shall draw up the appropriate Supreme Resolution on subrogation, which shall be issued with the approving vote of the Council of Ministers.

Three of the Council members shall be attorneys and two shall be registered mining engineers or geologists.

As an exception, alternates may be named. .

(Art. 180, Legislative Decree No. 109). - The Council members shall be appointed by Supreme Resolution with the approving vote of the Council of Ministers.

The appointment shall fall to persons of recognized good standing with mining expertise and no less than 10 years of professional practice or experience in the activity.

The Council shall have a Reporting Secretary named or removed by Supreme Resolution at the proposal of the Council.

The administrative personnel shall be named or removed by the Council.

(Art. 181, Legislative Decree No. 109)

Article 97.- The Mining Council shall elect a Chairman and a Vice Chairman from among its members, who shall hold their positions for one year.

(Art. 182, Legislative Decree No. 109).

Article 98.- The Council Members and Reporting Secretary shall hold the position full time and with exclusive dedication.

(Art. 183, Legislative Decree No. 109)

Article 99.- The council shall meet on a daily basis. To hold sessions, at least four of its members must be in attendance. To adopt resolutions, three affirmative votes are required, save as set forth in Article 152 of the present Law.

(Art. 184, Legislative Decree No. 109).

Article 100. - Grounds for abstention for Council members are the cases of recusal established by the Law for the members of the Judiciary, insofar as applicable. Non-abstention in the cases where abstention is warranted shall give rise to liability.

(Art. 185, Legislative Decree No. 109)

CHAPTER III

GENERAL MINING DIRECTORATE

Article 101.- The authorities of the General Mining Directorate are the following:

a) To grant title to the beneficiation, mining transportation and general work concessions.

b) To approve the investment program with execution schedules having the nature of a sworn statement with respect to the tax stability contracts provided for in Articles 78 and 79 of the present Law.

c) To approve the economic-technical feasibility study having the nature of a Sworn Statement to which Articles 82 and 83 of the present Law refer.

d) To propose the pro-forma standard contracts guaranteeing the benefits established in Section Nine of the present Law.

e) To ensure compliance with the tax stability contracts.

f) To decide on the formation of Administrative Economic Units

g) To evaluate the Consolidated Annual Statement that must be submitted by mining activity concessionaires.

h) To manage the Good Standing Fee (*).

(*) In accordance with Article 1 of Supreme Decree No. 052 published on 09-28-99, the authorities contained in this subparagraph are hereby assigned to the Public Mining Registry.

i) To evaluate and issue an opinion on the requests for non-claimable areas.

j) To approve the projects for the location, design and operation of production and beneficiation concessions in the cases indicated in the Regulations.

k) To propose mining welfare, safety and health standards.

l) To impose penalties and fines on the holders of mining rights who fail to meet their obligations or violate the provisions of this Law, its Regulations and the Environmental Code.

m) To prepare the list of Mining Experts.

n) To impose penalties on the Experts who fail to comply with the provisions of the Regulations on Experts, this Law or its Regulations.

o) To decide ex-officio or upon request on claims pertaining to mineral extraction without rights.

p) To manage the amounts coming from auctions of mining rights. (*)

(*) In accordance with Article 1 of Supreme Decree No. 052-99-EM published on 09-28-99, the authorities contained in this paragraph are hereby assigned to the Public Mining Registry.

q) To decide on requests for the establishment of easements and expropriations.

r) To approve and oversee the housing, health, welfare and safety programs for mining activities.

s) To classify mining activity concessionaires into small, mid-size or large enterprises in accordance with current law.

t) To issue an opinion on the admissibility of requests for the shutdown and reduction of mining activity in the proceedings brought before the labor authority.

u) To decide on appeals and grant motions for review in the proceedings over which it has administrative jurisdiction.

v) To decide on grievances due to denial of appeals.

w) To exercise all other authorities inherent to its function.

CONCORDANT STATUTES: PRESIDENTIAL RESOLUTION No. 044-CND-P-2006, Energy and Mines Sector 2.5 (1006-2010 Transfer Plan)

(Final Provision Nine, Legislative Decree No. 708 and Supreme Decree No. 002-92-EM/VMM).

CHAPTER IV

MINING OVERSIGHT OFFICE

CONCORDANT STATUTE: LAW No. 27474

Article 102.- The Mining Oversight Office has the authority to issue opinions and rulings on the following:

a) Compliance with the Tax Stability Contracts

b) The formation of Administrative Economic Units.

c) The Consolidated Annual Statement that must be filed by mining activity concessionaires.

d) Compliance with payment of the Good Standing Fee.

e) Failure by the holders of mining rights to comply with their obligations or violations of the provisions of this Law, its Regulations and the Environmental Code.

f) The housing, health, welfare and safety programs for mining activities.

g) The classification of mining activity concessionaires as small, mid-size or large enterprises in accordance with current legislation.

(Final Provision Nine, Legislative Decree No. 708 and Supreme Decree No. 002-92-EM/VMM).

CHAPTER V

PUBLIC MINING REGISTRY (*)

CONCORDANT STATUTES: SUPREME DECREE No. 019-93-EM (Unified Text of Administrative Procedures)
SUPREME DECREE No. 028-2001-EM (Unified Text of Administrative Procedures)
Resolution No. 052-2004-SUNARP-SN (Regulations for the Recording of Mining Rights)

(*) Compare with Article 5 of Supreme Decree No. 015-2001-EM published on 03-29-2001 which indicates that as of the effective date of the present Supreme Decree, mentions of the Public Mining Registry in the Consolidated Text of the current General Mining Law approved by Supreme Decree No. 014-92-EM and

all other related legal and regulatory provisions shall be understood as referring to the National Institute of Concessions and Mining Cadastre (INACC).

Article 103.- The Public Mining Registry shall be subject to the Provisions of this Law, its Implementing Act, its Regulations, and to supply any deficiencies, the provisions of the Regulations on Recording of the National Office of Public Registries.

(Art. 190, Legislative Decree No. 109)

Article 104. - The Mining Concessions Office is hereby created in the Public Mining Registry to process the documents involved in the ordinary mining procedure and record the mining concessions already granted and to be granted, as well as all other acts and contracts related thereto.

Contracts of any nature related to concessions and to persons engaged in or related to mining activities may also be recorded in the Public Mining Registry upon request provided they are contained in a public instruments, save if another formality is expressly permitted by law.

Administrative acts that are recordable ex-officio or upon request shall be recorded by virtue of a certified copy issued by the competent Administrative Authority.

(Art. 41, Legislative Decree No. 708 and Art. 191 Legislative Decree No. 109).

Article 105.- The authorities of the Public Mining Registry are the following:

- a) To record and decide on the applications for mining concessions.
- b) To process and decide on objections filed according to law.
- c) The process and decide on charges of invasion of another's rights.
- d) To process and decide on applications for the use of barren land and use of arable land.
- f) To grant the title to mining concessions.
- g) To form legal companies when the case is subject to its jurisdiction.
- h) To declare the expiration, abandonment, expiration [sic] or annulment of concessions and publish the announcement that they are freely claimable, if applicable.
- i) To decide on the partial or total waiver of mining concessions.
- j) To periodically inform the General Mining Directorate of the infractions committed by appointed Experts in exercise of the function.

k) To prepare the Mining Cadastre

l) To grant the motions for review in the proceedings over which it has administrative jurisdiction.

m) To exercise all other authorities inherent to its functions.

(Final Provision Nine, Legislative Decree No. 708 and Supreme Decree No. 002-92-EM/VMM).

Article 106. - Acts, contracts and resolutions that are not recorded have no effect vis-à-vis the State or third parties.

(Art. 192, Legislative Decree No. 109)

Article 107.- Titles to the concessions shall be recordable by the sole virtue of the Resolution that grants them.

The Public Mining Registry shall proceed to prepare the entry corresponding to the recording of the title to mining, general work and mining transportation concessions, which shall contain the transcript of the Resolution granting them. In addition, it shall file the documentation pertaining to the mining concession applications.

For beneficiation concessions, the recording of the title shall contain the Directorial Resolution that granted them, filing a certified copy of the descriptive report, the treatment method, the use of the requested waters and the system for discharging the industrial and domestic liquids.

(Art. 193, Legislative Decree No. 109)

Article 108.- Mining concession applications are recorded by virtue of the application document, sketches and copies of the receipts for payment of the recording and Good Standing Fees. All other administrative acts related to the application and issued up to the recording of title to the concession shall be recordable upon request.

Mining concession applications are recorded in the Concessions Book.(*)

(Art. 194, Legislative Decree No. 109).

(*) Article replaced by Article 1 of Decree Law No. 25988 published on 12-26-92, the text of which is the following:

"Article 108. - Mining concessions are recorded in the Mining Rights Book.

All other acts related to the granted mining concession shall be recordable upon request.

Article. 109. - Registrars may express objections to the title presented to them, in which case the interested parties must remedy the problem within a term of no more than fifteen days.

Interested parties may file appeals against the objections or oppositions expressed by the Registrars with the Head of the Public Mining Registry within a term of fifteen days.

A motion for review may be filed with the Mining Council against the Resolution issued by the Head of the Public Mining Registry within the term of fifteen days.

(Art. 195, Legislative Decree No. 109).

CHAPTER VI

CONFLICTS OF INTEREST

Article 110.- The conflicts of interest for the persons who exercise mining jurisdiction are the same as those established by law for trial court judges.

(Art. 196, Legislative Decree No. 109).

SECTION TWELVE

PROCEDURES

CONCORDANT STATUTES: Supreme Decree No. 018-92-EM (Regulations)
 Supreme Decree No. 025-92-EM (Unified Text of
 Administrative Procedures).
 Supreme Decree No. 055-99-EM (Unified Text of
 Administrative Procedures).

CHAPTER I

GENERAL PROVISIONS

Article 111.- The State guarantees that mining procedures are based on the principles of certainty, simplicity, publicity, uniformity and efficiency.

(Art. 39, Legislative Decree No. 708).

Article 112. In the event that two or more applicants request the same area, the application filed first shall be admitted.

(Art. 197, Legislative Decree No. 109)

Article 113.- While an application for a mining concession is being processed and its validity has not yet been definitively resolved, no application for the same area shall be admitted, whoever the applicant, not even for purposes of being taken into account..

(Art. 198, Legislative Decree No. 109)

Article 114.- If, during the processing of a mining application, if it is found that application totally overlaps a previous one, the later application shall be cancelled and its case file archived.

If the overlap is partial, the new applicant must reduce its application, respecting the area of the previous mining concession.

The reduction shall be made within 30 days from service of notice of the resolution that detects the overlap.

(Art. 199, Legislative Decree No. 109)

CONCORDANT PROVISIONS: Supreme Decree No. 03-94-EM

Article 115. - If two or more mining concessions with a recorded title totally or partially overlap for more than ninety days from the publication date to which Article 124 of the present Law refers, the Head of the Public Mining Registry shall form a legal companies with respect to the overlapping area.

The overlapping area shall always constitute a new mining concession, which shall take the name of the oldest overlapping mining concession, preceded by the word "reduction." The participation of the original members in the legal business entity that is created shall be in equal proportions.

The original rights shall be reduced to the non-overlapping areas, when applicable.

The provisions of the preceding paragraphs shall not be applicable if the parties had adopted a different agreement to solve the overlap.

The above provisions notwithstanding, the overlap was not detected, when any of the overlapping concessions terminates, the concession still in effect shall automatically acquire all the rights to the overlapping area.

(Art. 200, Legislative Decree No. 109).

Article 116. - If an application is filed whose area totally or partially covers lands that were granted in accordance with the provisions of Article 37.2 of the present Law, before delivering the publications and completing the procedure established in Article 143, the Mining Concessions Office of the Public Mining Registry shall issue an opinion on the admissibility of the application. It shall be declared admissible if the applicant demonstrates the greater importance of its application and, if possible, the transfer of the facilities installed for purposes of the affected concession to another location, save if they can be remain without causing interference.

Once the admissibility of the application is declared, the Mining Concessions Office shall order the transfer of the facilities, if applicable, and the applicant shall assume the expenses and payment of the appropriate compensation according to the appraisal prepared by the Mining Authority. After the transfer has been carried out and the respective sums paid, the Mining Concessions Office shall continue with the processing.

(Art. 201, Legislative Decree No. 109 and Art. 43, Legislative Decree No. 708)

CHAPTER II

ORDINARY PROCEDURE FOR MINING CONCESSIONS

Article 117.- The ordinary procedure for the granting of mining concessions is established through a decentralized national jurisdiction assigned to the Public Mining Registry.

For this purpose, the Mining Concessions Office of the Public Mining Registry shall keep a system of grids consisting of one hundred hectares each, dividing national territory in accordance with the UTM coordinates, and shall incorporate the applications that are filed into such grids, with any additional reference criteria indicated by the applicant when filing the application.

(Arts. 40 and 43 (a), Legislative Decree No. 708).

Article 118.- The applicant shall file the application for a mining concession with any Public Mining Registry Office or with the entity that authorizes said Registry, paying 10% of a Tax Unit.

In the event that the claim is filed by two or more persons, they must designate a common attorney-in-fact when filing the application.

In addition to the requirements established by law, the application must indicate the UTM coordinates of the grid or group of grids bordering one another on at least one side on which the concession is requested, respecting preexisting rights.

(Art. 43 9 (b), Legislative Decree No. 708).

Article 119.- The name of the applicant may not be the same as those who have been granted mining concessions or whose applications are being processed, nation-wide.

When the duplication is found, the Head of the Mining Concessions Office shall notify the interested party, who must replace the name within the term of fifteen days. Once this term has expired, the change shall be made ex-officio.

(Art. 215, Legislative Decree No. 109 and Art. 43, Legislative Decree No. 708).

Article 120.- If it is found that there are applications or mining concessions on the same grid or group of grids, then within seven days after the new application is filed, the Head of the Mining Concessions Office shall cancel it and order the new applicant to reduce it to the free grid or group of grids.

(Art. 43 (b) final paragraph and (c), Legislative Decree No. 708).

Article 121.- If it is found that there are other applications or mining concessions on part of the same grid or group of grids, then within seven days after the new application is filed, the Head of the Mining Concessions Office shall serve a copy thereof to the previous applicants or mining concessionaires.(*)

(Art. 43 (b) final paragraph and (d), Legislative Decree No. 708).

(*) In accordance with Article 1 of Supreme Decree No. 07-95-EM published on 04-29-95, the Public Mining Registry is authorized to receive sworn statements on the UTM coordinates of the vertices of mining concessions whose holders failed to submit them in due time or submitted them but need to correct them.

Article 122. At the same time, the Head of the Mining Concessions Office shall deliver notices to the new petitioner to be published once only within thirty days following their receipt in the "El Peruano" Official Gazette and in another newspaper in the capital of the province in which the requested area is located. In this latter case, if there is no daily newspaper, notice shall be posted for seven business days in the respective Regional Mining Office.

(Art. 43 (d), Legislative Decree No. 708).

Article 123.- With seven days counted as of the final publication or service of notice to the previous applicants, whichever occurs last, if there is no opposition, the case records shall be delivered to the Mining Concessions Office for its evaluation.

After favorable technical and legal opinions are issued, which must take place within no more than thirty days, the Head of the Public Mining Registry shall grant the title to the concession.

(Art. 43 (e) and (f), Legislative Decree No. 708).

Article 124.- Once a month, the Public Mining Registry shall publish the list of mining concessions whose titles were approved the previous month.

(Art. 43 (f) final paragraph, Legislative Decree No. 708).

CONCORDANT STATUTES:

Executive Resolution No. 182-2002-INACC-J
Executive Resolution No. 01343-2002-INACC-J
Executive Resolution No. 01408-2003-INACC-J
Executive Resolution No. 02090-2003-INACC-J
Executive Resolution No. 04184-2003-INACC-J
Executive Resolution No. 03569-2004-INACC-J
Executive Resolution No. 01479-2005-INACC-J
Executive Resolution No. 01857-2005-INACC-J
Executive Resolution No. 02322-2005-INACC-J
Executive Resolution No. 02671-2005-INACC-J
Executive Resolution No. 03208-2005-INACC-J
Executive Resolution No. 04221-2005-INACC-J
Executive Resolution No. 05345-2005-INACC-J
Executive Resolution No. 0822-2006-INACC-J
Executive Resolution No. 01445-2006-INACC-J
Executive Resolution No. 1974-2006-INACC-J
Executive Resolution No. 02443-2006-INACC-J
Executive Resolution No. 2925-2006-INACC-J
Executive Resolution No. 3345-2006-INACC-J
Executive Resolution No. 3715-2006-INACC-J
Executive Resolution No. 4775-2006-INACC-J
Executive Resolution No. 5351-2006-INACC-J
Executive Resolution No. 00257-INACC-J
Executive Resolution No. 0702-2007-INACC-J
Executive Resolution No. 1225-2007-INACC-J
Executive Resolution No. 01659-2007-INACC-J
Executive Resolution No. 2390-2007-INACC-J
Executive Resolution No. 02443-2006-INACC-J
Resolution No. 079-2007-INGEMMET-PCD
Resolution No. 0100-2007-INGEMMET-PCD

Resolution No. 0114-2007-INGEMMET-PCD
Resolution No. 0122-2007-INGEMMET-PCD

Article 125- A motion for review against the resolution of Head of the Public Mining Registry may be filed with the Mining Council within fifteen days following the publication to which the preceding article refers. The Mining Council resolution concludes the administrative proceedings.

The Mining Council resolution may be challenged in the courts by filing an administrative law action within thirty days after service of notice to the parties.

The title to the concession and the rights acquired with said title cannot be challenged in the courts for any reason after the term mentioned in the preceding paragraph expires.

(Art. 43 (g), Legislative Decree No. 708).

Article 126.- Once the resolution granting the title to the concession is approved or becomes final and conclusive, it shall be recorded at the request of the interested party, after which date the new concessionaire shall be able to exercise the rights granted to it by the title and fulfill the work obligations inherent thereto. (*)

(Art. 43 (h), Legislative Decree No. 708).

(*) Article replaced by Article 1 of Decree Law No. 25998 published on 12-26-92, the text of which is the following:

"Article 126.- With the title to the concession, the State affords the concessionaire the exclusive right to perform the activities inherent to the concession within a duly delimited surface area, as well as all the other rights afforded it by this Law, without prejudice to the applicable obligations.

(Art. 232, Legislative Decree No. 109)

Article 128.- If applications with UTM coordinates indicating the existence of overlapping on a given area are filed at the same time, the area shall be auctioned off between the applicants. In the same act, the Mining Concessions Office shall indicate the day and time of the auction, which shall not be earlier than ten or later than thirty days after the date on which the applications were filed.

The base price of the auction shall be 3% of the Tax Unit for concessions of up to 100 hectares. In larger areas, the base price shall increase by 0.2% of the Tax Unit for every additional 100 hectares or fraction thereof. It is compulsory to deposit 10% of the base price in cash or cashier's check to the order of the Public Mining Registry no less than 24 hours in advance.

In the presence of the interested parties in attendance, the Head of the Mining Concessions Office shall open the auction at the scheduled time, receiving bids for at least one hour. Once the competitive bidding has concluded, the area shall be awarded to whoever submits the highest bid.

The proceedings shall be recorded in an official document to be signed by the Head of the Mining Concessions Office, the successful bidder and the interested parties who wish to do so.

The successful bidder must deposit the amount of its bid in the Public Mining Registry Account within the next two business days under penalty of having the auction declared abandoned and the area awarded to the application of the bidder with the next highest bid.

In this latter case, the successful bidder must pay the price it bid within five business days after being notified. This rule shall apply successively.

If no bidders attend, the auction shall be declared void and the duly joined case files shall be remitted to the Head Office of the Public Mining Registry so that it might proceed to publish the area as claimable. (*)

(Art. 217, Legislative Decree No. 109 and Art. 41, Legislative Decree No. 708).

(*) Article amended by Article 1 of Law No. 28031 published on 07-19-2003, the text of which is the following:

"Article 128.- If applications with UTM coordinates indicating the existence of overlapping on a given area are filed at the same time, the area shall be auctioned off between the applicants. In the same act, the Mining Concessions Office shall indicate the day and time of the auction, which shall not be earlier than ten or later than thirty days after the date on which the applications were filed.

The functions of the Mining Concessions Office for the purposes of this article may be expressly delegated in each case by the Head of the National Institute of Concessions and Mining Cadastre to that institution's decentralized offices.

The base price of the auction shall be 3% of the Tax Unit for concessions of up to 100 hectares. In larger areas, the base price shall increase by 0.2% of the Tax Unit for every additional 100 hectares or fraction thereof. It is compulsory to deposit 10% of the base price in cash or cashier's check to the order of the Public Mining Registry no less than 24 hours in advance.

In the presence of the interested parties in attendance, the Director General of the Mining Concessions Office shall open the auction at the scheduled time, receiving sealed envelopes containing each bidder's bid and the equivalent of 20% of that bid in cash or cashier's check as a bid bond. After the envelopes are opened and the bids read, the area shall be awarded to whoever submits the highest bid.

The proceedings shall be recorded in an official document to be signed by the Director General of the Mining Concessions Office, the successful bidder and the interested parties who wish to do so.

The successful bidder must deposit the amount of its bid less the bid bond into the account of the National Institute of Concessions and Mining Cadastre within the next two business days, under penalty of losing the deposit of 10% of the base price of the auction, as well as the bid bond, and having the application taken to be abandoned, without prejudice to the area being awarded to

the bidder who submitted the next highest bid. In this latter case, the successful bidder must pay the price it bid within five business days after being notified. This rule shall apply successively.

The deposits shall be returned to the unsuccessful bidders after the respective record has been prepared. If no bidders attend, the auction shall be declared void and the duly joined case files shall be remitted to the Head Office of the National Institute of Concessions and Mining Cadastre of so that it might proceed to publish the area as claimable."

CHAPTER III

PROCEDURE FOR BENEFICIATION, GENERAL WORK AND MINING TRANSPORTATION CONCESSIONS.

Article 129.- The General Mining Directorate is responsible for reviewing and approving the applications for beneficiation, general work and mining transportation concessions. The respective procedures shall be established in the Regulations to the present Law.

These rights shall be recorded in the Public Mining Registry.

(Art. 42, Legislative Decree No. 708).

CHAPTER IV

EXPROPRIATION AND EASEMENT PROCEDURES

Article 130.- The request for establishment of an easement and/or expropriation shall be submitted to the General Mining Directorate, indicating the location of the property, its owner, its size, the purpose for which the expropriation or easement is requested and the value of said property in the requestor's opinion; and, if applicable, an assessment of the impairment which the property to be affected will suffer. The requestor must attach a Descriptive Report with the details on the construction work to be performed.

The Director General of Mining shall summon the parties to a hearing on the fifteenth day after they are notified, under penalty of continuing with the proceeding if the owner fails to attend. At this proceeding, the property owner must furnish proof of its right. If the parties reach an agreement, the Director General of Mining shall order a public instrument containing said agreement to be formalized.

In the event of a disagreement or if the penalty is imposed, the Director General of Mining shall designate an expert to determine the admissibility of the expropriation and, if applicable, the compensation or the appraised value, for which purpose it he shall order a visual inspection, summoning the interested parties and the expert.

The visual inspection shall be conducted within a term of sixty days from the date of the hearing in order to corroborate the need for the requested right.

Once the inspection is performed, the expert must issue his report within thirty days and deliver it along with the case file to the General Mining Directorate.

(Art. 246, Legislative Decree No. 109, Final Provision Nine, Legislative decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM.

Article 131.- The expert report must necessarily state an opinion on the admissibility of the expropriation and, if applicable, the amount of the compensation or the appraised value and compensation for the respective damages. The General Mining Directorate shall issue its resolution within no more than thirty days after receiving the expert report. If the request is declared founded, the resolution shall set the compensation or the appraised value, as well as the applicable compensation for damages.

The requesting concessionaire shall deposit the amount of the payment it is obligated to make to the order of the General Mining Directorate within no more than thirty days, under penalty of having the request declared abandoned.

Once the deposit is made, the General Mining Directorate shall proceed to prepare the pertinent draft document within the next thirty days and order the signing of the document and the public instrument within fifteen days after the parties are notified, under penalty of having them signed by default. The determined value shall be delivered after the public instrument is signed.

(Art. 246, Legislative Decree No. 109).

Article 132.- If the owner of the land covered by the request is not known, the summons to the hearing shall be issued three times in the "El Peruano" Official Gazette and in a newspaper of the town or location closest to where the property is located, with eight days between publications, and also by means of a sign posted on the property.

The hearing shall be held sixty days after the day following the final publication, with or without the owner in attendance, in which case the proceedings shall continue as set forth in the preceding two articles.

The provisions of the preceding paragraphs shall apply in the event that the presumed owner does not evidence his or her right to the property at the hearing.

(Art. 247, Legislative Decree No. 109)

Article 133.- While the case is being processed, no appeals that might hinder it shall be admitted, save a motion for review against the resolution granting the easement or expropriation.

The resolution putting an end to the administrative proceedings may be challenged in the courts, only for purposes of the appraisal.

In the event that two or more persons allege better title to the property, the proceedings shall continue with the involvement of all of them until the resolution is issued, leaving their rights intact so that they may assert them before the courts, on the price, which shall remain deposited in the Banco de la Nación awaiting the outcome of the trial.

Until the easement or expropriation is approved, the construction work for which it was requested cannot be initiated.

(Art. 248, Legislative Decree No. 109).

Article 134.- The provisions of the above articles notwithstanding, the petitioner and the owner of the affected property may reach a direct agreement in any stage of the proceedings, in which case the authority exercising jurisdiction shall order a public document to be drawn up formalizing said agreement, which must be executed within no more than fifteen days, under penalty of the proceedings continuing in accordance with the state in which they are found.

(Art. 249, Legislative Decree No. 109).

Article 135. - If the Mining Authority finds that the property subject to expropriation is used for purposes other than those specifically requested, it shall become the property of the State at no cost, for which purpose the General Mining Directorate shall issue the respective Resolution to be recorded in the National Office of Public Registries and in the Public Mining Registry.

(Art. 250, Legislative Decree No. 109).

CHAPTER V

MINING USE OF BARREN LAND AND USE OF ARABLE LAND

Article 136. The request for the mining use of barren lands outside the perimeter of the concession shall be submitted to the Public Mining Registry with information similar to that required for the application for mining concessions, accompanied by a sketch of the perimeter of the requested area, which shall be enclosed within a polygon referred to UTM coordinates.

The Head of the Public Mining Registry shall indicate the day and time for a visual inspection to corroborate the UTM coordinates of the land and confirm that it is barren.

(Art. 251, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM).

Article 137.- The request for use of arable land shall be submitted with the same requirements indicated in the above article, also accompanied by a sketch showing any concessions neighboring or bordering on said arable land, if known.

The Head of the Public Mining Registry shall order the publications to be made once only in the "El Peruano" Official Gazette and in a daily newspaper of the town where the land is located, and if there is no opposition within the thirty days following the final publication, shall grant the use of the requested arable land.

(Art. 252, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708, and Art. 1, Supreme Decree No. 02-92-EM/VMM).

CHAPTER VI

JOINDER

Article 138.- The requests for joinder of mining concessions and applications filed after December 15, 1991 shall conform to the grid system established in Article 117 of the present Law in the area or areas where this is possible.

The joinder procedure shall be carried out at the Mining Concessions Office.

(Art. 46, Legislative Decree No. 708).

CHAPTER VII

WAIVER

Article 139.- The area of the mining concession may be partially waived, provided the retained area is no smaller than one grid of one hundred hectares.

The assigns and mortgagees shall have the right of first refusal to the waived area when its free availability is declared.

For this purpose, the request submitted by the concessionaire to the Mining Concessions Office of the Public Mining Registry shall be sufficient. (*)

(Art. 20 (a) and Final Provision Nine, Legislative Decree No. 708, and Art. 1, Supreme Decree No. 002-92-EM/VMM).

(*) Article replaced by Article 1 of Decree Law No. 25998 published on 12-26-92, the text of which is worded as follows:

"Article 139.- Mining concessions may be partially waived provided the retained area is no smaller than one grid of one hundred hectares.

The area of mining concessions applied for up to December fourteenth, nineteen ninety one may be partially waved, provided the retained area is no smaller than one hectare.

The assigns and mortgagees shall have the right of first refusal to the waived area when its free availability is declared.

In the aforementioned cases of waiver, the request must contain the requirements established in the Regulations."

CHAPTER VIII

FILING OF CHARGES

Article 140.- When a concessionaire fears flood, landslide or fire on its site or, in general, situations that violate safety and health standards for reasons attributable to neighboring concessionaries, it shall file charges against such violations with the General Mining Directorate.

The Director General of Mining shall order a visual inspection, which must be conducted as quickly as possible, according to the seriousness of the reported violation, without exceeding 10 days from receipt of the request.

Once the visual inspection has been conducted, the Director General of Mining shall issue the appropriate Resolution.

Appeals challenging this resolution shall be processed without staying its effects.

(Art. 257, legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM).

Article 141.- Charges over invasion into another's concession or application shall be filed in writing with the Head of the Mining Concessions Office of the Public Mining Registry by the presumed aggrieved party, attaching a certified copy of the deeds to its concession and those to the presumed offender's concession, if applicable. The Head of the Mining Concessions Office shall order the designation of an expert and a visual inspection, which shall be conducted within no less than ten and no more than thirty days, covering the topographical survey, the valuation of the mineral substances allegedly extracted, a determination of the damages caused, if applicable, and an analysis of the title to each concession.

The parties may attend the expert proceedings assisted by registered civil and mining engineers and geologists, and may leave record of their comments during the inspection.

The expert must issue his expert report within no more than thirty days after the inspection was performed save if, due to the nature of the operation, a longer time period is required, which shall be authorized by the Head of the Mining Concessions Office.

The Head of the Mining Concession Office shall issue a decision on the proceedings within a term of no more than thirty (30) days).

The administrative proceedings being exhausted, the resolution may be challenged in the courts after depositing the sum ordered as payment in the Executive Resolution putting an end to the administrative level or sufficient guarantee in the Banco de la Nacion.

(Art. 258, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM).

Article 142.- Within three days following the date on which the resolution ordering that the invaded area be vacated is approved or becomes final and conclusive, the Head of the Mining Concessions Office shall order compliance with the resolution under penalty of eviction with the aid of law enforcement.

If the served party does not pay the ordered sums, the aggrieved party may demand their payment before the courts.

(Art. 259, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VMM).

CHAPTER IX

OTHER PROCEDURES

Article 143.- Disputes that do not have a special procedure indicated in the present Law shall be subject to the procedure described below:

After the request is submitted, the Head of the Mining Concessions Office of the Public Mining Registry shall summon the parties to a hearing on the on the tenth day after service of notice. If the requestor does not appear at the hearing, the procedure shall be taken to be abandoned. If the other party does not appear, it shall be summoned to a new hearing within a term of no more than six days, under penalty of being held in contempt and the procedure continuing in its absence. If the parties reach an agreement at the hearing, record thereof shall be prepared, and the Head of the Mining Concessions Office shall issue the appropriate resolution. In the event of disagreement or contempt, the Head of Mining Concessions shall order the evidence deemed necessary, ex-officio or upon request, which shall be submitted and reviewed within a term of no more than 30 days, after which the appropriate resolution shall be issued.

(Art. 260, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree No. 002-92-EM/VM).

CHAPTER X

OPPOSITION

Article 144.- Opposition is an administrative procedure for challenging the validity of an application for a mining concession. It may be initiated by any individual or legal entity who deems their rights to have been affected.

The opposition shall be filed with any Public Mining Registry Office before the title is issued to the new application, offering the pertinent evidence at that time. Once this time period has elapsed, the new title may only be contested through the procedures indicated in Article 121 of the present Law. (*)

(Art. 44, Legislative Decree No. 708).

(*) Second paragraph replaced by Article 1 of Decree Law No. 25998 published on 12-26-92, the text of which is the following:

"The opposition shall be filed with any Public Mining Registry Office before the title is issued to the new application, offering the pertinent evidence at that time. Once this time period has elapsed, the new title may only be contested through the procedures indicated in Article 125 of the present Law."

Article 145.- The party filing the opposition may offer an expert report, linking its right to UTM coordinates, using any of the experts from the list approved by the General Director of Mining for this purpose.

Alternatively, the party filling the opposition may offer a visual inspection or topographic survey as evidence, for which purpose the parties shall designate a deciding expert. In the absence of an agreement between the parties, the deciding expert shall be designated by the Head of the Mining Concessions Office from the list approved by the General Mining Directorate.

(Art. 44, Legislative Decree No. 708)

Article 146.- The other party shall be given a term of seven (7) days to respond to the opposition.

Whether or not the other party responds, the Head of the Mining Concessions Office shall order to evidence to be produced and reviewed within a term of thirty days.

If the evidence is a visual inspection or survey, the deciding expert shall summon the parties to carry out the respective proceedings, which shall take place with or without their attendance.

The expenses involved in the production and review of the evidence for the opposition shall be defrayed by the holder of the most recent application.

(Art. 44, Legislative Decree No. 708).

Article 147. - Based on the proceedings, the Head of the Public Mining Registry shall issue a resolution after receiving the opinions from the legal and technical offices, no later than thirty (3) days from the date when the deciding expert delivered his report.

A motion for review may be filed against the resolution issued by the Head of the Registry.

(Art. 44, Legislative Decree No. 708)

CHAPTER XI

NULLITY

Article 148. The following administrative acts are null and void as a matter of law.

- 1) Those issued by an incompetent government agency;
- 2) Those contrary to the Constitution and those containing a legal impossibility;
- 3) Those issued ignoring the essential rules of procedure and form established by law.

(Art. 267, Legislative Decree No. 109).

Article 149. - The mining authority shall declare the proceedings null and void ex-officio or upon request in the event of material defect, returning them to the point at which the defect occurred; however, the evidence and all other actions not affected by said nullity shall subsist.

(Art. 268, Legislative Decree No. 109).

Article 150.- The motion for annulment shall be filed with the authority exercising jurisdiction and processed in a separate proceedings without interrupting the processing of the case file. The aforementioned authority shall form the separate case file, including the copies designated by the parties and indicated by the authority. The file shall be forwarded to the next higher authority, which shall decide on the motion for annulment.

(Art. 269, Legislative Decree No. 109).

CHAPTER XII

ABANDONMENT

Article. 151.- Applications for mining concessions in which the term or any extensions thereof have expired due to non-compliance by the interested party shall be declared abandoned by the mining authority.

(Art. 270, Legislative Decree No. 109).

CHAPTER XIII

DISQUALIFICATION

Article 152. In the event of disqualification, the case shall be remitted to the next highest level, where it shall be resolved in a single proceeding not subject to appeal.

The motion for disqualification of a member of the Mining Council shall be filed with the latter.

The Mining Council shall decide on the motion without the presence of the challenged member and with the attendance of no fewer than three of its members.

(Art. 271, Legislative Decree No. 109).

CHAPTER XIV

RESOLUTIONS

Article 153.- Administrative resolutions are classified into decrees, rulings, executive resolutions, directorial resolutions and Mining Council resolutions.

Decrees are issued to implement the proceedings established by law.

Rulings resolve any procedural issues that are not mere formalities, and do not put an end to the administrative proceedings or the administrative mining jurisdiction.

Resolutions put an end to the administrative proceedings or the mining jurisdiction.

Decrees and rulings issued in mining proceedings are not final and conclusive.

(Art. 272, Legislative Decree No. 109).

Article 154. - A motion for review may be filed against decrees. The mining authority shall decide outright or first give the other party the opportunity to respond.

Appeals or motions for review cannot be filed against the decision.

Appeals or motions for review may be filed against rulings, as applicable, and shall be processed in separate proceedings.

Appeals may be filed against executive resolutions.

Motions for review may be filed against directorial resolutions.

(Article 273, Legislative Decree No. 109)

Article 155. - The time periods for filing the appeals and motions indicated in the preceding article shall be:

- 1) Against decrees, within five days following service of notice.
- 2) Against rulings and resolutions, within five days following service of notice.

(Art. 274, Legislative Decree No. 109)

Article 156. - A grievance may be filed against the resolutions of authorities that do not grant appeals or motions for review.

The grievance shall be filed with the next highest authority within the term of fifteen days from the day following service of notice of the resolution in question and shall be resolved in a single proceeding not subject to appeal,.

The grievance shall be processed in a separate proceeding and shall not stop the processing of the case file.

(Article 275, Legislative Decree No. 109)

CHAPTER XV

ADMINISTRATIVE LAW ACTION

Article 157. The complaint against resolutions putting an end to the administrative proceedings shall be filed with the assigned Civil Division of the Lima Superior Court, which shall hear the case in the first instance in a full trial. The complaint shall be tried with the participation of attorney general of the Republic in charge of Energy and Mining affairs, as well as well as the party that obtained a favorable resolution in the administrative procedure, if applicable.

Documentary evidence, visual inspections, expert reports and all other evidence compatible with the nature of the process shall be admissible in these proceedings. Under no circumstances shall admissions or witness testimony be admissible.

The time allowed for producing evidence shall be ten days, save if visual inspections or and/or expert opinions are needed, in which case the Superior Court shall approve the necessary term.

An appeal for annulment may be filed against the Superior Court judgment.

The party completely defeated at trial may not be exempted from the payment of court costs.(*)

(Art. 177, Legislative Decree No. 109).

(*) Article replaced by Article 1 of Law No. 26692 published on 06-20-96, the text of which is the following:

Article 157. The complaint against resolutions putting an end to administrative proceedings shall be filed within three months after the challenged Resolution is notified or published, whichever occurs first, with the assigned Civil Division of the Lima Superior Court, which shall hear the case in the first instance in the expedited proceedings established in the Code of Civil Procedure. The complaint shall be tried with the participation of the Public Prosecutor in charge of the legal affairs of the Ministry of Energy and Mines, as well as the party that obtained a favorable resolution in the administrative procedure, if applicable.

Documentary evidence, visual inspections, expert reports and all other evidence compatible with the nature of the process shall be admissible in these proceedings. Under no circumstances shall admissions or witness testimony be admissible.

An appeal with staying effect may be filed with the Supreme Court against the judgment of the Civil Division of the Superior Court, which shall be resolved in a second and final instance. (1)(2)

(1) This article will be repealed by numeral 1 of Repealing Provision One of Law No. 27584 published on 12-07-2001. The Law in question shall enter into force 30 calendar days following its publication in the Official Gazette. In accordance with Article 1 of Emergency Decree No. 136-2001 published on 12-12-2001, the term for entry into force is extended by 180 days.

(2) In accordance with Article 4 of Law No. 27684, Emergency Decree No. 136-2001 is repealed, and Article 5 of the aforementioned Law establishes that Law 27584 will enter into force 30 days after the publication of Law 27684 on 03-16-2002; consequently, the present Article is repealed.

CHAPTER XVI

TIME PERIODS

Article 158. - Time periods shall always be counted as of the day following that on which notification or publication of the act in question takes place.

(Art. 276, Legislative Decree No. 109).

Article 159. - When the time periods in this Law are specified in days, it is understood that they are working days for the public administration.

A term specified in months ends in the month that it expires and on the same day as in the initial month. The same rule shall apply when the term is specified in years. If such day does not exist in the month of expiration, the term ends on the final day of said month.

When the final day of the term is a non-working day, the term shall be understood to be extended to the next working day.

(Art. 277, Legislative Decree No. 109).

Article 160.- In the case of persons not obligated to provide the mining authority exercising jurisdiction with an address of record, a term for distance shall be added to the terms established in this Law.

(Art. 278, Legislative Decree No. 109).

CHAPTER XVII

SERVICE OF NOTICE

Article 161. - The mining authority shall serve notices by certified mail, adding evidence of their issuance to the case file, except in the cases in which the interested party collects them personally.

The terms shall begin to run as of the sixth day after the date on which the notice was issued by mail.

In the case of personal service of notice, the term shall begin to run as of the day after receipt for the interested party that collected them.

In case of dispute, a copy of the recourse and the documents which must be provided by the parties for these purposes shall be attached to the notices.

(Art. 279, Legislative Decree No. 109).

SECTION THIRTEEN

MINING CONTRACTS

CHAPTER I

GENERAL PROVISIONS

Article 162.- Mining contracts are governed by the general rules of common law insofar as they do not contradict the provisions of the present Law.

(Art. 280, Legislative Decree No. 109).

Article 163. - Mining contracts shall be drawn up in a public instrument and must be recorded in the Public Mining Registry in order to have effects vis-à-vis the State and third parties.

Contracts entered into by the Banco de Fomento Nacional as established in its Charter are exempted from the public instrument formality.

(Art. 281, Legislative Decree No. 109 and Article 1, Decree Law No. 25480)

CHAPTER II

TRANSFER AGREEMENT

Article 164.- In agreements transferring all fractional shares of (*) CORRECTED BY ERRATA concessions there is no rescission on the grounds of unfair advantage.

(Art. 282, Legislative Decree No. 109).

CHAPTER III

OPTION AGREEMENT

Article 165.- Through the option agreement, a concessionaire unconditionally and irrevocably undertakes to enter into a permanent contract in the future, provided the option holder exercises its right to demand that this contract be concluded within the stipulated term.

The option agreement must contain all the elements and conditions of the permanent contract, and may contain the stipulation that the option can be exercised by either of the parties.

The mining option agreement shall be executed for a period of no more than five years, counted as of its signing.

(Art. 283, Legislative Decree No. 109).

CHAPTER IV

MINING ASSIGNMENT AGREEMENT

Article 166. The concessionaire may assign its mining, beneficiation, general work or mining transportation concession to a third party, receiving a compensation.

Under this agreement, the assignee replaces the assignor in all its rights and obligations.

(Art. 284, Legislative Decree No. 109).

Article 167.- State companies governed by private law are prohibited from entering into mining assignment agreements that affect mining rights under which those companies had not performed mining work and which, as of December 15, 1991, have not be subject to assignment.

With respect to mining assignment agreements currently in effect, such companies shall provide, in order of priority, option agreements, transfer agreements or any form of partnership with the current assignees.

(Final Provision Four, Legislative Decree No. 708).

Article 168.- Proceedings in which the title to or the area of the concession is debated shall necessarily be held with the assignor and assignee, save if either of them has expressly delegated to right to a defense to another party.

(Art. 285, Legislative Decree No. 109).

Article 169. - The assignee who is operating a concession may not in turn enter into mining assignment agreements for said concession.

(Art. 285, Legislative Decree No. 109)

Article 170. - The mining assignment agreement may be transferred to a third party in its entirety with the express consent of the assignor.

(Art. 288, Legislative Decree No. 109).

Article 171.- Grounds for rescission of the mining assignment agreement are a failure to comply with the obligations contained in Section Six, Chapter I of the present Law, as well as any that were stipulated in the agreement itself.

Actions for rescission of the mining assignment agreement shall be processed according to the rules for small claims proceedings.

(Art. 289, Legislative Decree No. 109).

Chapter V

MORTGAGE AGREEMENT

Article 172.- Mortgages may be established on concessions recorded in the Public Mining Registry.

(Art. 290, Legislative Decree No. 109).

Article 173.- For purposes of appraisal and auction, the contracting parties may consider concessions forming a group of joined or inter-dependent properties as a single unit.

(Art. 291, Legislative Decree No. 109).

Article 174. The creditor has the right to inspect the properties on which a security interest is created and request the betterment thereof

(Art. 292, Legislative Decree No. 109).

Article 175.- If the concession is declared terminated or abandoned, the creditor may apply the sum obtained from the auction of any other fixed assets covered by the mortgage to the payment of its loan.

The provisions of the preceding paragraph notwithstanding, the resolution of expiration or abandonment shall be automatically set aside if, within 30 days after notice is served, the mortgagee exercises the right to replace the concessionaire by means of a petition addressed to the Head of the Concessions Office of the Public Mining Registry, with a signature certified by Notary Public. In such case, the State shall proceed to award the mortgagee the concession, including its integral and accessories parts, save if there were an agreement to differentiate between them, by virtue of which the debt secured by the mortgage shall be understood to be paid.

In order that the mortgagee might exercise the right of replacement, it must be served notice of the resolution of expiration or abandonment.

The new concessionaire shall have 180 days after the award (*) CORRECTED BY ERRATA to comply with the minimum production obligations established in the present Law. (*)

(Articles 291 and 293, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Article 1, Supreme Decree No. 002-92-EM/VMM).

(* Article repealed by Final Provision One of Legislative Decree No. 868 published on 11-01-96.

Article 176.- Mortgaged concessions shall be auctioned in a public auction.

The base price for the auction shall be the liquid sum set by the contracting parties in the mortgage deed and, in the absence thereof, in the amount of the mortgage loans encumbering the concession.

In these cases, Article 701 of the Code of Civil Procedure is not applicable. (*)

(Art. 294, Legislative Decree No. 109).

(* Article repealed by Final Provision One of Legislative Decree No. 868 published on 11-01-96.

Article 177.- If the auction takes place, the new concession holder shall be exonerated from complying with the minimum production obligations for a term of 180 days, counted as of the date of the award; and at the same time, it shall not be subject to any grounds for expiration or abandonment set forth in Articles 59 to 62 of the Present Law that the prior concessionaire may have incurred up to two years prior to the auction. (*)

(Art. 295, Legislative Decree No. 109)

(* Article repealed by Final Provision One of Legislative Decree No. 868 published on 11-01-96.

CHAPTER VI

MINING CHATTEL MORTGAGE

Article 178.- A chattel mortgage may be established on all personal properties intended for mining activities and the minerals extracted and/or beneficiated owned by the obligee.(*).

(Art. 296, Legislative Decree NO. 109).

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

Article 179.- The chattel mortgage agreement entitles the creditor to be paid the value of the collateral with preference over other creditors, for the amount of the loan, the interest thereon and the expenses specified in the agreement.

To exercise this right, the creditor must formalize the chattel mortgage in a public instrument and record it in the Public Mining Registry. (*)

(Art. 297, Legislative Decree No. 109).

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

Article 180.- The debtor shall retain possession of the property covered by the chattel mortgage and shall be entitled to use it. Its duties and responsibilities are those of a depositary, and it shall assume the expenses required for conservation.

The creditor is entitled to inspect the condition of the properties covered by the chattel mortgage. (*)

(Art. 298, Legislative Decree No. 109).

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

Article 181.- The properties on which the chattel mortgage is established may only be transported outside the location indicated in the agreement with the express consent of the creditor. However, it may sell all or part of them provided the creditor is involved and receives the amount of its loan from the price. If the offered purchase price is less than the amount of the debt, the creditor shall have the right of first refusal to purchase the property, and debt owed it shall subsist for the balance. If the creditor does not give its consent to the sale, the debtor may resort to the courts to sell the property in a public auction and deposit the sum that suffices to cover the loan. (*)

(Art. 299, Legislative Decree No. 109).

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

Article 182. The properties on which the chattel mortgage is established may only be transported outside the location indicated in the contract with the creditor's consent, except if otherwise agreed.

The violation of this rule authorizes the creditor to demand immediate sale of the property, without prejudice to the debtor's liability for breach of its obligations as depositary. (*)

(Art. 300, Legislative Decree No. 109).

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

Article 183.- In the event of failure to pay the secured obligation, the properties covered by the chattel mortgage shall be sold as established in the second part of Article 318 of the Commercial Code. For this purpose, the Judge shall require the delivery of said properties within a term of thirty days, under the debtor's criminal liability. If the debtor does not deliver the property in question may, at the creditor's request, order that it be removed and deposited in the possession of third parties. (Art. 301, Legislative Decree No. 109). (*)

(* Article repealed by Final Provision Six of Law No. 28677 published on March 01, 2006, in effect ninety days after the publication of the aforementioned law.

CHAPTER VII

CONTRACTUAL COMPANIES AND BRANCHES

Article 184.- Contractual mining companies (*sociedad contractual minera* - SCM) shall be governed by the provisions of the General Companies Law and the present Law, and shall be mandatorily registered in the Public Mining Registry.

Mining companies may optionally be registered in the Commercial Registry of the National Office of Public Registries.

Those companies that are only registered in the Public Mining Registry must necessarily refer to the mining activities in their company name.

When activities other than mining are the main purpose of these companies, they must mandatorily be registered in the corresponding Commercial Registry of the National Office of Public registries. (*)

(Art. 302, Legislative Decree No. 109 and Final Provision Twelve, Legislative Decree No. 708).

(*) Compare with Article 1 of Law No. 26366 published on October 16, 1994.

Article 185.- Branches of foreign companies established in the country to engage in mining activities must comply with the applicable provisions in the General Companies Law and in this Law.

They must be mandatorily registered in the Public Mining Registry, and optionally in the Commercial Registry of the National Office of Public Registries. (*)

(Art. 303, Legislative Decree No. 109).

(*) Compare with Article 1 of Law No. 26366 published on October 16, 1994.

CHAPTER VIII

LEGAL BUSINESS ENTITIES

Article 186. When two or more persons hold a concession by reason of application, succession, transfer or on any other basis, a limited liability mining company shall mandatorily be formed, except if the parties decide to create a contractual mining company.

The limited liability mining company is a legal entity subject to private law and by virtue of its organization becomes the sole holder of the concession that originated it.

The members of the limited liability mining company are only personally liable for company obligations up to the limit of their interests.

(Art. 304, Legislative Decree No. 109).

Article 187.- The limited liability mining company shall be formed ex-officio by the Head of the Public Mining Registry.

The company shall be registered in said Registry by virtue of a certified copy of the resolution that declares it to be established.

(Art. 305, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Article 1, Supreme Decree No. 002-92-EF/VMM).

Article 188.- The limited liability mining company shall be governed by the provisions in the present Law and by any Company Bylaws which the members decide to execute, if applicable. To approve the Bylaws, the provisions of the first paragraph of Article 199 shall apply. No provisions contrary to the rules contained in this chapter may be stipulated in the Bylaws.

(Art. 306, Legislative Decree No. 109)

Article 189. The limited liability mining company may engage in all mining activities in and outside the area in which the mining concession from which it originated is located, without restriction, filing any applications and requests that may be necessary for those purposes.

(Art. 307, Legislative Decree No. 109).

Article 190.- The limited liability mining companies shall take the name of the mining concession as the company name.

If the company holds more than one concession, its name and address of record shall be that of the oldest concession. If all the concessions were applied for on the same date, the name and address of record shall be that of the first in alphabetical order.

In the event that the concession which gave the company its name is transferred and the company holds other concessions, when the transfer is approved, it must change the company name following the procedure established in the preceding paragraph.

(Art. 308, Legislative Decree No. 109).

Article 191. The duration of these companies is indefinite.

(Art. 309, Legislative Decree No. 109).

Article 192. - The share capital shall be formed by means of contribution of cash, assets and/or credits. For purposes of the contribution, the provisions of the General Companies Law shall apply.

The capital shall be divided into equal, cumulative and indivisible membership interests which may not be represented by securities or called stock.

The membership interests confer the capacity of member on their legitimate owners and afford them at least the following rights in proportion to their interests:

1) A share in the distribution of profits and in the net assets resulting from liquidation;

- 2) To participate in and vote at the General Meetings;
- 3) To oversee the management of company business dealings as established in the General Companies Law.
- 4) To have preemptive rights for the subscription of membership interests in case of an increase in share capital;
- 5) To leave the company in the cases provided for in the General Companies Law.

(Art. 310, Legislative Decree No. 109).

Article.- The initial capital of a company created in the application procedure shall be the sum of the value of the claim and registration fees, as well as any expenses incurred to file the application. Contributions shall be governed by the provisions in the above article.

In all other cases provided for in Article 186, when requesting the formation of a legal business entity, the interested parties must indicate the company's initial share capital and how it will be paid.

(Arts. 310 and 312, Legislative Decree No. 109).

Article 194.- The company headquarters shall be the city where the concession from which it originated is located, save if the members agree to change the headquarters, for which purpose the rules set forth in the first and second paragraphs of Article 199 shall apply.

(Art. 313, Legislative Decree No. 109).

Article 195.- The company shall be administered by the General Members Meeting and the Management .

(Art. 314, Legislative Decree No. 109).

Article 196.- The General Members Meetings may be regular and special.

The Regular General Meeting shall be held when established in the Bylaws, and necessarily at least once a year during the three months following the end of the current fiscal year. The Regular General Meeting shall decide on company management, the financial statements and the general balance sheet for the fiscal year and order the application of any profits. In addition, it may discuss all other matters included in the meeting notice if the appropriate quorum is present.

The Special General Meeting may be held at any time, even simultaneously with the Regular General Meeting, and has the authority to discuss all matters of interest to the company included in the meeting notice.

(Art. 315, Legislative Decree No. 109).

Article 197.- The General Meetings shall be called by the manager by means of notice published no less than ten days in advance for Regular Meetings, and when he so deems advisable for company interests, no less than three days in advance for Special Meetings.

In addition, a General Meeting shall be held upon certified request by a number of partners representing at least one fifth of the membership interests, stating the matters(s) to be discussed at the Meeting in the request. In this latter case, the Meeting must mandatorily be held within fifteen days following the date of the request.

The call shall be made by means of notice published once in a daily newspaper of the province where the company headquarters is located and in the "El Peruano" Official Gazette, indicating the place, day and time of the meeting and the matters to be discussed.

The provisions of the above paragraphs notwithstanding, the Meeting shall be validly installed provided members representing all membership interests are present and the attendees unanimously agree to hold the meeting and accept all the matters to be discussed therein.

(Art. 316, Legislative Decree No. 109).

Article 198.- To hold Regular and Special Meetings when the matters mentioned in the following article are not involved, members representing at least half the paid-up capital must attend. On second call, the attendance of any number of membership interests shall suffice.

Resolutions shall be adopted by absolute majority of the membership interests in attendance.

The Company Bylaws may require higher, but never lower percentages.

Art. 199.- Special and Regular Meetings, as applicable, dealing with the transfer or assignment of the concessions held by the company; change of headquarters; the establishment of a mortgage or chattel mortgage on the company's rights or properties; the issuance of debt instruments; the transformation, merger or dissolution of the company and, in general, any amendment of the Bylaws, save as provided in the final paragraph of this article, shall require the attendance of members representing at least two thirds of the total paid up share capital on first call.

In both cases, in order for the resolutions to be valid, the favorable vote of members representing at least the absolute majority of the membership interests is required.

Capital increases or reductions shall require the attendance at the General Meeting and the favorable vote of members representing at least 51% of the membership interests, on any call.

(Art. 318, Legislative Decree No. 109).

Article 200.- All legal companies shall initially have as their Manager the member with the greatest membership interest, and if two or more members have the same membership, management shall be assumed by the appropriate member following the alphabetical order of last names and, if applicable, first names. The same rule shall apply to replace the manager in case of vacancy.

The provisions of the previous paragraph shall not apply when the interested parties designate a Manager in the application or when other grounds for establishing a legal business entity occur.

The Manager may be removed at any time by the General Meeting.

Without prejudice to the powers granted to him by the General Meeting, the Manager is responsible for execution of the ordinary acts and contracts pertaining to the company purpose. The powers of legal representation specified by the Law and those that usually fall to the Manager according to the General Companies Law cannot be subject to limitation.

The Manager has the power of internal administration and responsibilities indicated for the position by the General Companies Law, being especially responsible for the existence, correctness and validity of the books that the company is ordered to keep by Law, the financial statements and the balance sheets.

(Art. 319, Legislative Decree No. 109).

Article 201.- Membership interests shall be transferred by public instrument. The member who wishes to transfer its membership interest must previously address the Manager of the Company in writing, along with the buyer, both reporting their decision to carry out the purchase-sale. Within three days following the receipt of said letter, the Manager shall inform the remaining members at the address reported to the Company, and in the absence thereof, by notice published once only in the "El Peruano" Official Gazette and a newspaper of the company's headquarters. Members shall enjoy the right to purchase such membership interests, prorated according to their share in the Company, within fifteen days after they are notified or the publication is made. If none of the members exercise the preemptive right, the interested party may sell its membership interest directly.

The Bylaws may establish different rules.

(Art. 320, Legislative Decree No. 109).

Article 202. The transfer of membership interests duly formalized by public instrument shall be recorded in the Public Mining Registry in the entry belonging to the Company. All acts and contracts that affect the membership interests may also be recorded.

(Article 321, Legislative Decree No. 109).

Article 203. - The legal business entity is dissolved due to the termination of all the concessions incorporated into its assets or by the transfer thereof, except if the parties agree to transform it into a contractual company or a new application is filed within a term of 60 days, counted as of

the transfer or termination of the final concession.

The business entity is also dissolved if a single person is the owner of all membership interests, except if a plurality of members is reestablished within a term of no more than 60 days.

The dissolution and liquidation of the business entities or their transformation into contractual companies shall be governed by the provisions of the General Companies Law.

(Art. 322, Legislative Decree No. 109).

CHAPTER IX

JOINT VENTURE AGREEMENTS

Article 204.- A mining activity concessionaire may enter into joint venture agreements for the development and execution of any of the mining activities.

In keeping with their nature, joint venture agreements are associative in nature, aimed at engaging in a shared business for a determinate or indeterminate time period in which the parties contribute complementary assets, resources or services, sharing the profits, the gross income, the production or other agreed arrangements. Any or all of the parties are able to manage the shared business.

These agreements must be formalized by public instrument and recorded in the Public Mining Registry. (*)

(Art. 4, Legislative Decree No. 708).

(*) Article replaced by Article 7 of Legislative Decree No. 868 published on 11-01-96, the text of which is the following.

"Article 204.- A mining activity concessionaire may enter into joint venture agreements for the development and execution of any of the mining activities.

In keeping with their nature, joint venture agreements are associative in nature, aimed at engaging in a shared business for a determinate or indeterminate time period in which the parties contribute complementary assets, services, or knowledge, sharing in the earnings in the agreed form. Any or all of the parties are able to manage the shared business. Except if otherwise agreed, contributions of assets do not entail a transfer of ownership, but rather the beneficial use thereof.

In performing the mining activity, the jointure venture, just as other types of business collaboration agreements, is considered a mining activity concessionaire.

These agreements must be formalized by public instrument and recorded in the Public Mining Registry."

Article 205.- All joint venture or partnership agreements involving the companies subject to the privatization processes to which Legislative Decree No. 674 refers, as well as their subsidiaries that enter into a privatization process under other rules, shall perform their activities with full autonomy and pursuant to the rules governing private activity, and shall not be subject to any restrictions, limitations or controls applicable to the National Private Sector or State Business Activity. The guarantee shall necessarily be incorporated into the standard contracts to which Article 86 of the present Law refers.

(Art. 6, Legislative Decree No. 708)

SECTION FOURTEEN

WELFARE AND SAFETY

Article 206. Mining activity concessionaires are obligated to provide their employees who work in areas far from towns and their family members with the following:

a) Adequate housing (*)

(*) Subparagraph (a) replaced by Article 2 of Decree Law No. 26121 published on 12-30-92, the text of which is the following:

a) Housing facilities, in any of the following forms:

1. Adequate housing for the worker and family members indicated in this article.

2. Housing facilities exclusively for the workers under a system that allows a number of work days followed by off days in a town, as established in the Regulations to the present Law."

b) Schools and their operation;

c) Adequate recreational facilities;

d) Social assistance services; and

e) Free medical and hospital care, insofar as these benefits are not covered by the entities belonging to the Peruvian Social Security Institute.

The family members and dependents of the workers indicated in the Regulations shall be entitled to these benefits provided they are financially dependent on them, reside in the work center and are duly registered by the employer.

Employers may comply with the obligation to which this article refers with urban development projects having urban characteristics, layouts and outfitting. When these projects are implemented in distant areas, they shall obtain the facilities to which Article 209 of this Law refers.

The financial conditions for the project shall be the same as those granted by said institutions for projects of social interest.

A distant area is considered to be one found more than thirty kilometers away or more than a sixty minute drive in a vehicle at normal or safe speed from the closest town.

Mining activity concessionaires may promote housing construction programs in the towns closest to their camps where workers and their families would permanently reside in order to acquire ownership by means of the economic and financial facilities that may be established. The home ownership programs must be approved by the General Mining Directorate.

When the worker avails himself of this benefit, the mining activity concessionaire is released from the obligations set forth in subparagraph a) of this article.

The Regulations establish the number and characteristics of the houses and all other facilities and services, taking into account the nature of the different mining activities, the applicable legal provisions and the National Construction Regulations. (*)

(Art. 323, Legislative Decree No. 109).

(*) In accordance with Article 1 of Decree Law No. 25793 published on 10-23-92, the Empresa Minera de Hierro del Perú - HIERRO PERU is excluded from the obligations contained in this article.

Article 207.- The expropriations of lands to comply with the housing obligations constitute the basis for the first registration of ownership in the closest Property Registry of National Office of Public Registries and the provisions of Article 70 a) of the present Law are not applicable with respect thereto.

(Art. 324, Legislative Decree No. 109)

Article 208.- Financial institutions for the promotion of construction shall extend loans to mining activity concessionaires so that they may comply with their housing programs.

(Art. 325, Legislative Decree No. 109).

Article 209.- The individuals or legal entities dedicated to mining industry activities have the obligation to provide the occupational health and safety conditions established by the present Law and the regulatory provisions.

(Art. 236, Legislative Decree No. 109).

Article 210.- Workers are obligated to strictly observe the preventive measures and provisions issued by the competent authorities and those established by the employers for safety.

(Art. 327, Legislative Decree No. 109).

Article 211.- All employers are obligated to establish welfare, safety and health programs in accordance with the activities they perform.

(Art. 238, Legislative Decree No. 109).

Article 212.- Once a year, employees must submit an Annual Safety and Health Program to the General Mining Directorate for the next year. In addition, employers shall submit a report on the activities performed in this field during the previous year, accompanied by the statistics established in the Regulations.

(Art. 329, Legislative Decree No. 109, Final Provision Nine, Legislative Decree No. 708 and Art. 1, Supreme Decree NO. 002-92-EM/VMM).

CONCORDANT STATUTES: Supreme Decree No. 052-99-EM, Art. 2.

Article 213. - A Safety and Health Committee shall be organized in each work center on which the workers shall be represented. The Regulations shall establish the composition and functions of this Committee.

(Art. 330, Legislative Decree No. 109).

Article 214.- Employers shall promote the formation of cooperatives between the workers following the guidelines in the General Cooperatives Law.

(Art. 331, Legislative Decree No. 109).

Article 215. - Employers are obligated to develop training programs for employees at all levels as determined by the Regulations.

(Art. 332, Legislative Decree No. 109).

Article 216.- The provisions of this section are also binding on third parties who are executing or performing work for the operation of a mining concession on the account of the mining concessionaire, by any act or contract. The obligations and responsibilities are joint and several.

This provision is not applicable to third parties, mining company contractors, who render related services of a non-mining nature.

(Art. 333, Legislative Decree No. 109).

Article 217.- Employers may form associations to comply with the provisions of this section when more advisable due to the scale or operations or other conditions.

(Art. 334, Legislative Decree No. 109).

Article 218. - The welfare and safety benefits established in this Section shall only be granted by the employer to its workers while the employment agreement is in effect. The time period for vacating the house shall be thirty days.

(Art. 335, Legislative Decree No. 109).

SECTION FIFTEEN.

ENVIRONMENT

CONCORDANT STATUTES: Supreme Decree No. 016-93-EM (Regulations)
Supreme Decree No. 038-98-EM

Article 219. - In order to guarantee an appropriate environment of stability for mining investments, the provisions of Article 53 of Legislative Decree No. 613 are hereby clarified in the sense that the establishment of protected natural areas shall not affect the exercise of the rights granted prior thereto. In this case, such activities must be adapted to the provisions of the Environmental Code.

(Art. 47, Legislative Decree No. 708).

Article 220. - Articles 56 and 57 of Legislative Decree No. 613 are hereby replaced with the following text:

"The protected natural areas are established by Supreme Decree with the approving vote of the Council of Ministers and endorsed by the Ministry of Agriculture. The management policy is established by ten National Government. Their administration falls to the National Government, and may be delegated to Regional or Local Governments." (1)(2)

(Art. 48, Legislative Decree No. 708).

(1) Compare with subparagraph a) of Final Provision One of Legislative Decree No. 757 promulgated on 11-08-921 and published on 11-13-91.

(2) Article repealed by Article 9 of Decree Law No. 25998 published on 12-26-92.

Article 221.- Article 62 of Legislative Decree No. 613 is hereby replaced with the following text:

"Individuals or legal entities who perform or wish to perform beneficiation and production activities require the approval of the location, design and operation projects for their activity by the competent authority.

This approval is dependent on express specifications for guidelines and obligations inherent to the protection of the environment and the natural resources in accordance with the rules established by the competent authority. The new applications for beneficiation concessions shall include an environmental impact study." (*)

(Art. 49, Legislative Decree No. 708).

(*) Article repealed by Interim, Supplementary and Final Provision of Law No. 28611 published on October 15, 2005.

Article 222. Article 63 of Legislative Decree No. 613 is hereby replaced with the following:

"To request an environmental license from the competent authority, the construction project for the mining-metallurgical waste dumps or areas must include the following aspects to prevent water pollution in particular and environmental pollution in general.

a) The technical conditions must guarantee the stability of the system.

- b) Technical specifications must be provided for system operation.
- c) Technical measures for abandoning the deposit must be specified.

Any wastes that are dumped into the sea must be in technically acceptable condition in order not to alter human health or the qualities of the ecosystem.

For these purposes, the standards shall be established by the competent authority.

The environmental impact statement in production work shall be aimed at the control of solid and liquid effluents." (*)

(Art. 50, Legislative Decree No. 708).

(*) Article repealed by Interim, Supplementary and Final Provision of Law No. 28611 published on October 15, 2005.

Article 223.- Article 66 of Legislative Decree No. 613 is hereby replaced with the following text:

"The exploration and production of mineral resources shall conform to the following provisions:

a) The water used in the processing and discharge of minerals must be totally or partially reused to the extent possible when technically and economically feasible.

b) In open pit mining, measures guaranteeing the stabilization of the land must be adopted.

c) All mining with the use of explosives near populated centers must keep the impact of the noise, dust and vibrations within the levels established by the competent authority." (*)

(Art. 51, Legislative Decree No. 708).

(*) Article repealed by Interim, Supplementary and Final Provision Four of Law No. 28611, published on October 15, 2005.

Article 224.- Article 67 of Legislative Decree No. 613 is hereby replaced with the following text:

"The radioactive wastes evacuated from mining-metallurgical facilities shall not exceed the tolerable limits established by the standards determined by the competent authority. Those responsible for the facilities shall periodically take discharge measurements and report any other alteration detected to the competent authority, without prejudice to adopting any measures needed to prevent or avoid damage to the environment, human health or property." (*)

(Art. 52, Legislative Decree No. 708).

(*) Article repealed by Interim, Supplementary and final Provision Four of Law No. 28611 published on October 15, 2005.

Article 225. Article 69 of Legislative Decree No. 613 is hereby replaced with the following text:

"The competent authority shall periodically perform sampling of the soil, water and air in order to evaluate the effects of pollution caused by the metallurgical mining activity and its evolution over established periods in order to adopt the appropriate preventive or corrective measures." (*)

(Art. 53, Legislative Decree No. 708).

(*) Article repealed by Interim, Supplementary and final Provision Four of Law No. 28611 published on October 15, 2005.

Article 226. - For application of the provisions contained in Legislative Decree No. 613, the Environmental Code, and those referring to the mining and energy activity, the competent authority is the Energy and Mines Sector.

(Final Provision five, Legislative Decree No. 708).

CONCORDANT STATUTES: Ministerial Resolution No. 011-96-EM-VMM

INTERIM PROVISIONS

One.- The current national reserve areas, non-claimable areas and special State rights to which Legislative Decree No. 109 refers, with the exception of those belonging to IGNEMMET, shall be converted to the mining concessions system within ninety calendar days after the entry into force of Legislative Decree No. 708.

For this purpose, the holders shall indicate the areas that will be converted to the concessions system, and those others that will be freely claimable.

Once said time period has expired, the unconverted areas shall be declared freely claimable as of the first business day of May 1992.

(Interim Provision One, Legislative Decree No. 708).

Two. - The special State rights, national reserve areas and non-claimable areas currently assigned to INGEMMET on which no exploration work is being performed, (*) CORRECTED BY ERRATA shall be adapted to the provisions of Article 25 of the present Law within ninety calendar days after the entry into force of Legislative Decree No. 708. If the adaptation is not made, the areas shall be declared freely claimable as of May 1, 1992.

(Second Interim Provision Two, Legislative Decree No. 708).

Three. - Those areas assigned to INGEMMET where exploration work has been or is being done, (*) CORRECTED BY ERRATA shall be transferred to the Empresa Minera del Perú, S.A. - MINERO PERU within no more than ninety calendar days counted as of the entry into force of Legislative Decree No. 708, and shall be converted into concessions. MINERO PERU shall offer or

publically auction such areas to investors using any method allowed by Law. If it opts to offer them for sale, it shall have a term of two years to do so. Once said time period has elapsed without the offer taking place, they shall be subject to public auction.

INGEMMET shall be entitled to 25% of the income or realization value of the rights obtained by MINERO PERU from the offering or auction of the areas in question.

(Interim Provision Three, Legislative Decree No. 708).

Four.- Without prejudice to the provisions of Interim Provision One, those non-claimable areas, special State rights and national reserve areas assigned more than ten years ago to companies and institutions other than INGEMMET that are currently not productive shall have two years to be offered or auctioned. If said time period has elapsed without such options having been implemented, they shall mandatorily be subject to public auction.

(Interim Provision Four, Legislative Decree No. 708).

Five.- Insofar as the provisions of Article 73 of the present Law do not apply, as of the entry into force of Legislative Decree No. 708, mining activity concessionaires shall be entitled to deduct from their Income and Corporate Assets Taxes any taxes on silver production and taxes that apply to domestic purchases or imports of machinery and equipment used exclusively for the mining activity.

For the purposes to which the above paragraph refers, mining activity concessionaires shall proceed keep the accounting for the taxes paid in the month on their silver production or, if applicable, those paid for the domestic purchase of machinery and equipment separately, in a special account which they shall open to that end. The amount of the taxes debited in that account shall have the nature of a tax credit, and may be applied to the Income and Corporate Assets Taxes imposed on its activity. This includes the installment payments and rectification payments for those taxes.

For the purposes indicated in the second paragraph of this provision with regard to the determination of taxes paid for silver production, it shall be done monthly based on the percentage that silver sales or silver content represent compared to total sales for that month.

If the mining activity concessionaire has no Income or Corporate Assets Tax to pay during the year or over the course of a given month, it may offset said balance with any other tax that is Public Treasury Revenue.

If exercising the above options is not possible, the existing balance may be transferred to third parties. Both the offsetting of the credit balance and transfers thereof to third parties must be reported to the National Tax Administration Superintendence within the same month in which they are made. (*)

(Interim Provision Five, Legislative Decree No. 708).

(*) Interim Provision repealed by Article 2 of Decree Law No. 25764 published on 10-15-92.

Six.- For offsetting, mining activity concessionaires shall alternatively deduct the following percentages of the total contributions to the Healthcare System to which Decree Law No. 22482 refers.

a) Fifty five point six percent (55.6%) of the total contribution to said Healthcare System, including the contributions from the employer and employees, provided the employers grant the employees and their dependents all the benefits of the aforementioned system, including subsidies and funeral expenses;

b) Forty four point four percent (44.4%) of the total contribution to said Healthcare System, including the contributions from the employer and the employees, provided the employers provide their employees and their dependents the benefits indicated above, with the exception of surgeries, which shall be provided by the Peruvian Social Security Institute.

(Interim Provision Six, Legislative Decree No. 708)

Seven.- For purposes of availing themselves of the above provision, mining activity concessionaires shall submit a sworn statement to the Peruvian Social Security Institute (*Instituto Peruano de Seguridad Social* - IPSS) in which they undertake to provide the services mentioned in said provision. Once this requirement is met, the system shall operate automatically.

This system shall automatically be cancelled if the mining activity concessionaire fails to meet any of its obligations, a fact that may be substantiated by certified document signed by half plus one of the employees covered by the Peruvian Social Security Institute healthcare system or by inspection performed by the Institute in fulfillment of its oversight function.

(Interim Provision Seven, Legislative Decree No. 708).

Eight. - A commission is hereby created consisting of three representatives from the Peruvian Social Security Institute, one of whom shall act as chairman; two representatives from the Ministry of Energy and Mines; and two representatives from the mining activity concessionaires. Within a term of sixty business days following the date of their installation, they shall submit a study analyzing and recommending the definitive deductions that will be made for the contributions.

Until the aforementioned study is approved, the deductions mentioned in the present Law shall apply.

(Interim Provision Eight, Legislative Decree No. 708)

NINE. - Holders of claims and mining concessions filed up to the entry into force of the present Law shall have up to June 30, 1992 to (*) CORRECTED BY ERRATA provide the Public Mining Registry, with the nature of a sworn statement, the UTM coordinates of the vertices of their claims or concessions for the purposes of Article 121 of the present Law. In this same statement, they shall indicate an urban address of record for the purposes of Section Twelve, Chapter III of the present Law.

(Interim Provision Ten, Legislative Decree No. 708 modified by Decree Law No. 25439)(*)
CORRECTED BY ERRATA.

Ten. - Mining rights still in the application process shall continue to be governed by the rules of ordinary procedure set for the in Legislative Decree No. 109 and its regulatory provisions in force at this time.

As an exception, for mining claims not delimited by December 14, 199, the delimitation proceeding shall be replaced by linking the starting point to a supplementary control point, indicating UTM coordinates for the vertices of the claim. (*)

(Interim Provision Eleven, Legislative Decree No. 708).

(*) In accordance with Article 4 of Decree Law No. 25998 published on 12-16-92, for the purposes of the second paragraph of this provision, the term will expire on December 31, 1993.

Eleven - The established Special Mining Companies shall maintain the vested rights in accordance with their articles of incorporation.

(Article 26, paragraph two, Legislative Decree No. 708).

Twelve.- In order to organize the new Concessions System, the admission of new applications is hereby suspended up to and including July 30. 1992.

(Interim Provision Twelve, Legislative Decree No. 708 amended by Decree Law No. 25439).

Thirteen. - Holders of claims or mining concessions filed for up to December 15, 1991 shall pay the Good Standing Fee as of 1993, the year in which the time periods to which Article 38 of the present Law refers shall commence to be counted.

During 1992, they shall continue paying the Royalty as established by Legislative Decree No. 109.

The small small-scale mining producers located in emergency areas shall pay half the Good Standing Fee or the penalty owed during 1993 and 1994.

(Interim Provision Thirteen, Legislative Decree No. 708).

(*) In accordance with Article 1 of Supreme Decree No. 041-93 published on 09-30-93, the deadline for paying the Good Standing Fee to which this provision refers is 12-31-93.

CONCORDANT STATUTES: Supreme Decree No. 132-92-EM-DGM

Fourteen- The small-scale mining producer classifications currently in effect are hereby extended up to January 01, 1993, the date on which the present Law enters into force.

(Interim Provision Fourteen, Legislative Decree No. 708).

Fifteen. - Within fifteen days following the entry into force of Legislative Decree No. 708, the Ministry of Energy and Mines will make the grid system to which Article 11 of the present law refers official, starting from a single point of origin, based on a square of one kilometer each side, equal to 100 hectares, as the minimum size of the application.

(Interim Provision Fifteen, Legislative Decree No. 708).

Sixteen.- Within thirty days after the entry into force of Legislative Decree No. 708, the Ministry of Energy and Mines shall approve the rules pertaining to the Mining Experts.

(Interim Provision Sixteen, Legislative Decree No. 708).

FINAL PROVISIONS

One.- Neither the provisions of Supreme Decree No. 135-91-PCM nor the increases in the number of members of the Board of Directors shall apply in the cases of State Companies in the process of privatization to which Article 205 refers.

(Final Provision One, Legislative Decree No. 708).

Two.- The administrative silence to which the present Law refers does not release competent government official from his liability to third parties, nor from the administrative procedures initiated against him for dereliction of duty.

(Final Provision Two, Legislative Decree No. 708).

Three.- As of 192, the percentage of the Income Tax paid by Mining Activity concessionaires to be distributed to the regions shall be twenty percent.

(Final Provision Six, Legislative Decree No. 708).

Four.- The Public Mining Registry is hereby exempted from the prohibition on hiring new personnel for sixty days as of the entry into force of Legislative Decree No. 708, so that it can assume the new duties assigned to it.

(Final Provision Ten, Legislative Decree No. 708).

Five.- Claims and concessions granted up to December 1991 under the non-metallic, carboniferous and metallic system shall continue affording the holders thereof the rights for which they were requested or granted.

(Final Provision Eleven, Legislative Decree No. 708).

Six.- In the areas assigned to State Companies or Institutions that become freely available, new applications shall be admitted ninety calendar days after they are deemed as such.(*).

(Final Provision Thirteen, Legislative Decree No. 708).

(*) In accordance with Article 1 of Supreme Decree No. 08-95-EM published on 05-12-95, it is hereby specified that applications will be admitted as of the day following the date of publication of free availability in the El Peruano Official Gazette.

Seven. - The limits, uses, procedures and occasions on which the basic principles indicated in Article 72, subparagraphs b) and d) of the present law will enter into force shall be established by Supreme Decree countersigned by the Ministry of Economy and Finances and incorporated in the contractual guarantees of this Law.

(Final Provision Fourteen, Legislative Decree No. 708).

Eight. - Articles 53.2 and 70 of Legislative Decree No. 613, Article 100 of Decree Law No. 17752, Article 100 of Decree Law No. 17752 and Supplementary Provision Seven of Law No. 25289 are hereby repealed.

(Final Provision Seventeen, Legislative Decree No. 708).

(*) Final Provision Three of Law No. 25381 published on 12-28-91; the final supplementary provision of Law No. 25289 was also repealed.