

LAW 685 OF 2001

(August 15)

by which the Mining Code is issued and other dispositions are established.

The Colombian Congress

DECREES:

TITLE ONE **GENERAL DISPOSITIONS** **CHAPTER I** **Government's Ownership**

Article 1. Objectives. The objective of this Code of public interest is to promote the technical exploration and exploitation of the mineral resources of state and private ownership; to incentivate these activities in order to satisfy the requirements of its internal and external demands and to see that its use is carried out in a harmonious manner by making use of principles and norms of rational exploitation of non renewable natural resources and of environment, within the integral concept of sustainable development and economic and social strengthening of the country.

Article 2. Material scope of this Code. The present Code controls the State's legal relationships with the private persons, and of the latter within themselves, in respect to the mining industry activities in its areas of prospecting, exploration, construction and erection, exploitation, beneficiation, transformation, transportation and promotion of the minerals that are found in the soil and subsoil, either if they are of property of the Nation or of private ownership. The exploration and exploitation of liquid and gaseous hydrocarbons, which will be ruled by special dispositions on the matter, are excluded.

Article 3. Complete regulation. The rules and regulations given in this Code develop ordinances of articles 25, 80, and of paragraph corresponding to Article 330 and articles 332, 334, 360 and 361 of the National Constitution, in relation with mineral resources, in a complete, systematic, harmonic manner and with the sense of speciality and of the preferential application. In consequence, the civil and commercial dispositions that cover situations and phenomena regulated by this

Code, can only be applied in mining matters, by direct remission related to them in this Code or by substitute application when an express regulation is missing.

Paragraph. In any case, the administrative authorities to which this Code makes reference, cannot avoid solving, by deficiencies in the Law, the matters proposed in their parameters of competence. In this case, they will attend to regulations regarding law interpretation or otherwise to the Political Constitution.

Article 4. General Regulations. The requirements, formalities, documents and proofs that this Code expressly singles out for the presentation, processing and resolution of mining files on its administrative procedure until its final execution, will be the only requirements for the interested person. The same will be applied in relation to terms and conditions established in this Code for the exercise of the rights to explore and exploit minerals and the corresponding easements.

In conformance with Article 84 of the Political Constitution, no authority is entitled to establish or request permits, licenses or additional requirements in order to proceed with proposals or the issuance, execution and exercise of a mining title, subject to competence of the environmental authorities.

Article 5. Mineral resources' Ownership. The minerals of any type and place, located in the soil or subsoil, in any natural physical state, are exclusive ownership of the State, notwithstanding that property, possession or tenancy of the corresponding lands belong to other public entities or private persons or to communities or groups.

The individual, subjective and concrete legal situations which come from titles of private mining ownership executed according to pre-existing Laws, are exempted.

Article 6. Inalienability and non prescribibility. The State's ownership of non renewable natural resources is inalienable and non prescriptible. The right to explore and exploit can only be acquired by means of the award of the titles enumerated in Article 14 of this Code. No activity of prospecting, exploration or exploitation or material possession of such resources, without regard to its seniority, duration or characteristics, will confer any kind of right or priority to a mining title or to oppose to third parties' proposals.

Article 7. Assumption of State's Ownership. The State's ownership over mineral resources lying in the soil or subsoil of public or private ground, is a statutory presumption.

Article 8. Discovery of a Deposit. For all effects of this Code, it is understood that a deposit has been technically discovered when with application of the principles, rules and methods corresponding to Geology or Mining Engineering, the existence of a formation or deposit that contains proved reserves of one or several minerals of economic interest has been established.

Article 9. Ownership of quarries. The property of the estates that according with Article 4th.of Decree 2655 of 1988 registered at the “National Mining Register” the quarries located in such estates, as discovered and exploited before the overdue date of such Decree, will maintain their rights in the same conditions and upon the terms set forth in this Code.

Article 10. Definition of Mine and Mineral. For the effects of this code, it will be understood as mine, the deposit, formation or vein of minerals or of fossil materials, economically useful and usable, either found in the soil or subsoil. Also, for the same effects, it will be understood as minerals, the crystal substance, in general terms inorganic, with their own physical and chemical characteristics due to an specific atomic grouping.

Article 11. Construction materials. For all legal effects, the following are considered Construction materials: those rock-like products generally exploited in mines and used quarries, in the construction industry such as aggregates in construction of pieces of concrete, mortars, paves, ground works and other similar products. Also, for the same effects, the materials out of dragging such as sand, gravel and stones laying in current and banks of the currents of water, flood plains and other alluvial lands.

The materials mentioned above are called construction materials although, once exploited, might not be destined for this industry.

The awarding, term or duration and exercise of the right to explore and exploit the construction materials referred in this Article, are entirely regulated by this Code and are of exclusive competence of the mining authority.

Article 12. Salt mines. Pursuant to Article 5th. of this Code, deposits and beds of rock salt, for all legal effects, are of State’s ownership and should be regulated by dispositions of this Code.

They also are of State’s ownership, as fiscal assets subject to concessions, the sea salt and the salt water flows which concentration is higher that six (6) grades B of the Baumé’s aerometer.

The exploration and exploitation of beds and deposits of rock salt, sea salt and salt water flows will be submitted to common regulations of concession ruled by this Code.

Article 13. Public Service. In development of Article 58 of the Political Constitution, the mining industry in all its branches and stages, hereby are declared of public service and social interest. Therefore, at request of interested party and by the established procedures in this Code, expropriations of property of assets and all other rights constituted on them, that might be necessary for exercise and efficient development, can be decreed in its favor.

The expropriation stated in this Article, cannot proceed , in any case, over goods acquired, built or destined by beneficiaries of a mining title, for its exploration or exploitation or for exercise of its rights.

TITLE ONE
GENERAL DISPOSITIONS
CHAPTER II
Rights to Explore and Exploit

Article 14. *Mining title.* From the coming into force of this Code, it can only be constituted, declared or proved the right to explore and exploit the mines of State's ownership by means of a contract of mining concession, duly awarded and registered at the National Mining Register.

The rights coming from the exploration licenses exploitation permits or licenses, concession contracts and contracts celebrated on mining contribution areas, prevailing when this Code enters into effect, maintain their validity by dispositions of this Article. Also the individual, subjective and concrete legal situations related to the private mining ownership, prevailing before this statute comes in force.

Article 15. *Nature of the Rights of the Beneficiary.* The concession contracts and all other titles emanated from the State which are referred in the above Article, do not transfer to the beneficiary the right of ownership over minerals "in situ" but to establish, in an exclusive and temporal manner within the area granted, the existence of minerals in a quantity and quality that can be usable, and take possession by means of its extraction or capture of them and to impose on third parties' properties with necessary easements for an efficient exercise of such activities.

Article 16. *Validity of the Proposal.* The first application or proposal of concession, while it is in process, does not confer in itself, before the State, the right to a celebration of a concession contract. Towards other applications or towards third parties, its conferred only to the interested party a right of preference to obtain such concession, if it complies with all legal requirements.

Article 17. *Legal Qualification.* The legal qualification to submit an proposal for a mining concession and to celebrate the corresponding contract, is regulated by general dispositions on a State's contract. Such qualification, if it refers to legal, public or private persons, requires that in its object, mining exploration and exploitation activities are expressly and specifically included.

When joint ventures receive concessions, those should incorporate a Company, with the same shares that might result from the submitted proposal.

They may also present proposals and celebrate concession contracts the consortiums, in which case its members will act *in solidum* with the consequent liabilities.

Article 18. *Foreigners.* The natural persons and foreign corporate persons acting as proponents or contractors of mining concessions, will have the same rights and obligations as Colombian natives. The mining and environmental authorities cannot, in their field of competence, demand from them any additional or different requirements, conditions and formalities, save those expressly appointed in this Code.

Article 19. *Foreign Companies.* The foreign corporate persons will be able to, through a representative domiciled in Colombia, present and transact proposals. For the execution of the concession contract, a branch, affiliate or subsidiary should be established, domiciled in the national territory. This requirement will also be demanded from such persons in order that they dedicate to the exploring and exploiting of mines of private ownership, as owners of the corresponding right or as operators or contractors of the owners or successful bidders. They should duly assure before the granting authority, the liabilities contracted in this country, either with the guarantee of the work's or service's beneficiary or an endorsement of a banking institution or an insurance company that might be operating in Colombia.

Article 20. *Work and Service Companies.* The foreign companies domiciled abroad that carry on works or lend services in any branch or aspect of the mining industry, with a duration not superior to one year, will not be required to establish their own subsidiary or branch, in the national territory. Instead, they should duly assure before the granting authority, the obligations they might assume in the country, either with a guarantee of the person, beneficiary of the work or service, or by an endorsement of a banking institution or an insurance company that operates in Colombia. If the duration of the works and services were superior, they should establish the mentioned subsidiary or branch.

Article 21. *Unqualification or incompatibilities:* Will be causal of unqualification or incompatibility to prescribe or celebrate contracts of mining concessions, those established by general law for state contracting that may be pertinent and the specially contemplated in Article 163 of this Code.

Article 22. *Assignment:* The assignment of rights emanated from a concession will require of a previous and written notice to the granting government agency. If once received notice, such government agency does not pronounce itself by means of a justified resolution in a term of forty five (45) days, it will be understood that there is no objection to the assignment of rights and a transaction document will be registered at the National Mining Register.

In order to be able to register the assignment at National Mining Register, the assignor should demonstrate having complied with all obligations emanated from the concession contract.

Article 23. *Effects of the Assignment:* The assignment of rights emanated from the contract cannot be submitted by parties to any term or condition as far as it is concerned to the State. If the assignment is total, the assignee will be subrogated in all its liabilities emanated from the contract, even of those contracted before the assignment and which performance might be pending.

Article 24. *Partial Assignment:* The partial assignment of the right emanated from the concession contract can be made by installments or percentages of such right. In this case, the assignor and assignee will be jointly and severally liable to contracted obligations.

Article 25. *Assignment of Areas:* An assignment of rights emanated from the concession contract can be made, by means of a material division of the requested or covered area. This kind of assignment can cover the right to use works, installations, equipment and machinery and to exercise the rights inherent to this contract, save an agreement of the interested party on the contrary.

The assignment of areas will give birth to a new contract with the assignee, which will be completed with the corresponding inscription of the granting document before the National Mining Register.

Article 26. *Liens.* The right to explore and exploit mines of State's ownership can be lien or given in guarantee of the obligations, in the conditions and methods established in this Code.

Article 27. *Subcontracts.* The beneficiary of a mining title can freely carry out studies, works and construction activities to which he is liable, by means of any type of working or execution contracts that does not imply for the subcontractors to subrogate on the rights and liabilities emanated from the title, or given the rights to participate in the minerals to be exploited. For the mentioned contracts, no special permit or notice will be required by mining authorities.

Article 28. *Titles of Private Ownership of Mines.* The assignment through any type of title or cause and the assignment due to death, the private ownership over the mines, as well as the constitution of liens on them, will be ruled by civil and commercial dispositions. Additionally they should be registered in the National Mining Register.

Article 29. *Extinction of Rights.* The ownership rights of private persons over the mining soil and subsoil or over mines that would have been recognized and kept in the terms, conditions and means established in Act 20 of 1969, Decree 2655 of 1988 and Act 97 of 1993, will be considered extinguished if interested parties suspend the exploration or exploitation for more than twelve (12) consecutive months, without any reasonable justification of an act of God or force majeure. The demonstration of such motive should be presented by the interested party at requirement of the mining authority, at any time and in the deadline given.

In any case, the providence that declares the right extinguished will be justified and can be filed against it a reinstatement remedy.

Article 30. *Licit source.* Any person that for any reason provides minerals exploited in the country to be used in works, industries and services, should credit the licit source of such minerals with identification of the mine where they come from, by means of a certificate of origin issued by the beneficiary of the mining title or a certificate issued by the respective mayoralty for the panning pursuant to Article 155 of this Code. This requirement should be set forth expressly in the contract or work order or of provision which is issued by the supplier.

TITLE ONE GENERAL DISPOSITIONS CHAPTER III

Reserved, excluded and restricted areas.

Article 31. *Special Reserves.* Due to social or economic reasons, determined in each case, by notification or by express request of the mining community, the National Government in the areas in which traditional exploring of informal mining exists, will delimit areas in which new proposals over all or some minerals will not be temporarily admitted. Its object will be to carry on mining-geological studies and to develop special mining projects and its setting up. In any case, these mining-geological studies and the initiation of the respective projects cannot take longer than two (2) years. The concession will be awarded only to the same communities that have realized the traditional mining exploiting, even if there is a request of a third-party. All the above, notwithstanding the current mining titles, awarded or recognized.

Article 32. *Free Areas.* The areas, object of special reserves, that have not been adhered to community mining programs and projects, will be free to be awarded to the third-party proponents, under the ordinary regime of concession, regulated by this Code.

Article 33. *National Security Areas.* The National Government may establish, only for national security reasons, areas in which cannot be presented any proposals, nor carry out concession contracts on all or determined minerals. This reserve will be in force while, at Government's good judgement, the circumstances which motivated its establishment, subsist. In case that such reserve is abolished or modified, in the same act will be determined the form in which private persons, in equal conditions, can present their proposals to contract the exploration and exploitation of this areas, under the common regime of concession.

Article 34. *Areas Excluded from Mining.* No construction activities or mining exploring and exploiting can be carried out in areas declared and delimited according to laws in force such as of protection and development of renewable

natural resources and environment and that, according to legal dispositions on the subject matter, expressly excludes such works and constructions.

The mentioned areas of exclusion will be those that are constituted, according to laws in force, as areas that integrate the system of natural national parks, natural parks of regional character and reserved forestal areas. These areas, in order to produce such effects, should be geographically delimited by environmental authorities based on technical, social and environmental studies with the collaboration of mining authorities, in those areas of mining interest.

In order that the construction activities and works of exploring and exploiting are excluded or restricted in areas of protection and development of renewable natural resources or environment, the act that declares them should be expressly justified in studies that determine the incompatibility or restriction in relation with mining activities.

Notwithstanding, the mining authority, previous founded administrative act of the environmental authority that decrees the subtraction from the required area, may authorize that areas mentioned in the present Article, with exception of parks, can carry out mining activities in a restricted manner and only for determined methods and systems of extraction that do not affect the objectives of areas of exclusion. For that effect, the interested party in the concession contract should present studies that demonstrate the compatibility of mining activities with such objectives.

Article 35. *Areas of Restricted Mining.* The construction activities and works of exploring and exploiting of mines can be carried out in the following areas and places, with the restrictions described below :

a) Within the urban perimeter of the cities and municipalities, indicated by municipal laws adopted in conformity with the legal provisions on municipal regulations, except in the areas in which the mining activities are prohibited, according to the mentioned provisions;

b) In areas occupied by rural constructions, including its orchards, gardens and surrounding lots, as long as it has the owner's or holder's agreement and there is no danger for the health and integrity of its dwellers;

c) In defined areas of special archeological, historical or cultural interest, as long as there is an authorization of competent authority;

d) On beaches, low tide areas and in fluvial journeys served by public companies of transportation and which use continues being established by competent authority, if such authority, under certain technical and operative conditions, indicated by it, previously allows that such activities are carried out in the above mentioned journeys;

- e) In areas occupied by a public work or attached to a public service, as long as :
- i. It has a previous permit of the person that is taking care of the use and handling of the work or service;
 - ii. The applicable provisions to the work or service are not incompatible with the mining activity that is going to be realized and
 - iii. The exercise of the mining activity in such areas do not affect the stability of constructions and installations in use by the work or service.
- f) In areas constituted as Indian mining areas as long as the corresponding authority communities, within the appointed deadline, have not exercised its preferential rights in order to obtain the mining title to explore and exploit, with arrangements established by Chapter XIV of this Code;
- g) In areas constituted as mining zones of Afro-colombian communities, as long as the corresponding community authorities, within the appointed deadline, have not exercised its preferential rights in order to obtain the mining title to explore and exploit, with arrangements established by Chapter XIV of this Code;
- h) In areas constituted as mixed mining areas, as long as the corresponding community authorities have not exercised its preferential rights in order to obtain the mining title to explore and exploit, with arrangements established by Chapter XIV of this Code.

Once the authorities have been consulted in reference to this Article, the officials to whom the corresponding request has been presented should be solved in a unpostponable term of thirty (30) days, or otherwise will be under penalty of falling in a disciplinary fault. Once the term is due, the competent authority will resolve the pertinent.

Article 36. Effects of the Exclusion and Restriction. In concession contracts will be understood as excluded or restricted in fullest legal sense, areas, lands or journeys in which, according to the Articles above, mining activity is prohibited or will be understood conditioned to the acquisition of special permits or authorizations. For this exclusion or restriction it will not require of a statement of any authority, nor the express mention of acts and contracts, nor the disclaim of the proponent or concessionaire of the mentioned areas or lands. If in effect, the mentioned areas or lands were to be occupied by works or installations of the concessionaire, the mining authority will immediately order the withdrawal or evacuation, without payment, or compensation of any kind for this motive. The aforementioned , subject to acts initiated by the competent authorities in each case, whenever might be necessary.

Article 37. *Legal Prohibition.* With exception of faculties of the national or regional authorities mentioned in the previous Articles 35 and 35, no regional, sectional or local authority can establish areas from the territory that remains permanently or transitorily excluded from the mining activity.

This prohibition covers plans of territorial ordinance, mentioned in the following Article.

Article 38. *Territorial Ordinance.* In the process of elaboration, modification and execution of plans of territorial ordinance, the competent authority will have to be subject to mining-geological information at his disposal on the respective areas, as well as to dispositions of this Code on special reserved areas and exclusive areas for mining.

TITLE ONE
GENERAL DISPOSITIONS
CHAPTER IV
Prospecting

Article 39. *Mining Prospecting.* The prospecting of mines is free, except in territories defined as mining areas for ethnic minorities such as those set forth in Chapter XIV of this Code. When it has to be done in areas of private ownership, a previous notice has to be given to the owner, holder or manager, directly or through the Mayor. When it has to be done in goods of public service under jurisdiction of the Marine General Agency - DIMAR, pursuant to the foreseen in Article 2 of Decree-Act 2324 of 1984 and all other provisions that modify, substitute or derogate them, its favorable technical concept will be required.

Article 40. *Means of Prospecting.* Prospecting is a process to investigate the existence of minerals, delimiting promising areas, and its methods consist, within others, in the identification of rock exposing, geological cartography, geophysical and geochemistry studies, superficial investigation, in areas not subject to exclusive rights. From prospecting, the subsoil methods are excluded.

Paragraph. When prospecting is carried out in maritime areas, and in delimited areas in rivers, on which the Marine General Agency has jurisdiction, this should be informed.

Article 41. *Guarantee.* The beneficiary of a mining title and the owners, holders or bearers of lands where works of prospecting are being realized, can request through the mayor that for such works of prospecting a guarantee has been constituted in order to insure harm and damage that might be caused. This pledge will be fixed based in rules and criteria set in Chapter XVIII of this Code and taking in consideration the corresponding timing and type of labor.

Article 42. *Subsoil Investigation.* It is of public interest that the State, through the “Institute of Investigation and Geo scientific Mining Environmental and Nuclear Information – “INGEOMINAS””, or centers of superior education and of scientific and technological investigation, carry out works of regional and global investigation of the subsoil, with the object of obtaining, completing and delving deeply into the knowledge of the country’s potentiality on mineral resources of soil and subsoil. The results of such studies should make part of the National System of Mining Information and of the Geo-scientific Information Service of “INGEOMINAS” - These studies will be compatible with those of superficial prospecting that are carried out by private individuals and even may be carried out in areas object of proposals, contracts and of mining titles of private ownership. Such works will be, any way, coordinated by “*Ingeominas*” or the government’s entity that might substitute it.

Article 43. *Servitudes or easements.* In works and studies of mineral prospecting, servitudes or easements which are referred to in Chapter XVIII of this Code, cannot take place. Only one entrance and a temporary or occasional transit of people will take place, in a limited number and stocked by instruments and equipment.

Article 44. *Reparation.* The people that carry out works and studies of prospecting, will be in the obligation to repair the harm and damage caused to third parties. Those can request to the Mayor the proof of such damages and its immediate repair, by means of the procedures established in the Chapter XXV of this Code. While the value of the damage has not been covered, the mentioned people cannot continue their labor in the affected area.

TITLE SECOND
THE MINE CONCESSION
CHAPTER V
The Concession contract

Article 45. *Definition.* The contract of mining concession is that which is celebrated between the State and an individual to carry out, on account and at his own risk, the studies, works and installations of exploration of minerals of State’s ownership that can be found within a determined area and to exploit in the terms and conditions established in this Code. This contract is different from that of the public work and to that of the concession of public service.

The concession contract includes as part of its objectives the stages of technical exploration, economical exploitation, beneficiation of minerals at the concessionaire’s own account and risk and the closing or abandonment of the corresponding works and installations.

Article 46. *Contract's Regulations.* To the concession contract will be applied, during the term of its execution and during its prorogation, the mining Acts in force at the time of its execution, without any exception. If such Acts are modified or added afterwards, those last ones will be applied to the concessionaire as soon as its prerogatives are extended, confirmed or improved, with the exception of those that foresee modifications of the economic benefits foreseen in favor of the State or of the Territorial Entities.

Article 47. *The works and installations.* The studies, works and installations to which the concessionaire will be engaged due to the contract will be those that are expressly enumerated in this Code. No modifications or additions will be allowed, nor can be added others by disposition of the authorities. The regulations, resolutions, circular letters, documents and instructions that are appointed to them or that request works, studies or installations of mining character, different, additional or complimentary to those that might extend its obligations, will not be binding and the officers that order them will be creditors to a disciplinary sanction and will be civilly responsible with their own capital for the damages caused to the interested parties.

Article 48. *Additional Permits.* The mining concessionaire in order to project, prepare and execute its studies, works and installations, will not be required of licenses, permits or authorizations different from those related to this Code or in the legal dispositions to which this makes express reference, subject to the competence of the environmental authority.

Article 49. *Adhesion Contract.* The mining concession is an adhesion contract as far as that in order to celebrate it, its terms, conditions and methods cannot be pre-negotiated, subject to the dispositions in the Articles 31, 248 and 355 of the present Code.

Article 50. *Formalities.* The concession contract should be contained in a document written in the Spanish language and be subscribed by both parties at the same time. For its execution and proof it only has to be registered at the National Mining Register.

Article 51. *Exorbitant Clauses.* The contract of mining concession, with the exception of the foreseen for its lapse, can not be modified, finished or interpreted unilaterally on part of the granting public agency. For any of these actions it should be appealed before a competent judge or to the use of an arbitrage or appraisers.

Article 52. *Force Majeure or Acts of God.* At request of the concessionaire before the mining authority, the liabilities emanated from the contract may be temporarily suspended before the events of force majeure or an act of God occurs. At request of the mining authority the interested party should proof the continuity of such events, at any time.

Article 53. *State Contract Laws.* The general dispositions on State contracts and those related with pre-contractual proceedings will not be applicable to the prescription and proceedings of the proposals for the mining concession, nor to the subscription, executory, validity, execution and completion of such, save those referring to the legal capacity referred to in Article 17 of the present Code. In all those matters they will be at disposition of this Code and of other provisions to which it refers directly and expressly.

Article 54. *Suspension and decrease of exploiting.* When transitory circumstances of technical or economic order, not constitutive of force majeure or act of God, do not allow or make it difficult to work on the exploration that has already been started or those of the construction and erection or those of exploiting, the mining authority, by request of the concessionaire, duly proved, for temporary suspension of the exploitation, or in order to decrease the normal volumes of production, can give its authorization. The mentioned suspension will not extend, nor modify the total term of the contract.

Article 55. *Proof of the suspension.* The acts that decree the suspension of the term or the suspension or modification of the mining operations pursuant to the previous Article, will point out expressly the date in which the suspension, modification or postponement, starts and ends.

Article 56. *Indemnification.* The State does not acquire, due to the concession contract, the obligation of indemnification. In consequence, the concessionaire cannot claim any payment, reimbursement or harm for not finding in the contracted area the minerals to be exploited, in the quantity or quality that might make them commercially usable or having been deprived of its right to explore or exploit. It only will be responsible in the case in which third parties, based on mining titles inscribed at the National Mining Register, prior to the celebration of the contract, deprives him of all or part of the contracted area.

Article 57. *Independent Contractor.* The concessionaire will be considered as an independent contractor for effects of all the civil, commercial and labor contracts that might be carried out on account of its studies, works and installations of exploring and exploiting.

Article 58. *Rights covered by the Concession.* The concession contract grants to concessionaire, in an exclusive manner, the faculty to carry out within the given area, the studies, works and installations necessary in order to establish the existence of the minerals, object of this contract, and to exploit them according to the principles, rules and criteria belonging to the accepted techniques of geology and mining engineering. It covers also the faculty to install and build within the mentioned area and outside it, the equipment, services and works necessary for an efficient exercise of the rights set forth in this Code.

Article 59. *Obligations.* The concessionaire is in the obligation, in the exercise of his rights, to comply with the obligations of legal, technical, operative and environmental character expressly set forth in this Code. No authority has the faculty to impose other obligations, nor point out the requirements in an additional form or that, in some way, that they condition, delay or make more onerous its accomplishment.

Article 60. *Autonomous Business.* In the execution of the studies, works and installations for the exploration, building, construction, exploitation, beneficiation and transformation, the concessionaire will have complete technical, industrial, economical and commercial autonomy. Therefore he can choose the kind, form and order of application of the systems and processes and to freely determine the site, movements and opportunity of the use and dedication of the personnel, equipment, installations and works. The officials of the granting agency or the environmental authority, will carry out its activities of auditing oriented towards the adequate preservation of the resources object of the mining activity in charge of the concessionaire, and to guarantee the due accomplishment of the mining and environmental sanitation and security regulations.

Article 61. *Minerals covered by the Concession.* In addition to of the minerals expressly included in the contract, the concessionaire has the right to exploit those that are found linked or associated with them or that are obtained as sub-products of the exploitation. For the effects of the present Article, it is considered that are intimately linked those minerals that make part of the material extracted and which separation can be obtained only by means of subsequent physical and chemical processes of beneficiation. It is considered that one mineral is a sub-product of the concessionaire's exploiting when it is necessarily extracted together with that of the contract and for its quality and amount would not be economically exploitable in a separate form. It is understood for associated minerals those that make integral part of the mineralized body object of the concession contract.

Article 62. *Addition to the object of the concession.* When due to the works of exploration or exploitation minerals different to those which are included in this contract are found, and that are not set forth in the previous Articles, the interested party may request that his concession covers said minerals also, with only the form filing or formalities of the subscription of an additional act which will be registered at the National Mining Register. This addition will not modify, nor extend the established due dates in the original contract and if that might be necessary, the corresponding extension or modification of the Environmental License will be requested in such way that it will cover the minerals object of the addition if the impacts of exploiting them are different than those of the original exploitation.

It is understood that the extension of the object of the contract referred in the previous clause will be done subject to the proposals and contracts of third parties, prior to the request of an addition of the concessionaire for the requested mineral.

Article 63. Concurrent Concessions. On the area object of a concession in which the Program of Works and Installations is taken in consideration, the third parties may request and obtain a new contract on minerals different from those if the concessionaire has not exercised the right to addition on the object of the contract, in the terms of the previous article 62. In this event, the requests of such third parties can only be accepted once the mining authority has established through expert appraisers appointed by it, that the exploitations are technically compatible. This expertise will be carried out with a citation and audience of the first proponent or contractor and the matter will be solved once a pronouncement about the superposition of the requested areas by the third parties is made by the authority.

TITLE SECOND
THE MINE CONCESSION
CHAPTER VI
Area of the Concession

Article 64. Area in water flows. The area of concession which object might be the exploration and exploitation of minerals in the river bed of the water current, will be determined by a polygon of any form that within its boundaries covers such river bed in a continuous run of maximum two (2) kilometers, measures by one of its margins.

The area to exploit and explore the minerals in the river bed and the bank of a water current, will be up to five thousand (5.000) hectares, delimited by a polygon of any form and in which the boundaries contains a river bed of up to five (5) kilometers, measures by one of its margins.

During the exploring, the interested party should justify, by means of technical studies, the need to retain the total of the requested area in concession.

The above, subject to the respective environmental authorizations may be obtained in order to intervene the chosen areas for the extraction of the minerals, within the area of concession.

Article 65. Area in other terrain. The area in which to explore and exploit terrains of any type and location, with the exclusion of the river bed of the water currents, will be delimited by a polygon of any form and orientation delimited with reference to the national geodesic net. Such area will have a maximum extension of ten thousand (10.000) hectares.

Article 66. *Technical Regulations.* In the identification and delimitation of the area object of the proposal and of the contract, the application of the principles, criteria and technical regulations proper to the engineering, geology and the topography, accepted and officially disclosed, are obligatory.

Article 67. *Official Technical Provisions.* The National Government, by means of a decree, will establish in a detailed manner, the requirements and specifications of mining technical order that should be attended in order to work out the documents, plans, sketches and reports related to the determination and localization of the area object of the proposal and of the concession contract, as well as in the documents and technical reports that should be presented. No official or authority may request to the interested party, as far as the mining matters is concerned, the application of the principles, criteria and technical regulations different or additional to those adopted by the Government.

Article 68. *Technical Definitions.* The National Government will adopt a vocabulary or list of definitions and technical terms in the subject of mining that will be of compulsory use for individuals and for authorities and officials in the making, presentation and issuing of documents, applications and decisions that are produced in the proceedings regulated by this Code.

Article 69. *Actual Area of the Contract.* The area of the concession contract, is granted by boundary limits and not by capacity or space. In consequence, the concessionaire does not have any right of claim in case that the real extension contained in such boundary limits is inferior to the one mentioned in the contract. The granting authority, by notification pursuant to law and at any time, can order, previous verification on the terrain and by means of a justified resolution, the correction or clarification of the boundary limits, if errors or inexact information are found.

TITLE SECOND
THE MINE CONCESSION
CHAPTER VII
Term of the Concession

Article 70. *Total Term.* The concession contract will be agreed on for a term that the proponent requests, and up to a maximum of thirty (30) years. Such term will start from the date of inscription of the contract at the National Mining Register.

Article 71. *Period of Exploring.* Within the three (3) years following to the date of the contract inscription, the concessionaire should make the technical exploration of the contracted area. At request of the proponent, an inferior period of exploration can be indicated in the contract, as long as it does not imply freeing him from the minimum obligations requested for this phase of the contract.

Article 72. *Period of Construction and Erection.* Once the period of exploration has ended, the period of three (3) years will start for the construction and installation, necessary for the exploiting work. However, the concessionaire, subject to his obligation of starting on time the definite exploitation, may carry out, in an anticipated manner, the extraction, beneficiation, transportation and commercialization of the minerals in the amount and quality that would allow him the infrastructure and provisional erection that he might have at hand. For such effect he will previously advise and will notify in writing to the granting authority of the provisional and anticipated exploitation, according to the Installations and Works Schedule.

Article 73. *Period of Exploitation.* The maximum period of exploitation will be the time of the concession minus the periods of exploration, construction and erection, with its deferrals. If the concessionaire decides to start the exploitation of the minerals in a formal and definite manner, even though the works and equipment of infrastructure and erection were not ready, either using these installations or provisional works, he may proceed giving a previous notification to the granting authority and subject to his obligation to have the definite works and installations complete and in normal use within the corresponding time limit.

Article 74. *Deferrals.* The concessionaire can request for once a deferral of the period of exploration for a term up to two (2) years, in order to complete and add the studies and works aimed towards the establishment of the existence of minerals granted and to technical and economic feasibility to exploit them. In this case, the formal initiation of the construction period and erection will be postponed until the due date of deferral of the period of exploration.

Equally the concessionaire may request a deferral of the period of construction and erection for a term of up to one (1) year. In this case, the formal initiation of the period of exploitation will be postponed until the due date of the granted deferral.

Article 75. *Deferral Requests.* The deferrals of the previous dispositions should be requested by the concessionaire with due justification and with anticipation not inferior to three (3) months to its due date. If the request has not been solved before that due date, it will be considered as granted by means of the application of the positive administrative silence.

Article 76. *Requirement for a Request of a Deferral.* In order that the request of a deferral of established periods in the Contract can be authorized, the concessionaire should comply with the corresponding obligations and sanctions that would have been imposed until the date of request. The same requirement will be necessary in order that the grant be given according to the previous Article.

Article 77. *Deferral and Renewal of the Contract.* Before the expiration of the period of exploitation, the concessionaire may request a deferral of the contract for up to thirty (30) years, which will be completed by means of an act subscribed by the parties, which will be registered at the National Mining Register. Once the deferral is overdue, the concessionaire will have preference to contract again the same area in order to continue in it his work of exploitation. This will not have to be suspended while the new contract is being completed.

The principle of preference will be applied according to the dispositions of Article 357 of this Code.

TITLE SECOND
THE MINE CONCESSION
CHAPTER VIII
The Works of Exploration

Article 78. *Works of Exploration.* The studies, works and installations to which the concessionaire is in the obligation during the period of exploration by methods of subsoil, are those necessary in order to establish and determine the existence and location of the mineral or minerals contracted, the geometry of the deposit or deposits within the area of concession, in quantity and quality economically exploitable, the technical feasibility to extract them and the impact it might have on the environmental and the social surroundings that might cause these works and installations.

Article 79. *Techniques and Applicable Specifications.* The studies, works and installations inherent to the exploitation will be carried out with the strict application of the criteria and regulations of technical order, inherent to the sciences and practices of geology and mining engineering, as well as with the norms and guidelines adopted by the Government.

Article 80. *Object of the Works.* The studies, installations and works of exploration, will be aimed to establish and technically estimate the reserves of mineral or minerals, the site and characteristics of the orebodies or deposits, the detailed making of the mining plan to be carried out, the means and methods of exploitation, and the feasible scale and term for the expected production.

Article 81. *Terms of Reference and Guides.* With the presentation of the proposals of concession, the interested party is obligated to carry out the exploration according to the terms of the reference and the mining guides that for such effect the mining authority will make.

Article 82. *Delimitation and Restitution of the Areas.* At the end of the period of exploration, the definite delimitation of the zone of the contracted area that will be linked to the installations and works of exploitation should be presented, plus the works strictly necessary for the beneficiation, internal transportation, services of support and works of environmental nature for which the values, site and estimate of the existent reserves, should be taken in consideration, as well as the expected production indicated in the Plan of Works and Installations for exploitation, according to Article 84 of this Code. With the opportunity of this delimitation, the concessionaire will be in the obligation to return, in contiguous or discontinuous lots, the parts of the area that are not occupied by the mentioned installations and works. The withhold area should be constituted as a continuous extension.

Anyway, it is not permitted to withhold areas in the concession contract that are not economically exploitable.

The interested party, due to security reasons, may establish a strip of land surrounding the places in which the works are being carried out and of the areas occupied by the installations and works.

Article 83. *Additional Zones of exploration.* The concessionaire, for the effects of restitution of the areas, can request that for a prudent additional period that can not overpass two (2) years, he might be authorized to hold, based on the contract, consecutive zones of the contracted area in order to continue his work in them for the technical exploration, which should be included in the Environmental License. These zones, in case that the concessionaire decides to exploit them later on, should be incorporated in the Plan of Works and Installations and to ask for the modification of the respective Environmental License if it becomes necessary.

Article 84. *Schedule of Installations and Works.* As a result of the studies and works of exploration, before the overdue date the concessionaire will present for approval of the granting authority or the auditor, the Plan of Works and Installations of exploitation, which should be attached to the contract as part of the obligations. This Plan should contain the following elements and documents:

1. Definite delimitation of the area of exploitation.
2. Topographical map of the mentioned area.
3. Detailed cartographic information of the area and, when it deals with marine mining, the bathymetrical specifications.
4. Location, estimate and characteristics of the reserves that should be exploited in development of the project.

5. Description and localization of the installations and mining works, mineral storage, beneficiation and transportation, and if it might be the case, the transformation facilities.
6. Mining Plan of exploitation, which will include indication of the technical guides that will be used.
7. Work's plan for the geomorphological recuperation, landscaping and revegetation of the altered system.
8. Scale and duration of the expected production.
9. Physical and chemical characteristics of the minerals to be exploited.
10. Description and localization of the necessary installations and works for the exercise of the rights corresponding to the mining operations.
11. Plan of closure of the exploitation and abandonment of the assemblies and installations and of the infrastructure.

Article 85. Study on the Environmental Impact. Simultaneously with the Plan of Works and Installations, the study that demonstrates environmental feasibility of such program should be presented. Without the express approval of this study and the issuing of the corresponding Environmental License, the initiation of the installations of works of the mining exploitation cannot start. The works of geomorphological recuperation, landscaping and revegetation of the altered ecosystem will be executed by experts of each one of these labors. Such license with the restrictions and conditions imposed by the concessionaire will make part of the contractual obligations.

Article 86. Corrections. If the granting authority finds great deficiencies or omissions in the Plan of Works and Installations or the environmental authority in the Environmental Impact Study that cannot be corrected or added officiously, the concessionaire will have to correct them. The observations and corrections should be detailed completely only once.

The corrections or additions in simple form cannot take place, nor those that do not fully influence the requirements and substantial elements of the Plan of Works and Installations and of the Environmental Impact Study or that might not prevent to establish or evaluate its components.

Article 87. Dependents and Subcontractors. The concessionaire can execute all of the studies, works and installations of exploration, by means of its dependents or through subcontractors. In both cases he will be directly responsible before the granting authority, of acts or omissions of ones or the others due to ordinary fault of *levis culpa*. With respect to third parties, such responsibility will be established

in a manner and grade in which the ordinary civil and commercial dispositions are foreseen.

Article 88. *Knowledge and Reserve of Information.* The Concessionaire will provide the National System of Mining Information foreseen in Chapter XXX, technical and economical data and information which might come out of studies and mining works. Its disclosure and use with any purpose on part of the auditing authority, or by third parties, should be made after it has been consolidated in the previous System, and only for the purposes established in this Code.

TITLE SECOND
THE MINE CONCESSION
CHAPTER IX
Construction and Mining Erection

Article 89. *Characteristics.* The constructions, installations and mining assemblies should have the characteristics, dimensions and quality set forth in the approved Plan of Works and Installations. However, the concessionaire may, during its execution, make the changes and additions that might be necessary. The mining and environmental authorities should be previously informed of such changes and additions.

Article 90. *Erection Works.* The mining erection consists in the preparation of the mining front and the installation of works, services, equipment, fixed machinery, necessary to start and carry out the extraction or caption of minerals, its storage, its internal transportation and beneficiation.

Article 91. *Works of Construction.* The civil works of infrastructure necessary for the normal functioning of the works of support and management of the mining industry and of those required to carry out the easements of any type to which the miners are entitled.

Article 92. *Location of the Works and Installations.* The constructions and installations, different from those required for the operation of extraction or caption of minerals, can be located outside the area of the contract.

Article 93. *Plants of Transformation.* If for the works of exploitation it is necessary to integrate processing plants to the industrial complex of extraction and beneficiation, those should be included in the erection, at request of the interested party. In this case, the period for these operations can be of two (2) additional years, subject to the ordinary deferral set forth in Article 74 of this Code.

It is understood for transformation, the mechanical and chemical modification of the extracted mineral, through an industrial process from which a different product not identified with the mineral in its natural state, might result.

Article 94. *Anticipated Exploitation.* If the concessionaire opts for starting an anticipated exploitation using works, installations and provisional equipment, or available parts of works and definite installations, he should present an anticipated Plan of Works and Installations, an abbreviated description of assemblies he will use and give a notice that such exploitation is going to start. All, subject to having the definite works and installations, established on time .

TITLE SECOND
THE MINE CONCESSION
CHAPTER X
Installations and Works of Exploitation

Article 95. *Nature of the Exploitation.* The exploitation is a whole group of operations that has for an object the extraction or caption of minerals lying in the soil or subsoil of the area of concession, its storage, beneficiation and the closing and abandonment of the assemblies and infrastructure. The storage and the beneficiation can be carried out within or outside such area.

The beneficiation of minerals consists in the process of separation, grinding, crushing, washing, concentration and other similar operations, to which the extracted mineral is submitted for its subsequent use or transformation.

Article 96. *Initiation.* The period of commercial exploitation of the contract is seriously started at the due date of the period of construction and erection, including its deferrals. Of this initiation, a written notification should be given to the granting authority and the environmental authority. The date of formal initiation will be taken in consideration for all contractual effects, even though the concessionaire might carry out anticipated works of exploitation, according to Article 94 of this Code.

Article 97. *Security of People and Goods.* In the construction of infrastructure and the execution of the exploitation, some measures should be adopted and maintained, and there should be the necessary personnel at disposal, as well as the necessary means in order to preserve life and integrity of people bound to the company and eventually of third parties, according to regulations in force on security, hygiene and occupational welfare.

Article 98. Use of Production. The concessionaire will be free to make use of exploited minerals and will establish conditions of its alienation and commercialization.

Article 99. Adequate Handling of the Resources. The concessionaire is in the obligation to put into practice regulations, methods and technical procedures belonging to mining exploitation, that might avoid damage to exploited or removed materials, or that might deteriorate or sterilize reserves "*in situ*" susceptible of eventual usefulness. The regulations and measures of preservation and adequate handling of resources will be adopted by the Government through regulations, taking into consideration the type of minerals and will be applied previous technical concept in each case.

Article 100. Registers of Production. During the exploitation, updated registers and inventories of production will be carried out at the mine head and storage sites, in order to establish all time the volume of rough minerals and those given to working plants, or if it might be the case, to those of transformation. These registers and inventories will be submitted, with certain regularity set forth by the authority, to the National System of Mining Information.

TITLE SECOND
THE MINE CONCESSION
CHAPTER XI
Joint Operations

Article 101. Area's Integration. When the areas corresponding to several titles belonging to one or several beneficiaries for a same mineral were adjacent or close to, they could be included in a sole program of exploring or exploiting in order to carry out their works in those areas, simultaneously or alternatively, with unified objects and goals of production, integrating them into a sole contract. With this purpose, the interested parties should submit before the mining authority the mentioned program for its approval and to which they will be responsible "*in solidum*".

In the neighboring areas to the new concession contract, where there are applications for concession pending or informal miners for legalization, if there is a general consent, those areas can be integrated to the same concession contract .

When in the unique program of exploration and exploitation only remains engaged parts of the areas corresponding to interested parties, it will be optional for them to unify such areas in a sole contract or to keep in effect the original contracts.

Article 102. Common Constructions and Assemblies. The parties interested in the integration program of areas, can use works, supporting services for mining erection or beneficiation and of easements common to all the integrated areas of such program.

Article 103. Common Time limit. The establishment of common works and installations will be done within a common time limit that cannot be superior to five (5) years. Once this time is overdue, the period of exploitation will start to count, which will be referred to the oldest concession of those which integrate such program.

Article 104. Integration of Operations. For the construction, erection and exploitation of areas, object of the mining titles and of areas which mineral subsoil is of private ownership, a program of integrated use of infrastructure may be carried out by means of an agreement between the interested parties, which will be approved by a mining authority.

Article 105. Common Installations. In the exploitation and storage of minerals, and if it might necessary, its transformation, as well as for the exercise of easements, the concessionaires can use works, installations and plants of common use for several exploitations of the same or several beneficiaries of mining titles, which areas are adjacent or neighboring.

Article 106. Plants and Processes of Exploitation. Whoever builds or operates plants and independent installations in order to beneficiate minerals coming from exploitations of third parties, and also those that dedicate themselves to the process of jewelry and elaboration of gems, will benefit from the advantages and prerogatives consecrate in the Law in favor of the mining industry.

Article 107. Environmental Obligations. In all the programs of joint operations that are referred to in the above dispositions, the concessionaires and other beneficiaries of titles included in such programs, will be liable *in solidum* of corresponding environmental obligations.

TITLE SECOND
THE MINE CONCESSION
CHAPTER XII
Concession's Termination

Article 108. Resignation. The concessionaire can resign freely to the concession and withdraw all his goods and installations that could have built or installed, for the execution of the contract and the exercise of easements. The goods and installations destined to preserve or handle adequately the mining fronts and for the exercise of servitudes or easements and other works of prevention, mitigation,

correction, compensation, handling and environmental substitution, are excepted. In order to be able to resign, it is necessary to be updated in the obligations' fulfillment at the time of the application. The mining authority will have a term of thirty (30) days to pronounce on the resignation submitted by the concessionaire. If the time limit passes, the administrative silence will be considered as positive.

Article 109. *Mutual Agreement.* The concession contract can come to an end by mutual agreement of the parties, in which case everything relative to withdrawal or desertion of goods or installations of the concessionaire and the relocation and environmental substitution of the area, will be agreed upon. A notice should be given to the environmental authority.

Article 110. *Expiration of Terms.* At the completion of the contract due to term expiration, including its deferral, or any other cause, the concessionaire will leave in apt conditions, for normal use, the mining fronts that can be used, the works destined for exercise of easements and those of conservation, mitigation and environmental adaptation.

Article 111. *Death of the Concessionaire.* The contract expires due to death of the concessionaire. However, this motive for expiration will be effective only if within the two (2) years following to the decease, the legatees do not ask to be deferred in rights emanated from the concession, presenting the corresponding proof and paying the royalties established by Law. In this case, if later on they would come to be deprived of all or part of the mentioned concession, the State will not be responsible of any payment, reimbursement or detriment in their favor or to whom might prove to have a better right to succeed the original concessionaire.

During the term of two (2) years mentioned in the present Article, if the interested party does not comply with the obligation of paying royalties, the concession will be declared lapsed.

Article 112. *Lapse.* The contract can terminate by a statement of its lapse made exclusively due to the following:

- a) The dissolution of the legal person, except the in the cases in which it takes place due to a merge, by absorption;
- b) The financial inability that hinders the performance of contractual obligations and that is presumed when an action has taken place against the concessionaire for an obligatory corporation liquidation, according to the Law;
- c) The no realization of works and installations within the terms established in this Code or its not authorized suspension for more that six (6) continuous months ;

- d) The non payment of complete economic considerations on time;
- e) The omission of a previous notice to the authority that the assignment of contract is going to take place;
- f) The non payment of fines or the no reinstatement of the guarantee that endorses it;
- g) The grave and repeated breach of regulations of technical order on mining exploration and exploitation, or of hygiene, security or labor provisions, or the annulment of necessary environmental authorizations for works and installations;
- h) The infringement of provisions on excluded and restricted areas for mining;
- i) The grave and repeated breach on any other obligation derived from the concession contract;
- j) When the source of the exploited minerals comes from a place different from that of its extraction, provoking that the economic considerations be destined to a different municipality of that of its origin. The previous, in addition to the legal actions that might proceed against the concessionaire and public officials that with its behavior promote these actions.

In the case contemplated in this Article, the concessionaire is in the obligation to comply and guarantee all the obligations of environmental order that might be demanded and those of preservation and adequate handling of the mining front and easements that might have been established.

Article 113. Free Reversion. In all cases of termination of the contract, occurred at any time, a free reversion of goods will take place, in favor of the State, being this measure restricted to fixed and permanent goods and installations, built and destined by the concessionaire exclusively for transportation and shipping of minerals coming from the area included in the contract and of those that are incorporated to deposits or access and that can not be moved without harming the orebody and the mining front. This reversion will operate only in cases in which the characteristics and dimensions of the mentioned goods, at the mining authorities' judgement, make them apt as infrastructure to be destined to public service of transportation or shipping or to be given for use of the community.

Article 114. *Obligations in case of Termination.* The concessionaire, in every case of contract termination, is in the obligation to comply or to guarantee obligations of environmental order requested at the time of coming into effect such termination. In the same way, he will comply with and guarantee his obligations of labor order recognized or caused by at the moment of his withdrawal as a concessionaire.

Article 115. *Fines.* Previous the procedure indicated in Article 287 of this Code, the granting authority or its delegate, can impose successive fines of up to thirty (30) monthly minimum salaries, each time and for each case of infringement of obligations emanated from the contract, as long as it is not motive of lapse or that the granting authority, for reasons of public interest expressly recalled, would abstain to declare it.

The amount of the fines will be fixed valuing, in an objective manner, the type of infringement and its harmful effects for the contract.

The imposition of fines will be preceded by the official warning set forth in Article 287 of this Code.

**TITLE THREE
SPECIAL REGIMES
CHAPTER XIII
Materials for the Public Roads**

Article 116. *Temporary Authorization.* The national mining authority or its delegate, at request of interested parties, may grant a temporary and non transferable authorization, to territorial entities or their contractors, for construction, installation, maintenance or improvement of national, department or municipal public roads while its execution lasts, in order to exploit construction materials from rural properties, neighboring or near, for such works and to be destined only for them, subject to environmental provisions, based on the certificate issued by a Public Entity for which the work is being done and that specifies the distance of the road, the term of the works and the maximum amount that will be used.

Such authorization should be solved in a term of thirty (30) days not deferrable and will be considered granted by application of a positive administrative silence.

The decrees of Article 41 are maintained and all others derived from the rights of private property.

Article 117. *Repairs and Compensations.* The contractors of public roads that exploit construction materials, are in the obligation to obtain, if still they do not have it, the Environmental License and to compensate all harm and injury caused to third parties for such operation.

Article 118. Exemptions. The contractors of public roads that exploit construction materials, according to dispositions of this Chapter, are in the obligation to pay royalties established by Law.

Article 119 . Surplus. The contractor can not sell or commercialize the production of the surplus construction materials exploited and not used in the construction of public roads pursuant to this Chapter.

Article 120. Information. The public road contracting authority should inform the mining authority on the construction of such works and this authority, at the same time, will inform it in the term of thirty (30) days on the existence, and location of quarries and mines, on construction materials of the area of influence of such roads, that might be covered by mining titles in force.

TITLE THREE SPECIAL REGIMES CHAPTER XIV Ethnic Groups

Article 121. Cultural Integrity. Every mining explorer or exploiter is in the obligation to carry out his activities in a manner that might not affect cultural, social and economic values of communities or ethnic groups, real and traditionally occupants of the area object of concessions or of titles of soil's private ownership.

Article 122. Indian Mining Zones. The mining authority will indicate and delimit, based on technical and social studies, within the Indian territory, Indian mining zones in which exploration and exploitation of the mining soil and subsoil should be adjusted to special dispositions of the present Chapter on protection and participation of Indian communities and group established in such territories.

Every proposal of private persons to explore and exploit minerals within Indian mining zones will be solved with the participation of representatives of the respective Indian communities and subject to their right of privilege consecrated in Article 124 of this Code.

Article 123. Territory and Indian Communities. For the effects foreseen in the previous Article, it is understood for Indian territories the areas owned in a regular and permanent manner by the community, partisanship or Indian group, according to dispositions in Act 21 of 1991 and other acts that modify, extend or substitute them.

Article 124. Decree of preference of Indian groups. The communities and Indian groups will have preference in order that the mining authority may grant them a concession over the orebody and deposits located in the Indian mining zone. This contract may cover one or several minerals.

Article 125. Concession. The concession will be granted at request of the community or Indian group and in its favor and not of the individuals that form part of it. The manner in which they participate in the mining works and in its products and yields and the conditions of how those can be substituted in such works within the same community, will be established by the Indian authority that governs them. This concession will not be transferable in any case.

Article 126. Agreements with third parties. The communities or Indian groups that possesses a concession within the Indian mining zone, can make contracts of all or part of the corresponding works and installations, with alien people.

Article 127. Restricted Indian Areas. The Indian authority will point out, within the Indian mining zone, places that cannot be object of mining exploration or exploitation due to special cultural, social and economical meaning for the community or aboriginal group, according to their believes, uses and practices.

Article 128. Titles of Third Parties. In case people alien to the community or Indian group might obtain a title in order to explore and exploit within the mining Indian zones, delimited according to Article 122, they should preferable be associated to such community or group, to his works and installations and to train its members in order to make effective this priority.

Article 129. Economic Participation. The municipalities that receive royalties or participations proceeding from the mining exploitation located in the Indian territories, mentioned in Article 123, should assign their corresponding earnings to works and services that might benefit directly the communities and aboriginal groups established in such territories.

Article 130. The Afro-colombian Communities. The Afro-colombian communities referred to in Act 70 of 1993 or all other Acts that modify, extend or substitute them, for the effects of this Code, are also ethnic groups in relation to which mining works and installations should be carried out, respecting and protecting the values that constitute its cultural identity and its traditional manners of mining production. This principle will be applied to any area of the national territory where the works of the beneficiaries of the mining title are being carried out, as long as these areas has been owned in a regular and permanent manner by a community or a Afro-colombian group.

Article 131. Mining Areas of Afro-colombian Communities. Within the fallow land of riverbanks, awarded by the Colombian Institute for the Agrarian Reform - INCORA as common property of afro-colombian communities, at their request, the mining authority may establish special mining areas and will establish the

extension and boundary limits of the mentioned areas. Within those areas, the granting authority at request of the community authority, will grant to the mentioned community a concession as its holder, but not to its members individually considered.

Article 132. *Structure of the Afro-colombian Communities.* The afro-colombian communities which are referred in the previous Article, are a joint group of families of African ancestry that have their own history, culture, traditions and practices within their relationship as a settlement, that reveal and keep their identity which differentiates them from other ethnic groups.

Article 133. *Right of Privilege of the Afro-colombian Community.* The Afro-colombian communities will have privileges in order that the mining authority might grant them a concession over the mining deposits and beds located in a mining area of a Afro-colombian community. This concession can include one or several minerals and will be applied the dispositions of the present Chapter.

Article 134. *Mixed Mining Areas.* The mining authority will establish within the territories indistinctly occupied by the Indian and Afro-colombian communities, mixed mining areas in a joint or shared benefit of these minorities, at request of one or both ethnic groups. In these areas, the dispositions of the present Chapter will be applied.

Article 135. *Agreements with Third Parties.* The community or Afro-colombian groups that have a concession within the mining area of Afro-colombian communities, can contract all or part of the corresponding works and installations with persons alien to them.

Article 136. *Promotion and Mining Authority.* The mining authority, when it refers to the working out and development of mining projects in Indian areas and of Afro-colombian communities, can provide technical assistance in exploration, elaboration of mining plans and its development, as long as such projects are carried out by such communities. Also, they can give the corresponding support for promotion and legalization of areas.

TITLE THREE
SPECIAL REGIMES
CHAPTER XV
Marine Mining

Article 137. *Mining Exploration and Exploitation.* In development of Article 102 of the National Constitution, the exploration and exploitation of minerals in the bed and subsoil, corresponding to marine spaces over which the Colombian State exercises jurisdiction, are regulated by the general provisions of this Code and by the special regulations of this Chapter.

Article 138. *Marine Spaces.* According to the international ordinance, the marine spaces are the territorial sea, the adjacent area, the continental platform and the exclusive economical area. Only for the effects of this Code, such spaces are defined in the following Articles.

Article 139. *Territorial Sea.* The territorial sea is the marine space that is extended over the continental and insular territory and of its interior waters, up to a width of twelve (12) nautical miles or of twenty two (22) kilometers and two hundred and twenty four (224) meters.

The external boundary from the territorial sea is the line which dots are, from the nearest dots of the base line, to an equal distance as that indicated in the previous clause.

Article 140. *Adjacent Area.* The adjacent area is the marine space of a width of twelve (12) nautical miles counted from the external edge of the territorial sea.

Article 141. *Continental Platform.* The continental platform is made up of the bed and subsoil of submarine areas that are extended far away from the territorial sea and along the natural prolongation of the territory, up to the external edge of the continental margin, or up to a distance of two hundred (200) marine miles counted from the base lines from which the width of the territorial sea is measured, in the cases in which the external edge of the continental margin does not reach that distance.

Article 142. *Exclusive Economic Area.* It is the marine space which width is two hundred (200) marine miles, measured as from the base lines from which the territorial sea is measured.

Article 143. *Assumption of State's Ownership.* The legal assumption of the inalienable and unprescriptible ownership of the State, over the mineral resources which refers Article 6th. of this Code, includes those lying in the bed and subsoil of jurisdictional marine spaces.

Article 144. *Jurisdictional Marine Spaces.* The activities of mineral exploration and exploitation in the jurisdictional marine spaces will be ruled by the dispositions of the present Code, by means of a concession contract.

Article 145. *Previous Concept.* The proposal of concession to explore and exploit minerals in the beaches and jurisdictional marine spaces will require the favorable concept of the “Marine General Agency - Ministry of Defense - DIMAR” , according with its legal capacity. Those should adhere to the terms of reference and environmental guides during exploration and obtain the environmental license for exploitation.

Article 146. *International Seabed.* For the effects of this Code, the international seabed is which correspond to the bed and subsoil of the international waters and that, with the nomination of “The Zone”, has been declared, as far as the lying mineral resources is concerned, as common equity of mankind.

Article 147. *State’s Participation.* In the exploration and exploitation of minerals in the bed and subsoil of international waters, the participation of the State will be made before the International Seabed Authority, by means of agreements of cooperation with other states or by an agency agreement with native individuals or foreigners.

Article 148. *Direct Participation.* In the cases of direct participation of the State, this will enter an application before the international authority which should include the Programme of Work, in agreement with the corresponding requirements. Concerning the considerations and economic burden that such participation demands, as well as the administration of benefits in favor of the Nation that are derived from mineral’s exploitation, the international provisions on mining will be applied and, or otherwise, the internal legal provisions.

Article 149. *Participation for Cooperation.* If the State’s participation in the mineral’s exploitation is done through cooperation with other States, the nature, terms and conditions of that cooperation will be the agreed in equity and in good faith. For the celebration and completion of the respective agreement will act as delegated the decentralized agency appointed by the national mining authority.

Article 150. *Participation by Delegation.* When the State participates in the mining exploration and exploitation, delegating its representation in individuals, the right of representation which is pre-payable, as well as any distribution that might imply the form-filling before the International Seabed Authority, will be exclusively in charge of them. In the corresponding contract of representation will also be established, specifically, that all responsibility for damage or breaches that are originated due to the marine mining works, before an International Authority or in relation to third parties, will be in charge of the representative, without any limit of time or any other limitation.

Article 151. *Transfer of Technology.* In all contracts with individuals for the mining exploration or exploitation in the international seabed, will be agreed upon as an obligation the permanent and timely transfer of technology. For such will be understood the possibility of every scientific advance, technical knowledge, booklets, designs, operating instructions, training and assistance and counseling to install, maintain and operate a feasible system and the right to use the corresponding elements in a non exclusive manner. All of the above referring to the exploration and exploitation of minerals at the seabed.

TITLE FOUR
MINING WITHOUT A TITLE
CHAPTER XVI
Occasional Mining

Article 152. *Occasional Extraction.* The occasional and transitory extraction of industrial minerals in the open pit mining, that is carried out by the owners of the surface, in small amounts and not much depth and by manual work, will not require of a concession of the State. This occasional exploitation can be destined only to be consumed by the owners in works and repairs of their homes and installations, previous authorization of the owner of the properties. Any other industrial or commercial destination given to the extracted minerals, covered by this Article, is prohibited.

In use of the authorization set forth in this Article, the owners are in the obligation to preserve, repair, and substitute the negative environmental effects that might be caused and to the readapting of the explored land.

Article 153. *Restrictions.* The occasional and transitory exploitation given in the above Article, is not authorized to oppose the proposals to third parties, nor to establish any type of servitudes or easements in its benefit.

Article 154. *Industrial Minerals.* For the effects of the above Articles, the industrial minerals are the clays in its many forms and the construction materials defined in this Code. Are considered small exploitations and of not much depth, those that are carried out with a set of simple tools or implements of manual use, operated by human strength, and which extracted amount does not surpass in any case two hundred and fifty (250) tons of material per year .

Article 155. *Gold Panning.* Panning will be allowed, as a popular activity of inhabitants of actual alluvial plots of land, with the restrictions set forth in the following Articles. It is understood that this activity refers to sand washing by manual means without any help of machinery or mechanical means and with the

purpose of separating and collecting precious metals contained in such sands. Equally, the collection of precious and semiprecious stones by the same means mentioned in the present Article, are allowed.

Article 156. Requirement for Panning. In order to carry out panning, it will be necessary to register before the Mayor, domiciled in the place in which it is carried out, and if it is done in terrains of private property, an authorization of the owner should be obtained. It corresponds to the Mayor to solve conflicts within people doing panning and of those with beneficiaries of mining titles and with owners and occupants of terrains.

Article 157. Places not Allowed. Panning will not be allowed in the following places:

- a. In those where the mining labor cannot be done, according to Article 34 and numerals a), b), c), d and e) of Article 35 of this Code;
- b. In places where the “Territorial Ordinance Plan” forbids, for reasons of peace, public security, ornament and urban development.;
- c. In places where machinery and installations of concessionaires of mines operate, plus an encircling distance of three hundred (300) meters.

Article 158. Areas of Afro-colombian Communities. In the alluvial plots of land declared as mining areas of Afro-colombian communities, according to Article 131, can only practice panning the neighbors of such place authorized by the Mayor, who belong to a community in which such area has been constituted for their benefit . In these cases, the Mayor will act in coordination with authorities of the communities that benefit from the mining area.

TITLE FOUR
MINING WITHOUT A TITLE
CHAPTER XVII
Illicit Exploration and Exploitation of the Mines

Article 159. Illicit Exploration and Exploitation. There is illicit exploration and exploitation of mining deposits, constitutive of criminal offense contemplated in Article 244 of the Penal Code, when the works of exploration, extraction or taking of minerals of national or private ownership are carried out without the corresponding mining title in force or without the authorization of the registered holder of such ownership.

Article 160. *Illicit Use.* The illicit use of mineral resources consists in the beneficiation, commerce or acquisition, in any way, of the minerals exploited of areas not covered by a mining title. In these cases the agent will be penalized pursuant to Article 244 of the Penal Code, except to the foreseen in this Code with respect to panning.

Article 161. *Confiscation.* Mayors will carry out a provisional confiscation of minerals that are transported or commercialized and that are not covered by a bill or certificate stating the mine where they come from. If the illicit source of minerals is proved, they will be placed at the disposition of penal authorities with cognizance of the facts. The dispositions of this Article will not be applied to panning.

Article 162. *No issuing of Titles.* The legal authority that would have imposed a sanction to a person due to the crimes of illicit use and exploration or illicit exploitation of mineral deposits, will communicate the final judgement or verdict to the national mining authority for the effects of the following Article.

Article 163. *Special Unqualification.* Whoever has been condemned due to illicit use or exploration or illicit exploitation of mineral resources, will be unqualified to obtain mining concessions for a term of five (5) years. This accessory penalty will be imposed by a judge in the verdict.

Article 164. *Notice to the Authorities.* Whoever has knowledge of illicit use, exploration or exploitation of minerals, will advice the Mayor of the corresponding place and with previous verification of the accusation, he will proceed to confiscate the minerals extracted and present the known facts to the mining authority, subject to the corresponding penal actions.

Article 165. *Legalization.* The one who exploits mines of State's property without a registered title at the National Mining Register, should present an application, in a non deferrable term of three (3) years, counted as of January First (1st.) of 2002, in order that over the corresponding mine or mines is granted a concession, fulfilling all the requirements and as long as the requested area is free to be contracted. Once the application has been made and while the decision takes place by the mining authority, the interested party can not proceed, according to the Articles 161 and 306, nor can take place any penal action according to the terms set forth in Articles 159 and 160 of this Code.

The legalization of the processes pursuant to this Article, will be carried out free of charges on part of the mining authority. Additionally, the authority will destine the necessary funds for the realization of the processes, in the terms of Article 58 of Act 141 of 1994.

The mining titles already granted or subscribed, pending of inscription at the National Mining Register, prior to coming into force of this Code, will be inscribed in

the Register and for their execution the pertinent environmental conditions and obligations shall be fulfilled.

Neither will take place the suspension of the exploitation without the title, nor start a penal action, in the cases in which the works of extraction are carried out in areas object of Special Mining Projects and Community Developments carried out according to Articles 249 and 248 , while the special concession contracts, in reference with such projects and development, are pending.

TITLE FIVE
EXTERNAL MINING ASPECTS
CHAPTER XVIII
Servitudes or easements

Article 166. *Servitudes or easements.* For the efficient exercise of the mining industry in all the phases and stages, the necessary servitudes or easements can be established on properties located within or outside the area, object of the mining title. When, for the construction, erection, exploitation, storage and beneficiation and exercise of easements is required the use of renewable natural resources, it will be necessary that such use be authorized by the environmental authority, when the law requires it.

Paragraph. The establishment of servitudes or easements on areas, object of other mining titles, will also be applied. Such liens should not prevent or make difficult the exploration or exploitation of the concession that supports it.

Article 167. *Beneficiation and Transportation.* The establishment of servitudes or easements, pursuant to the present Chapter, will proceed also in favor of beneficiation and transportation of minerals including the cases in which they are carried out by people different from the beneficiary of the mining title.

Article 168. *Legal Character.* The servitudes or easements in benefit of the mining activity are legal or compulsory. The mention made of some of them in the following Articles is merely enunciativa.

Article 169. *Time for establishment of servitudes or easements.* The necessary easements for installations and works of exploitation can be exercised since the concession contract's executory and of those that might be required for the construction, erection, exploitation, storage, beneficiation and transformation, as of the approval of the Plan of Works and Installations and the granting of the Environmental License, if that were necessary. All subject to the agreements with the owner or holder of the property .

Article 170. Irregular Mining Activity. There will not be any kind of servitudes or easements in benefit of installations and works of exploring or exploiting without a mining title in force. If in fact, it is established with the agreement of the owner or holder of the property, such agreement will be invalidated due to illicit object.

Article 171. Extension of Servitudes or Easements. The exercise of mining servitudes or easements will take place for the construction, installation and operation of installations and works of storage, beneficiation, transportation and shipping that have been only and specifically destined and designed for minerals, even though the owners or operators of such works and activities are not beneficiaries of mining titles.

Article 172. Prohibitions and Restrictions. The servitudes or easements cannot be established in areas or places excluded from exploration and exploitation by disposition of this code. In the areas and places restricted for mining activities in which an authorization and previous favorable concepts of other people or entities are required according to Article 35 of this Code, the establishment of servitudes or easements should also fulfill this requirement.

Article 173. Use of Renewable Natural Resources. The use of renewable natural resources, existing in lands of any type, will require of the authorization of a competent environmental authority.

Article 174. Payments and Guarantees. If for the establishment and exercise of servitudes or easements, the owner or holder of the servient tenement demands the payment for damages caused or its guarantee, it will be done immediately according to the regulations established in the present Chapter.

Article 175. Splitting of the Title. When there is a material division of the area, object of the mining title, due to an assignment in favor of a third party, this, without any requirements or additional transactions, will be entitled to the use of servitudes or easements that may be necessary for the exploitation of the granted area, in the same conditions in which they were established for the area initially covered by such title.

Article 176. Time Limit. Unless it is agreed on the contrary with the owner or holder of the servient tenement the use of servitudes or easements, will have a time limit equal to that of the mining title, its deferrals and the necessary labors in order to carry out the restoration or substitution of terrains.

Article 177. Occupation of Lands. The use of lands will have its own easement. The interested party will agree with the owner or holder on the time limit and corresponding retribution.

It will be understood that this servitude includes the right to build and install all works and services corresponding to exploration, construction, erection,

exploitation, ore storage, ore dressing and of exercise of all other servitudes or easements.

Article 178. *Ventilation.* In order to have enough ventilation in the underground mines, it is permitted to open tunnels, channels or other similar works foreseen in mining design and according to the depth, number and extension of the exploitation fronts.

Article 179. *Communications and Traffic.* The beneficiary of a mining title may use the necessary easements in order to establish its own system of communications and the proper means for the traffic of people and for its loading, transportation, unloading and shipping of minerals. The building and installations of works and services necessary for the exercise of easements may have the magnitude and specifications in agreement with the size of the project and its eventual expansion. For the establishment of a servitude of traffic it is not necessary that the mine does not have access to the public road but that the occupation of the servient tenement is required for an efficient loading, unloading, transportation and shipment.

Article 180. *Shipment Works.* For the construction of ports and other works and installations for operation of ships or for occupation by any means of beaches, low tide areas and marine waters, a permit or concession is required on part of the National Superintendence of Ports or the Maritime General Agency of the Ministry of National Defense - DIMAR and its use will be submitted to special regulations on the matter. The above will be subject to the environmental administrative instrument that corresponds, according to pertinent dispositions.

Article 181. *Common and Shared Uses.* The use by third parties, of works and built installations or acquired by the miner for the exercise of easements, do not turn them into public services, although its use is agreed upon by the users or is tolerated by them. If such third parties would make use of works and installations for different purposes than the mining activity, its relationship with the owner or holder of the terrains will be ruled by dispositions on servitudes stated in the Civil Code.

Article 182. *Agreements on Infrastructure.* The granting authority, at request of third party exploiters, may agree with the concessionaire to give use to the infrastructure of external transportation and shipment that would have been built for its service, as long as for this cause does not make difficult or affect the mobilization or efficient handling of its own operations. Such conditions, terms and methods for such access will be agreed upon by the granting authority, the concessionaire and the third party. In case that there is no agreement between the granting authority and the owner of the infrastructure, the dispute will be solved according to Article 294 of this Code.

Article 183. *Rehabilitation of Immovable Goods.* Subject to agreements with the owner or holder of the servient tenement and the payments or compensations in its favor, the interested party is in the obligation to make a restoration of the lands or leave them in good condition to be destined to its normal use or to other alternative uses. This obligation will be complied or will be guaranteed in the course of liquidation of the concession contract.

Article 184. *Compensations and Bails.* The assignment of the compensations and the amount of the bails to which the miner is committed to pay due to the establishment and use of servitudes and easements, should be observed by the interested parties, the appraisers and authorities, by following rules and principles:

- a. For the estimation of commercial value of the land, its objective conditions of location, quality, normal and ordinary destination, will be taken in account and not the characteristics and possible output of the mining project, the potential abundance or wealth of the subsoil of such land, and the economic capacity of the concessionaires.
- b. The partial occupation of the land will give way to an acknowledgement and payment of a compensation in a proportional amount to the use of the affected part, unless such occupation affects the value and use of areas not affected.
- c. Unless stated on the contrary, if the occupation of the lands were transitory and for not over two (2) years, the payments for its use, to the owner or holder, will be made on quarterly installments, in advance; if the occupation is for a longer period, the payment will be made with anticipation, on cash.

Article 185. *Servitudes within Miners.* The servitudes of occupation of lands, ventilation, communications, traffic and visit, can also be established on occupied properties by other concessionaires of mines, as long as with their exercise it does not interfere with the works and labors of the others.

TITLE FIVE
EXTERNAL MINING ASPECTS
CHAPTER XIX
Expropriation

Article 186. *Expropriated Goods.* Since mining is of public service and social interest, it is permitted to request for an expropriation of real estate goods by nature or permanent adhesion and of all other rights constituted on them, that are necessary for the buildings and installations corresponding to the infrastructure and erection of the mining project, for the realization of the extraction and obtainment of minerals in the period of exploitation and for the exercise of the corresponding servitudes.

Also, exceptionally, an expropriation in benefit of the exploration works might proceed.

Article 187. *Necessity for Goods.* The real estate goods and the rights constituted on them, which are object of expropriation, should be essential for the efficient operation of the miner's works and installations and exploitation of minerals, its storage, beneficiation, transportation and shipping.

The condition of goods being essential for the mining project will be established through appraisers, assigned by the granting authority, within the administrative stage of the expropriation.

Article 188. *Goods that Cannot be Expropriated.* The type of expropriation, mentioned hereby, of real estate goods acquired or destined for the exercise of other prevailing mining titles, cannot be decreed.

Article 189. *Expropriation's Application.* The beneficiary of the prevailing mining title, that intends to acquire real estate goods of third parties through an expropriation, should address his request by writing to the competent mining authority, which request should contain the following:

- a. Name, identification, and address of the owner or holder of the real estates.
- b. Number and class of mining title's annotation at the National Mining Register.
- c. Identification and siting of the goods that have to be acquired and a detailed description of the mining works and installations with which those will be occupied or affected.

- d. Formal compromise to pay the previous and plain compensation, which might be originated in the expropriation.

Article 190. *Inscription and Examination of the Goods.* Based on the documentation presented and the Plan of Works and Installations produced during the exploration, an inspection on the land will take place, together with the appraisers assigned by the mining authority, in order to verify if the goods that will be expropriated are necessary to establish and operate, in an efficient manner, the mining project and to estimate the value of the compensation that should be paid to its owners or holders.

Article 191. *Notice to the Interested Parties.* The appointment of the appraisers and the fixing of the date for the inspection will be made within the ten (10) days, following to the presentation of the application in a sole providence, which will be notified in person to the owners and holders of the real estates.

Article 192. *Legal Capacity to Claim.* The resolution that decrees the expropriation will be notified in person to the interested parties. Once executed, a copy will be issued to the concessionaire, who will have the legal capacity to establish the corresponding action for expropriation.

Article 193. *Expropriation during the Exploration.* In exceptional cases in which due to the depth and length of the works of exploration by methods of subsoil, cannot be carried out without affecting the commercial value and use of the properties, will correspond to apply for its expropriation through the procedures pointed out in previous Articles and a program of exploration that sustains such request.

TITLE FIVE
EXTERNAL MINING ASPECTS
CHAPTER XX
Environmental Aspects

Article 194. *Sustainability.* The obligation to adequately handle the renewable natural resources and the integrity and use of the environment, is compatible and concurrent with the need to promote and rationally develop the usefulness of mineral resources as basic components of the national economy and social welfare. This principle should inspire the adoption and application of provisions, measures and decisions that rule the interaction of the two fields of activity, equally defined by law as of public service and social interest..

Article 195. *Inclusion of Environmental Administration.* For all the mining works and installations carried out through a concession contract or a title of private ownership of the subsoil, its studying, designing, preparation and execution, the environmental management and its costs, will be included as necessary elements to be approved and authorized.

In no case the environmental authority may grant permits, concessions, authorizations or licenses of environmental order, for works and installations not covered by a mining title.

Article 196. *Immediate Execution.* The legal dispositions and regulations of environmental order, are of general and immediate application for all the mining works and labors that can be applied to them.

Article 197. *Constitution and Exercise of the Right.* The celebration and executory of the concession contract and its inscription at the National Mining Register, are regulated by the dispositions of this Code. For the exercise emanated from such contract, before its initiation and execution of material works and labors of exploitation, will be necessary to comply with the requirements and conditions of environmental order foreseen in this Chapter and in what is not foreseen in it, in the general environmental regulations.

Article 198. *Environmental Means and Instruments.* The means and instruments to establish and supervise the mining activities from the environmental aspect, are established by the environmental regulation in force for each stage or phase of these activities, such as the following, amongst others: Plans of Environmental Management, Study of the Environmental Impact, Environmental License, permits or concessions for the use of renewable natural resources, Environmental Guides and authorizations in the cases in which such instruments are required.

Article 199. *Adoption of Terms and Guides.* The environmental and mining authorities will agree upon the adoption of regulated terms of reference, applicable to the elaboration, presentation and approval of studies of environmental order for the mining sector, as well as the issuing of technical guides in order to carry out the environmental management in mining projects and procedures to follow up and evaluate the exercise of such control through the environmental auditors determined in Article 216.

Such terms, guides and proceedings will have for an object to help and speed up the performance of authorities and individuals. The no subjection to those, in formal requisites will not give place to rejection or delay of the corresponding application, study or decision.

Article 200. Principle of Simultaneousness. The studies and works of technical exploration and those of environmental feasibility of exploitation, which are the object of the mining title, will be executed in a simultaneous and coordinated manner, looking for more efficiency and celerity.

Article 201. Requirements for the Prospection. Mining prospection does not require of any authorization or permit of environmental order. However, when its going to be carried out in areas or places indicated as natural reserves in Article 34 of this Code, it will be submitted to the rules and restrictions that in such areas or places rule for works and scientific investigations. The dispositions hereby stated will also apply to subsoil investigations, which are carried out by organisms and government agencies that have been appointed for those functions.

Article 202. Guarantee. At the celebration of the concession contract and constitution of the performance guarantee, within will be insured, in addition to the mining obligations those of environmental character.

Article 203. Use of Resources. When in development of exploration works the occasional or transitory use of renewable natural resources is required in the explored area, such use will be authorized by the corresponding environmental authority.

Article 204. Study of the Environmental Impact. With the Plan of Mining Works and Installations as a result of exploration, the interested party will present the study of Environmental Impact of its mining project. This study will include the elements, information, data and recommendations that will be required to describe and characterize the physical, social and economical means of the place or area for the works and installations of exploitation; the impacts of such works and installations with its corresponding evaluation; the plans of prevention, mitigation, correction and compensation of those impacts; the specific measurements that will be applied for abandonment and closing of mining fronts and its environmental management plan; the necessary investments and monitoring systems for the mentioned measures. The study will be adjusted to the terms of reference and environmental guides previously adopted by the environmental authority, according to Article 199 of the present Code.

Article 205. Environmental License. Based on the Environmental Impact Study, the competent authorities will decide to grant or not the Environmental License for the construction, erection, the exploitation which is the object of the contract, the ore dressing and additional tasks of exploration during the exploitation stage. Such authority may support its decision on the concept that an external auditor may give to the Study of Environmental Impact as foreseen in Article 216 of this Code.

Article 206. Environmental Requirement. For the installations and works of early exploitation, the interested party should obtain the Environmental License which later on may be modified to cover the definite works of exploitation, previous the fulfillment of legal requirements.

Article 207. *Type of License.* The Environmental license for works and installations of the concessionaire will be granted as a global license for the construction, erection, exploitation, dressing and internal transportation of the corresponding minerals. The Environmental License will cover the permits, authorizations and concessions of environmental character, in order to make use of the necessary resources in the mining project. The time limit for such permits and concessions will be equal to that of the Environmental License.

Article 208. *Time Limit for the Environmental License.* The Environmental License will be valid starting from its issuing up to the definite expiration of the mining concession, including its deferrals. In case that the concession finishes in an advanced manner due to lapse, resignation, mutual agreement or impossibility of execution, such license will also cease.

Article 209. *Obligations in case of Termination.* In all cases of termination of the mining title, the beneficiary will be in the obligation of doing the works and put in practice all the necessary environmental measures for the closing or abandonment of the operations and mining fronts. For the effect, the extension of the Environmental guarantee will be requested for a period of three (3) years or more, starting from the date of the completion of the contract.

Article 210. *Modifications.* At request of the interested party, the Environmental License, Plan of Environmental Management, Environmental Guide or the alternate instrument selected for environmental licensing, may be modified for extension or modification of works, installations and processes of production or for the need to substitute or modify in a significant form the established measures of prevention, control, conservation, rehabilitation and environmental substitution.

Article 211. *License Renewal.* The environmental authority can revoke the Environmental License for all or some of the aspects of the mining operation due to serious and repeated breach of environmental obligations by the exploiter, according to the foreseen procedures in the environmental provisions in force.

Article 212. *Joint Studies and Licenses.* The beneficiaries of neighboring or adjoining areas, included or not in a joint plan of exploration and exploitation, may carry out the Environmental Impact Study prescribed in this Code, for the works of infrastructure, erection, and exploitation of such areas, jointly if it is requested. If the conditions and characteristics of these areas would be homogeneous or similar, they may request also the granting of a Joint Environmental License. The environmental dealing included in the License, may contain specific measures in agreement with a special and concrete location of the area of each concession. Each contractor will be liable for this specific measures individually.

Article 213. *Decisions on the License.* The competent authority may refuse to award the environmental license in the following cases :

- a. When the Environmental Impact Study does not comply with the general aspects foreseen in Article 204 of this Code and specially those foreseen in the terms of reference and/or guides, established by the competent environmental authority,
- b. When the Environmental Impact Study incurs in errors or omissions that cannot be corrected by the interested party and that are referred to components of such study qualified as substantial in the corresponding guides,
- c. When the measures of prevention, mitigation, correction, compensation and substitution of negative impacts of the mining project that should be put in practice by the interested party, do not comply with the substantial elements established for such effect in the guides and,
- d. When the omissions, errors or deficiencies of the Environmental Impact Study, and of the mentioned measures in the previous articles, affect the total mining project..

In no case whatsoever the license can be refused due to purely formal errors or omissions.

Article 214. *Preservation of the Marine Surroundings.* The installations and works of exploration and exploitation of minerals in the seabed and subsoil of marine waters subjected to national jurisdiction, will be adapted to all the internal regulations on preservation, mitigation, correction and handling of marine surroundings. Those that carry out on behalf and representation of the State in the seabed and subsoil of international waters, will be submitted also to environmental provisions that on such matters the International Seabed Authority adopts.

Article 215. *Costs and Rates.* For the use by the miner of renewable natural resources in his extraction labors, he is in the obligation to pay all costs and remunerative or compensatory fees established by law, including those costs for official services of evaluation and monitoring. Those last ones will not be requested in cases in which the concessionaire makes use of external auditors.

Article 216. *External Environmental Auditors.* The Ministries of Environment and of Mines and Energy will adopt in the term of two (2) years, as of the coming into force of this Code, procedures that might allow them to authorize the practitioners or firms of recognized aptness and registered and rated before the Ministry of Environment in order that, selected by its users and on their account, carry out an auditing and monitoring in such manner that the environmental obligations are complied in the corresponding concession contracts. Such

practitioners and firms will be only assistants of the environmental authority that for such effects will preserve its autonomy and faculties for decision.

Once defined the indicated procedures, the Ministry of Environment will establish a sole register of external environmental auditors. No natural or legal person may be chosen for the exercise of the acting indicated above without the previous inscription in this register.

TITLE SIX
ECONOMICAL AND SOCIAL ASPECTS OF THE MINING ACTIVITY
CHAPTER XXI
Associative Regimes

Article 217. Commercial Corporations. In the prevailing ordinary mining companies and in those corporations that are constituted in conformity with dispositions of the Code of Commerce, the beneficiary of a mining title can contribute temporarily the right emanated from it.

Article 218. Conditions of Capital Contribution. The contribution to corporations by the individuals, of the right to explore and exploit emanated from the mining title, will be limited to the validity of this right.

Article 219. Consortiums. The creation of consortiums of natural or legal persons may be established in order to submit proposals and to celebrate concession contracts or to overtake works of exploration and exploitation on account of concessionaires. In the first case, it will be required that in the consortium's agreement it is expressly established, in relation with the obligations emanated from the contract, the solidarity in obligations of participants before the granting authority.

Article 220. The consortium's agreement. In addition to the compromise of solidarity of participants before the granting authority, the consortium's agreement should establish the obligations that participants mutually acquire, the conditions of entry and substitution, the representation of the association, the duration and regulations for its liquidation. The National Government will draw up the respective regulations.

Article 221. Association and Operation Contracts. The owners of mining concessions may celebrate contracts of association and operation which object is to explore and exploit the granted areas, without having to establish for such effect a commercial company. The revenues and expenditures originated from works and installations will be registered in a joint account, and in the corresponding contract, which should be worded in a public or private document, it will also be

established the manner in which management and performance of operations and handling of the mentioned account will be carried out.

Article 222. Solidary Economy Organizations. The solidary economy organizations already constituted or that will be constituted, with the object of carrying out mining activities according with the dispositions hereby established, and all other provisions applicable to this type of entities in reason of its solidary economy, may obtain mining titles and overtake mining and commercial activities in order to satisfy the needs of its associates and of the community. The balance or profits that can be reimbursed to the associates, shall be allotted according to legislation that rules for these entities. The National Government will draw up the respective regulations in order to give them preference.

Article 223. Object of Mining Solidary Economy Organizations. The mining solidary economy organizations should favor the organized commercialization of products exploited by them; allow its associates to work in a joint and participative manner and develop their administrative capacities, promoting the search for solutions to common problems.

The way in which members of an organization may participate in works of exploration and exploitation, the amounts of their salaries and economic benefits accrued, the conditions and methods as they can be withdrawn and replaced by other associates, will be those indicated in their own statutes. On failure of these provisions, the corresponding regulations will be adopted in the associate's assemblies.

Article 224. Special Prerogatives. The mining solidary economy organizations and the miner's community associations will have, within others, the following special prerogatives on part of the national public agencies of the mining sector:

1. Priority in programs of technical assistance and training aimed towards the mining sector;
2. Special credit programs;
3. Rights, exemptions and prerogatives that might have been established or that will be established in favor of solidary economy organizations that carry on mining activities;
4. Support and technical, legal, financial assistance and organizational training, for the development of integration projects of mining areas.

Article 225. Promotion and Support. The mining authority, in coordination with the National Administrative Department of the Solidary Economy or who might assume its duties, and in development of its programs of promotion, will promote and support the creation of solidary economy organizations, which object is the

exploration and exploitation of mines, ore dressing, transformation and provision of materials, equipment and implements corresponding to the mining industry. In the budgets and credit programs that might be approved for the mining industry, a preference will be given to the financing of solidary economy organizations.

TITLE SIX
ECONOMICAL AND SOCIAL ASPECTS OF THE MINING ACTIVITY
CHAPTER XXII
Economic and Tax Aspects

Article 226. *Economic Considerations.* The economic considerations are the amounts or in kinds that the State receives for the exploitation of non renewable natural resources.

Article 227. *Royalties.* In conformity with Articles 58, 332 and 360 of the Political Constitution, every exploitation of non renewable natural resources of state ownership generates royalties as a compulsory counter-benefit. This consists in a percentage, fixed or progressive, of the exploited gross product, object of the mining title, and its sub-products, calculated or measured on the mine head, payable in currency or in kind. It will also cause royalties the reception of minerals coming from natural sources that are technically considered mines.

In the case of private owners of the subsoil, those should pay no less than 0.4% of the value of the production calculated or measured on the mine head, payable in currency or in kind. Those funds will be collected and distributed in conformity with the dispositions of Act 141 of 1994. The Government will rule whatever is pertaining to the matter.

Article 228. *Stability of Royalties.* The amount of royalties and the system to liquidate and readjust them will be in force to the time of the concession contract and will be applied during its validity. The modifications that on these matters the Law adopts, will only be applied on the contracts celebrated and completed after its promulgation.

Article 229. *Incompatibility.* The obligation to pay royalties on the exploitation of non renewable natural resources is incompatible with the establishment of national, department and municipal taxes on the same activity, of whatever denomination, method and characteristics.

The above, except for the taxes that the Congress might fix for other economic activities.

Article 230. Surface Fee. The surface fees on the total area of concessions during the exploration, the erection and construction or over its extensions that the contractor retains for exploring during the period of exploitation, are compatible with the royalty and constitute a price that will be collected by the contracting agency without taking in consideration as to who has the property or possesses the lands of the contract. The mentioned fees will be equivalent to a daily minimum salary per hectare and by year payable by advanced annuities starting from the executory of the contract if the requested area does not exceed 2.000 hectares, if it exceeds from 2.000 to 5.000 hectares will pay two (2) daily minimum salaries per hectare and for year payable by advanced annuities, and if it exceeds from 5.000 to 10.000 will pay three (3) daily minimum salaries per hectare and for year payable by advanced annuities.

The liquidation , collection and destination of surface fees corresponds to the mining authority.

Article 231. Prohibition. The mining exploration and exploitation, the minerals that are obtained in the mine head, the machinery, equipment and all other elements needed for such activities, and for the ore storage and ore dressing, can not be burdened with department and municipal, direct or indirect taxes.

Article 232. Funds for Mining. The funds that, according to Article 361 of the Constitution and according with Article 1st. Paragraph 2nd. Act 141 of 1994, will be destined for the promotion of mining, will be invested with priority for the financing of special projects and for the community as indicated in Articles 249 and 248 and the promotion and support programs contained in Articles 224 and 225 of the present Code. These funds appointed for exploration, will be invested in regional geological – mining studies.

Article 233. Exclusion of the imputed rent. The Article 189 of the Tax System will be as follows :

“Article 189. *Depuration of the base’s estimate and determination....*

d) As of the fiscal year 2002 the net equity value of goods directly associated to a company which exclusive business purpose is the mining activity different from the exploitation of liquid and gaseous hydrocarbons”.

Article 234. Tax Withholding Exemption. Are exempted from tax withholding foreseen at the Tax Statute, the payments or payment into account that are carried out in favor of organizations of solidary economy, producers of coal, for concept of the acquisition of such fuel, when the respective purchase is destined to thermal generation of electricity.

Article 235. *Credentials of Mining Exportations as Green Products.* The mining exporters that invest no less than 5% of the FOB value of its yearly exportations in forestal projects destined for the exportation, shall have the right that such investments are exempted of all type of taxes and liens for a period of 30 years.

Article 236. *System of Repayments.* The clause second, Article 91 of Act 223 of 1995 (today Article 143 of the Tax Statute), is modified as follows:

“When it refers to the cost of acquisition or exploration and exploitation of non renewable natural resources, the repayment can be made based in the system of technical estimate of cost of operation unit or by the repayment in direct line in a term not inferior to five (5) years. When the investments carried out in exploration result fruitless, its amount can be repaid within the year in which such condition is determined and, in any case, no more than within the following two (2) years”.

TITLE SIX
ECONOMICAL AND SOCIAL ASPECTS OF THE MINING ACTIVITY
CHAPTER XXIII
Mining Guarantees

Article 237. *Mortgage.* The conventional mortgage on mines recognized as private ownership or allocated under the validity of the previous laws, is ruled by the civil regulations. This lien is compatible with the mining pledge on the exploiting products.

Article 238. *Mining Pledge.* With the exclusive object of securing credits or other obligations contracted in order to build, assemble and explore mines, it can be constituted a pledge on the right to explore and exploit as a result of concession contracts.

Article 239. *Pledge on Movable Goods.* The pledge of the right to explore and exploit emanated from the concession contract, is compatible with the pledge on the future productions of the mine and on the movable goods, machinery and implements dedicated to the exploiting activity.

Article 240. Effect of the Mining Pledge. For the effectiveness of the mining pledge or those constituted on the future products of exploiting, a seizure will proceed on the rights emanated from the mining title through a communication to the National Mining Register. Will proceed as well the sequestration of installations, equipment and machinery of the mine.

Article 241. Continuity of the Exploiting Activity. In order to cash the pledge of the right to exploit emanated from a mining title, the pawnee may request that, in the verdict the judge appoints, in order to continue the exploitation of the granted area, a trust company or manager, that exploits the mine until the accretion is covered with the production and disposition of minerals, adjusting to the approved Program of Works and Installations.

These methods of cashing the mining pledge will take place even in the case in which the rights of the pawnor to exploit ends or expires for any cause, as long as the pawnee imposes his right when notified by the mining authority on the completion or expiration.

Article 242. Other types of Pledge. Also, such obligations can be guaranteed with a pledge on the mining establishment or the elements that make part of it, with the minerals in the marshalling yard or with the future products of the exploitation that would eventually be property of the exploiter, once they are extracted. The above is understood subject to the additional ordinary guarantees or the mortgage security that might be constituted on the allotted mines or of private ownership.

Article 243. Mining Provisioning Contract. The concessionaire may execute a Mining Provisioning Contract by which, a third party provides for, in all or in part, of the expenses and investments of construction, erection and exploitation of the granted area, to be paid exclusively with the extracted minerals or with the product of its sale. This contract of provision will end *ipso facto*, at the completion of the concession for any cause, without charge, nor any responsibility on part of the granting authority.

Equally the provisioner can make effective his right, applying as foreseen in Article 240.

Article 244. Inscription of the Pledge. In order to constitute a mining pledge, an inscription at the National Mining Register will be required.

Article 245. Securitization. In the mining contracts that are celebrated by individuals or by a managing public agency of the State's mineral resources, may carry out financing operations of the corresponding project, through securitization of future flows of cash proceeding from the production, that correspond in the operation. The deeds or contracts to be celebrated in the securitization process, will be executed within the terms, conditions and methods that the legal dispositions that rule the securities' market allows it.

Article 246. State's Responsibility. In the cases of pledge or of securitization of the future flows of cash, nor the State, nor the granting authority or associated agency will assume any responsibility before the mortgage or pledge's creditors, nor before the subscribers, which are set forth in this Chapter.

Article 247. Preference of Credits. The guaranteed credits or related with the contracts of outfitting of the previous Article 241, will be of second class in the preference indicated in Article 2497 of the Civil Code.

TITLE SIX
ECONOMICAL AND SOCIAL ASPECTS OF THE MINING ACTIVITY
CHAPTER XXIV
Social Aspects of Mining

Article 248. Special Mining Projects. The National Government, based in the results of mining-geological studies indicated in Article 31 of this Code, through the government's agencies adhered or linked with the Mining and Energy sector, will organize within the areas declared as special reserves, mining projects oriented towards the rational utilization of existing mineral resources, which may be of two types:

1. Projects of Special Mining. Those are community mining projects that due to its geologic-mining characteristics make it possible the short, medium and long term mineral usefulness. In these cases, the State will intervene, through the government's competent agency, in training, promotion, transfer of technology, environmental handling, structure, development of mining projects and business development of informal miners already attested, of companies of solidary economy and of those community associations of miners that work there; in the counseling of strategic alliances, consortiums or companies with the private sector for the activities of exploration, exploitation, ore dressing, transportation and commercialization of the existing minerals.

2. Projects of Restructuring. Are those projects in which, given the mining-geological characteristics and the economic, social and environment problematic, it is not possible to carry out the development of the mineral resource. These projects will be aimed on a medium term to the miner's labor restructuring and the environment and social readapting of areas of influence of the exploiting activity. This action of the Government will be aimed towards the training of new economic activities, or complementary to the mining activity, to its financing and the social management.

All the actions to which the previous number 1 is referred, will be developed by means of special concession contracts, which terms and characteristics will be indicated by the Government..

Equally such actions can be executed through the departments and municipals if the Government so decides, with the provision of the corresponding funds.

Article 249. *The Community Developments.* As part of specific plans of development and of special mining projects, the State, through the government's organisms adhered or linked to the Mining and Energy sector, or through the departments and municipals, should carry out the following actions in relation with the mining exploration and exploitation:

- a. To promote the legalization, organization and training of mining contractors of the region or locality in community associations or cooperatives of exploitation and beneficiation of minerals;
- b. Counseling in the technical, economical and legal studies that they may deem necessary for the exploration, the rational exploitation, the beneficiation and development of mineral resources within the plans of community development;
- c. To grant within the special reserved areas, to the associated miners, concession contracts under special conditions. These concessions may be granted to cooperatives or associations or, in an individual manner, to the miners entailed with the community plans.

Article 250. *Mining Community Associations.* The miners that are identified within policies of social support of the Government, may be organized in community associations of miners which main object will be to participate in agreements and projects of promotion of investigation and its application, transfer of technology, commercialization, development of added value, creation and handling of revolving funds.

These community associations will also be beneficiaries of special prerogatives set forth in this Code.

Article 251. *National Human Resource.* The title holders of concession contracts, will prefer the national individual persons, in the execution of studies, mining and environmental works and installations, as long as such people are qualified workers. These obligations will cover also people hired by independent contractors. The labor authorities, as well as the Mayors should restrain minors from working in mining labors and works, as is stated in the dispositions on this matter.

Article 252. Use of National Property. In the execution of mining projects, the concessionaires will prefer in its acquisitions of goods and services those of national industry, as long as they offer similar conditions in quality as well as in opportunity and security in their deliveries.

In the acquisitions, which are referred in this Article, the due segregation will take place in order to facilitate the concurrence of the national industry.

Article 253. Participation of the Native Workers. Subject to the obligations indicated in Articles 74 and 75 of the Substantive Code of Labor, the mining concessionaires should pay the Colombian staff, as a whole, not less than seventy percent (70%) of the total value of payroll of qualified or of skilled personnel, of upper management or senior level staff, and no less than eighty percent (80%) of the value of payroll of the subordinates.

Previous concept of the mining authority, the Ministry of Labor and Social Security may authorize, at request of the interested party, that the maximum time limit permitted may be surpassed, for the time strictly necessary to give a suitable training to Colombian personnel.

For the granting of this authorization it will be necessary that the interested party agrees with the Ministry in contributing or participating in specialized training of Colombian personnel.

Article 254. Regional Labor Force. In the mining and environmental works of the mining concessionaire, once the interested party have been heard, the mining authority will appoint the minimum percentages of workers originated from the respective region and domiciled in the area of influence of the projects that should be hired. Periodically, these percentages will be checked.

Article 255. Transference of Technology. The concessionaires with a technical and business trajectory and owners of adequate infrastructure and assemblies can establish, with previous authorization of the mining authorities, concrete plans and programs of transference of technology, structuring and restructuring small exploitations of third parties or legal and technical assistance, through agreements with universities duly recognized, with the object of improving the efficiency and growing level.

The investments and expenses dully proved in such plans and programs will be deductible of royalties to which they are bound for its own production, in an amount that does not exceed to 10% of such considerations.

The deduction to which the above clause makes reference, will affect only the component due to the Nation of the royalties, according to the regulations in force on the matter.

The third parties counseled and assisted in conformity with the present Article, should be beneficiaries of mining titles in force, or be in the process of obtaining them in the terms and conditions established in Articles 165, 249, 248 and 250 of this Code. Additionally, these investments can be applied in alternate projects that might allow the restructuring of the areas of mining influence.

The Government will rule the terms, conditions and methods of plans and programs of transference of technology and structuring, as well as the way to verify investments and expenses in which the concessionaires have incurred for which they request a deduction of the amount of royalties.

Article 256. Mining and Community Works and Installations . The instructions and installations different from those required for the extracting operation and ore storage, may be located outside the area of the contract. Also can be located outside the area of the contract the works destined in a preferred manner to welfare, education and basic sanitation, that the concessionaire carries out in the municipal or municipals where the mining project is located during the period of construction and erection.

The nature and characteristics of the works of common benefit previously mentioned, will be agreed upon between the concessionaire and the municipal authorities, being understood that the amount of the investments required, which cannot exceed to five percent (5%) of the investment in infrastructure destined to the extraction of minerals, will be considered as a prepayment or deduction of the municipal taxes on account of the concessionaire, previous authorization of the competent agencies.

Article 257. Traditional Exploitations. The measures and government's actions on the special mining projects, common developments and common associations of miners, referred to in the previous Articles 248, 249 and 250, will be carried out also in those areas in which there are deposits of minerals that are being exploited traditionally by numerous neighboring persons of such place and that, due to its characteristics and socio-economic location, are the only source of regional provision of the extracted minerals.

In these cases, the mining authority will delimit the mentioned areas and within those, a preference will be given to grant the concession contract to the common and/or solidary associations that the traditional exploiters constitute for such effect.

All the above, subject to the actual mining titles, granted, recognized or in process.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXV
Rules of Procedure

Article 258. Purpose. All the form-filling, proceedings and resolutions that make part of the Government's procedure in mining matters, has for its essential purpose to guarantee, in a speedy and efficient manner, the right to request of the individual as proponent of the concession contract and to facilitate its effective execution.

This principle should inform the behavior of its officers and the expediency and content of its decisions, as well as the performance of the applicants and intervening third parties.

Article 259. Audience and Participation of Third Parties. In the cases that within the procedure previous to the concession contract, the third parties, community representatives and social groups should be heard, it will be necessary that they receive real and effectively a call or communication, through appropriate means, to make an appearance within the terms indicated by law.

Article 260. Public Character. The governmental procedure previous to the celebration of the contract is public and any person may have access to it at the offices of the competent or commissioned authority. Copies of all the parts and proceedings can be issued to anyone that requests it.

Article 261. Summary Procedure. The governmental procedure is formed by the ordained and consecutive gathering of petitions, documents and procedure strictly necessary to sustain and motivate the resolutions that should be taken. No additional notifications and communications will take place, others that the expressly foreseen by law. The impertinent and innocuous parts presented by the interested party or third parties, will be rejected flatly.

Article 262. Unified Informative. The mining authority will make a sole integral and constituted expedient of the documents and proceedings of interested parties and of intervening third parties, all of them aimed towards the issuing of the mining title and to the indication of the beneficiaries' obligations.

Article 263. Officious Impelling Procedures. With the exception of a lodge of appeal and the filing of oppositions of third parties, it will not be necessary any petition in order to overtake all government procedures previous to the contract and to progressively file the corresponding actions.

Article 264. Gathering and transfer of Documents. The proofs, documents and necessary information that rests in the authorities' premises, will be added to the

informative, in original or copy, without a requirement of a notified or communicated instruction to the interested party or intervening third parties.

Nor the authority with cognizance, nor the individuals, can add proofs or documents not required by this Code for the proceedings or resolution of the proposal, oppositions and remedies, unless it is fully sustained that such documents or proofs are necessary to overtake the procedure. The official that does not comply with this disposition will be disciplinarily sanctioned for major offence.

Article 265. *Starting Point for Decisions.* All the decisions will be founded in the existence and proof of requirements and conditions indicated by law for each case. The simply formal requirements will be omitted and will not be necessary to overrule petitions, nor lay down inhibitory resolutions or for better provide.

When for the issuing of an act a previous socioeconomic or technical study is required, those must be related in the motivation of the respective decision.

Article 266. *Request of Information to other Government Agencies.* When the mining or environmental authorities require proof of the existence of any circumstance necessary to sustain or justify the resolutions that will be taken, will proceed to request the remittance of such information to the government agency, in a term of thirty (30) days. Once the term is overdue, the mining or environmental authority will decide what is pertinent.

In all the procedures in which it is necessary to consider canons of competence and protection to consumers, the matter will be consulted for its correspondent concept to the Industry and Commerce Superintendence.

Article 267. *Simplification.* All decisions will be simplified, abbreviated and turned into standardized models and forms that the competent authorities will adopt. The granting authority will also adopt and provide a model of the contract.

Article 268. *Evidentiary Effect.* The documents, proceedings and judgements practiced within the mining procedures will be evaluated according with the appraisal of proofs established in the Civil Proceedings Code. The data electronic messages are admitted as proof and its probation force will be that which is granted by dispositions of Chapter VIII, Title XIII, Section III, Book Second of the Civil Proceedings Code, as long as it might be possible to verify the identity of the sender, as well as the date of receipt of the document.

Article 269. *Notifications.* The notifications of decisions will be made by advertise which will be fixed for one (1) day at the premises of the mining authority. A notification will take place of those that refuse the proposal or solve the oppositions and of those that decide the appearance or intervention of third parties. If the personal notification is not possible, a message will be sent to the appearing party 's residence or business site if they are known, and if after three

(3) days after its delivery, he has not appeared for notification, an edict will be fixed in a public place during five (5) days. In the personal notification or by edict, the notified will be informed on the remedies he can file to which he has opportunity in the governmental proceedings.

Article 270. Proposal's Submission. The contract's proposal will be submitted by the interested party directly or through his attorney before a competent authority or delegate, before the notary public or Mayor of the residence of the proponent, or by registered mail . In these cases, if the first proposal coincides with posterior ones on the same area, the date of submission will be considered as that of the date of receipt by a competent authority or commissioned, or a date and time in which the registered mail office issues receipt of remission.

Also will be acceptable the proposal's submission through electronic means, when the mining authority has at his disposal the equipment and services required for such purpose. Every act or intervention of the interested parties in the mining procedures, can be made directly or through a titled lawyer with professional card. The documents of technical order that are submitted with the proposal and in the subsequent procedures, should be approved by a licensed geologist or a licensed mining engineer according to dispositions that rule these professions.

Article 271. Requirements for the Proposal. The proposal in order to contract, besides the name, identification card number and domicile of the interested party, will contain:

- a. Indication of the municipal, department and environment authority of the area's location or requested trajectory;
- b. The description of the area object to the contract, and its extension;
- c. The indication of the mineral or minerals object of the contract;
- d. The indication of any ethnic groups with permanent encampment in the area or trajectory requested, and if it might be the case, the fact of being totally or partially located within an Indian mining area, or of Afro-colombian or mixed communities;
- e. If the area covers, totally or in part, limited places or areas for which exploration or exploitation requires of an authorization or concept of other authorities, those should be added to the proposal, according to Article 35;
- f. The indication of the terms of reference and mining guides that will be applied in the works of exploration and the estimate of the economic investment as a result of the application of such terms and guides;

- g. The proposal should be accompanied by a plan which will have the characteristics and specifications stated in Articles 66 and 67 of this Code. The proposal should follow the standardized model adopted by the granting authority.

Article 272. *Environmental Management.* In the proposal, the interested party should expressly declare his compromise to carry out the works of technical exploration with strict subjection to the environmental guides that for this activity the competent authority issues, applied wholly to the specific conditions and characteristics of the requested area, described in the proposal. In case that the activity of exploration requires the usage or disposal of renewable natural resources, it has to obtain a permit, a concession or environmental authorization from the competent authority.

Article 273. *Objections to the Proposal.* Corrections or additions on the proposal may be made, for once, by the mining authority, if the proponent can not be identified, the area of the trajectory requested can not be located, it is not adjusted to the terms of reference or guides, and it is not accompanied by the previous permits in the cases indicated in Article 34 of this Code, when such area or trajectory would be located in sites or areas mentioned in such disposition. The term to correct or remedy the proposal will be of up to thirty(30) days and the mining authority will have a deadline of thirty (30) days to produce a definite resolution.

Once the proposal is corrected, if it might be the case, the procedure of determining the free area of superpositions with previous proposals or titles in force, will be carried out.

Article 274. *Refusal to the Proposal.* The proposal will be refused if the total area requested is located in places or areas indicated in Article 34 of this Code, if it did not obtain the authorizations and concepts requested by the provisions; if it totally superposes previous proposals or contracts, if it does not comply with requirements of the proposal and if at the moment of requiring to remedy its deficiencies, the requirement is not complied. In case of its being located only partially, it can be accepted for the remaining area if the proponent accepts it.

Article 275. *Communication of the Proposal.* If the proposal has not been objected by the mining authority, in a term that does not surpass fifteen (15) days counted as of the submission, it will be communicated within the following five (5) days through the Ministry of the Interior, to the representatives of the ethnic groups which occupy the area. The communication to the ethnic groups will have for an object to notify them in order that they appear to state their rights of preference in a term of thirty (30) days counted as of the date of notification, if the area is located in Indian mining areas, or of Afro-colombian or mixed communities.

Article 276. Resolution of Oppositions. When the term of thirty (30) days, of the above Article, has expired, the oppositions presented will be solved in a sole decision, and the areas on which the rights of preference of the ethnic groups have been exercised, will be defined. If the oppositions and superpositions that were accepted include only a part of the area requested, the proposal will be limited to the free part and if it covered all, it will be filed.

Article 277. Disqualification of Applications. The applications or interventions of third parties that do not refer to oppositions, to the exercise of the right of preference, to superpositions and to interventions in general interest of community representatives, will be disqualified for inappropriate through justified decision. Of these applications and of its disqualification, a separate informative will be made, and the remedies filed against the mentioned decision will be awarded with no suspension effect^[1].

Article 278. Adoption of Terms of Reference and Guides. The mining authority will adopt normal terms of reference, applicable in the elaboration, submission and approval of mining studies, technical guides in order to overtake works and installations in the mining projects and monitoring and evaluation procedures for the exercise of surveillance taking into account the foreseen in Article 60 of this code.

Such terms, guides and procedures will have for an object to facilitate and speed up the performance of authorities and individuals. The no subjection to them in simple formal matters will not be a reason for refusal or delay to the corresponding application, study or decision.

Article 279. Celebration of the Contract. Within a term of ten (10) days after the oppositions and interventions of third parties have been solved, the concession contract should be signed and registered at the National Mining Register. A copy of the contract will be sent to the environmental authority for the monitoring and surveillance of the environmental dealing for the exploration.

Article 280. Environmental-mining Policy of Insurance. At the celebration of the mining concession the interested party should constitute a performance insurance policy, that will cover the fulfillment of the mining and environmental obligations, the payment of fines and the lapse. In the event in which the policy is cashed, the replacement obligation of such guarantee will persist.

[1] En el efecto devolutivo

The value insured will be estimated based on the following criteria:

- a. For the stage of exploration, a 5% of the annual value of the amount of the foreseen investment in exploration for the respective annuity;
- b. For the stage on building and erection, the 5% of the annual investment for such concept;
- c. For the stage of exploitation will be equal to a 10% of the result of multiplying the volume of annual production estimated of mineral object of the concession, by the price at the mine head of the mentioned mineral, determined annually by the Government..

Such insurance policy; which should be approved by the granting authority, should be prevailing during the life of the concession, of its deferrals and for three (3) years more. The amount insured should always correspond to the percentages established in the present Article.

Article 281. Approval of the Program of Works and Installations. Once submitted the Program of Works and Installations thirty (30) days, previous to the completion of the exploration's stage, the granting authority will approve it or will present objections within the following thirty (30) days. These objections cannot be of simple form and will only proceed if works, labors or installations indicate as indispensable for an efficient exploitation, were omitted. If studies were objected, the interested party will be informed specifically on the form and extent of the corrections and additions to be made. In the event in which an external auditor is consulted, to which Article 321 of this Code makes reference, such Program will be submitted together with the approval, with forty five (45) days in advance. In the act of approval of the Plan of Works and Installations, the mining authority will authorize to initiate the exploitation if it has notice that the respective Environmental License has been obtained.

Article 282. Approval of the Environmental Impact Study. The competent environmental authority in order to grant the Environmental License, will fill the terms of reference of the Studies of Environmental Impact, in a term that cannot exceed to thirty (30) days, counted as of the date of application on part of the interested party, unless the terms of reference have been defined in a generic manner for the activity by the environmental authority.

The interested party, in the granting of an Environmental License, will submit before the competent environmental authority the application accompanied by the Environmental Impact Study for its evaluation. The competent authority may count with fifteen (15) days to request to other agencies or authorities, the technical concepts or the pertinent information that should be sent in a term not superior to thirty (30) days. Once received the information and the technical concepts required, the competent environmental authority will have at disposition fifteen (15) days to request additional information to the interested party, in case this is required. When the information is received or the term of requirement of additional information is overdue, the environmental authority will decide by means of a justified resolution on the environmental viability of the project or activity and will grant or refuse the respective Environmental License in a term that cannot exceed to sixty (60) days. In the event in which an external auditor is consulted, such study will be submitted together with the approval, in a term of ninety (90) days.

Article 283. *Corrections or additions.* The corrections or additions to the Program of Works and Installations and to the corresponding Environmental Impact Study, will be attended by the interested party in a term fixed for such effect by the competent authority and cannot exceed to thirty (30) days.

Article 284. *Administrative Silence.* If after ninety (90) days following the receipt of the Program of Works and Installations the granting authority has not pronounced with respect to such Program, it will be presumed as approved.

Article 285. *Administrative Procedure for the Servitudes or easements.* When due to the exercise of the legal servitudes, necessary for the use and benefit of the mining works and installations, the owner or holder of the servient tenement would request before the Mayor to fix a guarantee to the miner in the terms of Article 184 of this Code, an appraiser will be asked to estimate the amount, within a term of thirty (30) days. Once the appraisal has been given, the Mayor will indicate the amount of such guarantee during the following five (5) days. The decision can be appealed before the Governor with no suspension effect and will be granted if the interested party provisionally constitutes such guarantee, in the amount fixed by the Mayor.

When the amount of the caution is in force, it can be checked by the Judge with jurisdiction over the area of the corresponding lands, according to the general rules of competence and proceedings of the Civil Proceeding Code.

Article 286. *Proceedings and Competence for the Expropriation.* The governmental application and procedure of expropriation and the subsequent legal process, may have for an object the necessary real estates for determined works or installations duly individualized or all those that might be required for the total mining project. In this last case, if the goods to be expropriated are located in several districts, all judges in those districts will be competent for issuing prevention or restraining orders.

Article 287. Proceedings on Fines. For the imposition of fines to the concessionaires, a previous requirement will be made in which the faults or omissions to which they might incur will be indicated and a correction will be requested. If after a term fixed to rectify them, which cannot surpass thirty (30) days, has not been made and have not justified the reasons for asking to prolong such term, consecutive fines will be imposed as foreseen in this Code. In case of infringement of the environmental dispositions, the environmental authority will apply the sanctions foreseen in the environmental regulations in force.

Article 288. Proceedings for Lapse. The lapse of the contract will be declared, whenever takes place, previous resolution of the proceedings that, in a concrete and specific manner, indicates the motives in which the concessionaire might have incurred. In this same rulings on the matter of proceedings, a due date will be fixed, which cannot surpass thirty (30) days, in order to mend the faults attributed and to lodge the defense sustained by the corresponding proofs. When the term has expired, what is pertinent will be settled in a maximum term of ten (10) days. The officers that allow the term to expire, will be disciplinarily sanctioned as responsible for major offence.

Article 289. Nullity of a Contract Proceedings. Only the Administration, the concessionaire, the third parties that vouch direct interest and the District Attorney, can request that the non-existence or nullity of the mining concession contract be declared, in the conditions and with the requirements indicated in Article 87 of the Administrative Contentious Code.

Article 290. Environmental Proceedings of Nullity. The nullity action against the act which grants the Environmental License for the construction, erection and mining's exploitation can be proceed at any time and by any person, without the need to credit a direct interest, or by the District Attorney, if the conditions, systems and specifications of such act affect or may affect the environment or the renewable natural resources.

Article 291. Other Environmental Proceedings. The proceedings that are modified or added, totally or partially, the conditions, terms and methods of the Environmental License or to correct the way the miners execute them, can be exercised, at any time, by any person without the need to prove a direct interest in the claim.

Article 292. Effects of the Environmental Proceedings. The nullity of the act that grants the Environmental License does not affect the validity of the concession contract but hinders, suspends or modifies the execution and functioning of the works and material installations of the contractor for which this proceeding was necessary.

If the nullity of the act of granting the Environmental License refers only to determine the components or phases of the mining project, it will not affect its whole unless it cannot be carried out without the nullified parts.

Article 293. Competence of the Administrative Courts. The proceedings referring to concession contracts that have for an object the exploration and exploitation of the mines, will be of the cognizance, in first instance, of the administrative courts with jurisdiction in the place of celebration.

Article 294. Differences of Technical Order. The differences of exclusive technical character that might arise between the concessionaires and the granting authority, that cannot be settled in a friendly manner, will be submitted for its solutions to the technical arbitration foreseen by law. The differences of legal or economic order, will be submitted to the cognizance and decision of the judicial branch of the Colombian State. In case of disagreement on the technical, legal or economic quality of the differences, those will be considered legal. In the appointing of the arbitrators and in the arbitration proceedings will be applied the Decree 1818 of 1998 and the provisions that are added and reform it.

Article 295. Faculty of the Administrative High Court. The actions that are brought in for mining matters, different from the contractual ones and those in which it takes part the Nation or a national government's agency, will be of cognizance of the Administrative High Court in a sole instance.

Article 296. Systematization. The actions of authorities and individuals in the governmental mining procedures can be carried out and documented by the means and electronic systems of information. The processes, reports and notifications, as well as registers and certifications at the National Mining Register that are carried out by these means and systems, previous verification of its authenticity by the authorities, will have the same value and efficiency as those that are carried out in a personal and direct manner.

Article 297. Remission. The governmental procedure and the legal proceedings, in mining matters, will be adhered to the dispositions of the Administrative Contentious Code and for the manner of practicing proofs and its appraisal, those of the Civil Proceeding Code will be applied.

Article 298. Civil Responsibility. The officers that in the exercise of their duties demand or request documents or procedures different that those established for each case, in this Code or in the corresponding legal dispositions, and do not settle them based on the terms fixed, will be disciplinarily liable. Additionally, they will also have a public liability for the damages caused to the terms of Article 90 of the Political Constitution.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXVI
Oppositions

Article 299. *Administrative Oppositions.* During the governmental proceedings in mines, starting from the submittal of the proposal until the expiration of the term indicated in Article 275 of this Code, to the celebration of the contract only can be opposed the following, with the corresponding proofs to support the petition:

- a. Whoever is holder of the prevailing titles on all or part of the requested area, referent to the same minerals;
- b. Whoever has a previous proposal on the same area, also prevailing.

Article 300. *Proposal's Exclusion.* The granting authority, previous verification at the National Mining Register will order, by itself, to modify the proposal if the superposition mentioned in the previous Article is partial. In this case, the area of the contract will remain reduced to the free area, no matter its form and extension. If the superposition would be total, will order to dismiss the proposal.

Article 301. *Officious Exclusion.* At any time previous to the inscription of the contract, the granting authority will order, under authority or at request of the interested party, the elimination of the superposition of the proposals with titles in force duly registered at the National Mining Register and with a previous proposal in process, if through its information system, files, documents and proceedings may verify such superpositions.

Article 302. *Opposition of Owners.* The oppositions to the proposal or to the concession contract based on a claimed ownership of the mining soil or of the subsoil of certain minerals, will be carried through directly before the Administrative High Court by means of a lawsuit by the interested party, that can be submitted until the following year after the inscription of the contract at the National Mining Register.

Article 303. *Prevalence of the Substantial Compliance Rule.* In the process and resolution of the oppositions, the substantial compliance rules will prevail.

Article 304. *Extinguished Rights.* For all the effects, when rights of the individuals on the mines and quarries were extinguished due to the application of Articles 3rd., 4th. and 5th., of Act 30 of 1969 and 4th. and 5th. Decree 2655 of 1988, it is understood that in no case, by the dispositions in this Code, those rights will revive or be restituted.

Article 305. Preventive Measures. When it is pretended by means of a corresponding legal action, the ownership of the mining subsoil or of determined minerals granted in concession, since the admission of the lawsuit and by exclusive petition of the granting agency, the embargo and sequestration can be decreed of part of the payments for royalties and other concepts that corresponds to the Nation by virtue of the contract or contracts which area is object of controversy. This measure can be decreed in any stage of the proceeding and will not require of a guarantee on part of the inquiring agency.

The amounts, object of sequestration, will be deposited, to the order of the Judge, in the inquiring agency of such measure, which will act as sequestrator and can be invested in securities registered in the securities market or in certificates of deposit on term, issued by entities of recognized financial solvency and good standing, while the procedure of claim is decided.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXVII
Administrative Protection

Article 306. Mining without a Title. The Mayors will proceed to suspend, at any time, officiously or by notice or complaint of any person, the exploitation of mines without a title registered at the National Mining Register. This suspension will be indefinite and will only be revoked until the exploiters submit such titles. The omission on part of the Mayor of this measure, after having received the notification or complaint, makes him subject to a disciplinary sanction of major offence.

Article 307. Disturbance. The beneficiary of a mining title can submit a request before the Mayor, of a provisional protection in order to suspend immediately the occupation, disturbance or plundering of third parties that carry out such action in the area object of the title. This complaint will be carried through by means of a brief, concise and preferential process, which is consecrated in the following Articles. By option of the interested party, such complaint can be submitted and carried through also before a national mining authority.

Article 308. The Application. The application for protection should be made in writing with the identification of the people that are provoking the disturbance or with the affirmation of not knowing them; their domicile or residence, if they are known, and a brief description of the perturbing facts, its date or time and its location. For the viability of the protection it will be necessary to add a copy of the certificate of Mining Register of the title.

Article 309. *Inspection of the Area and Evacuation.* Once the application is received, the Mayor will fix a date and time in order to verify the area of occurrence of the incidents and if they have occurred within the limits of the title of the beneficiary. The fixing of such date will be notified previously and in person to the author of the deed, if the person is known. In the proceeding, the defense will only be admissible if the mining title is prevailing and registered. The fixing of the day and time for the proceeding will be made within forty eight (48) hours after receipt of the complaint and will be carried out within the following twenty (20) days.

In the same proceeding and previous opinion of an appraiser assigned by the Mayor, who will consider if the exploitation of the third party is being carried out within the limits of the title of the complainer, the evacuation of the disturber will be ordered, as well as the immediate suspension of his mining works and installations, the seizure of all the elements installed for such exploitation and the delivery to the complainant of the minerals extracted. Besides the indicated measures, the Mayor will let know the competent penal authority on the disturber's illicit exploitation.

Article 310. *Notification of the Complaint.* Of the submittal of the request for protection and the indication of the day and hour of the process of recognition of the area, the disturber will be notified of a notice of appearance to the secretariat or by communication delivered to his domicile, if it is known, or by advertise fixed in the place of his mining works of exploitation or by edict fixed for two (2) days at the Mayor's premises.

Article 311. *Superposition of Areas.* If in the course of the proceedings of inspection of the area, the presumed disturber exhibits a mining title registered and the appraiser assigned by the Mayor verifies that the area of the latter is superposed to that of the title of the complainant and that also, the mining works in question are sited precisely in the superposed area, the proceeding of evacuation will be suspended and a report will be remitted to the granting national authority in order to intervene and clarify the legal situation of the interested beneficiaries.

Article 312. *Communication to the National Authority.* The request for protection will be remitted by the interested party in copy countersigned by the Mayoralty, to the national mining authority and will be its obligation the monitoring and supervision of the process carried out by the Mayor. If an unjustified delay is found on part of such officer in the process and solution of the matter, this fact will be informed to the corresponding disciplinary authority for the imposition of a sanction to the Mayor .

Article 313. *Appeal.* The order of evacuation and suspension of mining works of the disturber decreed by the Mayor, may be appealed before the Governor with no suspension effect. This officer will settle the appeal in a term of twenty (20) days.

Article 314. *Peremptory Deadlines.* The deadline indicated to the Mayor to appoint the day and hour of the proceeding of inspection and for its practice and of the Governor to settle the appeal are peremptory and non-deferrable. Its breach will be disciplinarily sanctioned as major offence.

The delegation made by the Mayor or the Governor for the proceeding and solution of the complaint and to settle the appeal, does not relieve them from their responsibility.

Article 315. *Dispossession and disturbance by Authority.* When the exploitation of the area object of the title is carried out by order of authority or this carries it out without authorization or legal disposition, the beneficiary of such title may ask for administrative protection of his right to enforce the ceasing of the mentioned exploitation.

In the case of the above Article, the ceasing of the disturbing acts will be ordered but not the seizure of the exploiting elements and of the extracted minerals.

The protection against dispossession and disturbance by authority, will be granted without affecting the exercise, by the interested party of the corresponding contentious-administrative actions.

The national mining authority will have cognizance, in an exclusive and non delegated manner, of the administrative protection referred in this Article.

Article 316. *Prescription.* The request for protection of the right to explore and exploit prescribes six (6) months, counted as from the completion of the disruptive acts and facts.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXVII I
Competence

Article 317. *Mining Authority.* When in this Code a reference is made to the mining or granting authority, without another additional denomination, it will be understood having been made to the Ministry of Mines and Energy or in its defect to the mining authority, that in conformity with the organization of the public administration and the distribution of functions within the agencies that integrate it, has at its charge the administration of the mineral resources, the promotion of aspects related to the mining industry, the administration of the collection and distribution of economic considerations indicated in this Code, in order to develop the functions of titling, registering, technical assistance, promotion, auditing and

surveillance of the obligations emanated of the titles and applications for mining areas.

Article 318. *Monitoring and Surveillance.* The mining authority, directly or through the auditors that he might authorize, will exercise the monitoring and surveillance, having in mind the indications in Article 279 of this code, in the manner and conditions in which the concession contract will be executed either for its technical aspects, as well as by the operative and environmental aspects, beside if on the last ones the environmental authority or its authorized auditors, exercise equal surveillance at any time, manner or opportunity.

Article 319. *Internal Delegation.* The mining authority may comply with functions of proceeding and granting the concession contracts through its central, regional or local premises. The internal delegation of functions will be made up to the level in which the rules of the administrative organizations allows it.

Article 320. *External Delegation.* The mining authority, previous regulations, will be able to delegate in a permanent, temporal or occasional manner, its functions of proceeding and celebration of concession contracts, as well as the surveillance and control of its execution, in the Governors of Department or in the Mayors of the capital cities of the Department.

Article 321. *External Mining Auditing.* The mining authorities, previous concept of the Advisory Council on Mining Policy foreseen in this Code, may authorize professionals and companies of acknowledged and proved suitability for the establishment and development of mining projects, in order that at petition and on account of the contractor, evaluate the technical studies submitted and make an auditing of the works and installations of the project and the manner the obligations are complied.

Article 322. *Incompatibilities and Unqualification of the External Auditors:* In mining or environmental matters, the following can not be auditors :

- a. The public servers;
- b. Whoever are connected by marriage or in fourth grade of blood kinship, first civil or second in affinity or co-partner of the managers or officers directors, of the audited company;
- c. Whoever is in equal grade of relationship to that indicated in the previous numeral with the officers directors, of management and trustworthiness of the mining or environmental authority on behalf of to which they should act;
- d. Whoever is shareholder in close corporations or owners of the mining company object of the auditing;

- e. Whoever has acted in the elaboration of studies, emission of concepts, as well as the plans and works of the beneficiary mining company or in the realization of such works.

Article 323. Norms of Proceeding. In the process and celebration of the concession contracts, the commissioned or delegated authorities will apply the substantive dispositions and proceedings established in this Code. The acts that are adopted in these matters will be considered, for all legal effects, administrative acts of national character.

Article 324. Systems and Methods. When the mining authority delegates functions in other authorities, it will agree with them the adoption of systems and technical support for operation and communication that may guarantee the efficiency in performance of the delegated functions and a permanent and complex flow of mutual information. It is responsibility of such mining authority that the delegated functions be executed under the principles of legality, celerity, economy and efficiency.

Article 325. Rights and Quotes of the Mining Authority. The mining authority or the national authority that in conformity with the organization of the public administration and the distribution of functions within the agencies that integrate it, has under his charge the conservation, administration and handling of minerals may collect from all those natural or legal persons that use or request their services, quotes or rights for its performance.

These quotes or rights will be estimated based in the number of hectares object of the title or proposal, the production, the minerals, the extent, the content and complexity of the service, the required equipment and the recuperation of shifting costs when necessary, rated in minimum legal salaries.

These quotes and rights will be fixed with these parameters by the mining authority that performs the service.

Article 326. Commission. The mining authority may charge a commission to any national, regional, departmental or local authorities for the proceedings and exercise of surveillance and control of mining activities of the concessionaires.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXIX
National Mining Register

Article 327. Official Service. The National Mining Register is a service which covers the whole country, and it is offered directly from the Capital of the Republic, or through their own regional, departmental and local offices, or of the Department Government or Mayoralties to which commission or delegation be made.

Article 328. Means of Authenticity and Advertisement. The mining register is instrument of authenticity and advertisement of the private or administrative acts and contracts, which main object is the constitution, conservation, exercise and liens of the rights to explore and exploit minerals, emanated from the titles granted by the State or of titles of private ownership of the subsoil.

Article 329. Access to the Register. The National Mining Register as part of the National System of Mining Information, is an open instrument of information, which allows the access to all people, all the time. It will have at its disposal the mechanisms and technical support and of the adequate physical means in order that the users of such information can verify it and take it personally or receive it at their domiciles, by means of an electronic communication or any other equivalent means.

Article 330. Register's Systems. The Mining Register will be handled by means and methods that guarantee its order, clarity, security and promptness, with the use of modern systems of filing, processing and issuing. For the applications and acts of inscription and certification, the standard printed forms will be used. However, the private individuals should be attended by the Register even in cases in which the mentioned forms were omitted in their petitions.

Article 331. Sole Proof. The inscription at the Mining Register will be the only proof of the acts and contracts submitted to this requirement. In consequence, no authority may admit a different proof that may substitute, modify or compliment it.

Article 332. Acts Subject to a Register. The following will be the only acts registered at the Mining Register :

- a. Concession contract;
- b. Contract of exploration and exploitation celebrated on the reserved areas, Indian mining areas, mining areas of Afro-colombian communities and mixed areas;

- c. Titles of private ownership of the mining subsoil;
- d. Assignment of mining titles;
- e. Liens of any type that might affect the right to explore and exploit or the future production of the minerals “*in situ*”;
- f. Expropriation on the right to explore and exploit, emanated from the mining titles;
- g. Areas of provisional reserve and of national security;
- h. Temporary authorizations for the public roads.
- i. Indian mining areas, or of Afro-colombian and mixed communities.

Article 333. Restrictive Enumeration. The enumeration of the acts and contracts submitted to register, are restricted. In consequence, all the acts and contracts, public or private, that are presented or remitted by the individuals or the authorities for inscription, different than those indicated in the above, will not be registered and will be returned flatly. The inscription of the acts and documents submitted to Register should be inscribed within the following fifteen (15) days to the its completion or period of validity.

Article 334. Correction and Cancellation. In order to correct, modify or cancel an inscription of an act or contract registered at the Mining Register, a court order or resolution of the granting authority will be required, with remission of the corresponding decision.

Article 335. Delegation. The national authority responsible of the Mining Register may delegate its functions in other agencies as long as previously, the means of inscription, conservation and adequate and efficient information, are guaranteed on part of the delegate as well as the systems of immediate communication and transmission of data to the central office of the Register.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXX
National System of Mining Information

Article 336. *National System of Mining Information.* The Government will establish a System of Mining Information on all aspects related with the knowledge of the richness of the subsoil in the national territory and the jurisdictional maritime spaces, and on the mining industry in general. For that, some mechanisms will be designed which will allow the necessary coordination between the public organisms and the private organisms, specialized in geological - mining investigation, that will lead them towards obtaining the objectives indicated in the present Chapter.

Article 337. *Objectives.* The main objectives of the National System of Information will be:

1. Collect, process and disclose the information carried out in the mining sector.
2. Carry out the adequate coordination of the investigations developed by the different agencies and organisms of the sector.
3. To be a source of information for the design of plans and programs of promotion of the mining industry.
4. Facilitate the access to new investors and the design of mining projects based in trustworthy mining information.
5. Unify the existing information in relation with the mining sector.
6. Administer the National Mining Register.

Article 338. *Characteristics.* The System of Mining Information will be conformed by the information which should be updated, organized and standardized through suitable systems internationally accepted, that will allow an easy inquiry, being a responsibility of the corresponding authority to the handling and the wide divulgation, for the promotion of the industry.

Article 339. *Character of the Mining Information.* Hereby is declared of public use the obtainment, organization and disclosure of information related to the richness of the subsoil, the offer and state of the mineral resources, and the mining industry in general. In consequence, the concessionaires of mining titles or owners

of mines, are in the obligation to collect and provide, without any cost, such information at request of the mining authority.

The natural and legal persons, public or private, native or foreign, that have or process information related to the mining abundance or the industry of extraction should provide it to the mining authority.

Article 340. *Information of Private People.* The private concessionaires or the owners of the mines, should collaborate in updating annually the System of Mining Information, in the terms and conditions that the mining authority might fix. The information to be given during the stages of exploration and exploitation should be oriented towards allowing the knowledge of the richness of the subsoil, the mining project and its development.

Article 341. *Information of other Public Agencies.* All the authorities that, in virtue of the performance of their functions, have information related to the knowledge of the mining subsoil, the mining industry, the commercialization of minerals, aspects of environmental management and those related with the ethnic groups, should, at request of the mining authority, send it to the National System of Mining Information, in the terms and conditions indicated.

Article 342. *Responsibility.* In order to guarantee that the information destined to the system and that according to the System of Mining Information complies with its objectives and reunites the characteristics indicated in this Chapter, the mining authority will be responsible of the following:

1. To design the content, conditions and characteristics of the information that the bound person has to submit;
2. To supervise the accomplishment of the obligation to send the information to the system;
3. To practice quality control tests of the information.
4. To generate relevant statistics based on the available information to contribute in the process of planning and promotion of the mining industry;
5. To structure and implement efficient mechanisms for the opportune disclosure of the information.

TITLE SEVEN
PROCEDURE ASPECTS
CHAPTER XXXI
Advisory Council on Mining Policy

Article 343. *Advisory Council on Mining Policy.* Hereby is created the Advisory Council on Mining Policy, with functions of advisory character, this Council will have a Technical Secretariat and will be integrated as follows:

- § The Minister of Mines and Energy, who will preside.
- § The Minister of the Environment.
- § The president of the National Mining Company Ltd. – MINERCOL LTDA. or who performs his office.
- § Two representatives of the mining sector business.
- § A representative of the mining social sector defined in Chapter XXIV of the present Code.
- § A representative of the academic sector.

Paragraph : The government will establish the lists of the mining corporate and social sectors and academic sectors in which its representatives will jointly elect the representative.

Article 344. *Advisory Council on Mining Policy and Regulations.* Hereby is created the Advisory Council on Mining Policy and Regulations, attached to the Ministry of Mines and Energy's desk, with the following functions:

1. Recommend the adoption of measures that permits harmony of the mining regulations and decisions with others issued by other authorities that are related with this activity.
2. Render a concept on dispositions' drafts that have to be issued by the mining authority, according to this Code.
3. Recommend to the National Government policies and mechanisms to coordinate the activities of all public and private entities and organisms which functions affect or may influence the mining industry.

4. Propose the general outlines that should be followed in relation with the assignment of money for promotion of the mining activity and with the respective plans, programs and budgets.
5. State the recommendations to guarantee the sustained development of the labors or extraction, beneficiation and usage of mineral resources.
6. Propose the preferences of action for “*Ingeominas*” in relation with the basic exploration and geologic cartography of the country.
7. Propose the adjustments to the internal organization of the decentralized organizations of mining character adhered or linked with the Ministry of Mines and Energy, as well as on the delegations that should be awarded to the territorial entities.
8. Appoint technical committees in which officers of technical level of the corresponding agencies participate, in order to carry out the work of coordination and monitoring.
9. Each time that it is required the concept of the Council, this will have fifteen (15) working days to the date of the notification, to emit the respective answer.
10. Give its own regulations.

Article 345. *Technical Secretariat.* The Technical Secretariat of the National Council of Politics and Mining Regulations will be exercised by the Vice minister of Mines.

The functions of the Technical Secretariat, besides of the incorporated into the regulations of the National Council of Politics and Mining Regulations, will be the following:

1. Act as Secretary in the Council's meetings and its committees.
2. Notify for the sessions of the Council, according with the regulations and the instructions given by its President.
3. Submit to the Council the reports, studies and documents that should be examined.
4. All others that the Council might assign.

Article 346. *Delegation and Election.* The participation of the Ministry of Mines and Energy in the National Council of Mining Politics cannot be delegated. The election of the Council's members will be made for periods of two (2) years.

Article 347. *Sessions of the Council.* The Council should meet at least once every six months.

To the sessions of the National Council of Mining Politics can be invited , with voice but not voting, the public officers and the individuals that the Council might consider convenient for the illustration of themes in which this should take decisions and present recommendations.

TITLE EIGHT
FINAL DISPOSITIONS
CHAPTER XXXII
Special Dispositions and of Transition

Article 348. *Previous Titles.* The present Code does not affect the validity of the mining titles mentioned in its Article 14. Neither confirms any expiration or lapse of the right emanated from titles of private ownership or of the mines awarded, for motives established in previous laws, does nor revive or extend any term indicated for them in order to operate such motives.

Article 349. *Applications and Proposals.* The applications for licenses of exploration and exploitation and the concession contracts, that when this Code entered in force, are still pending to be granted or of its celebration, will continue its legal course until its completion, according to the previous dispositions. However, the interested party, within the two (2) following months to the date of such effect, can request that his applications for a license be processed according with the new dispositions on proposals of concession contract or that the licenses of exploration or exploitation or the contracts subscribed be modified, to be executed as a concession for exploration and exploitation, in the terms and conditions established in this Code. In the modification of such contracts, a term for the exploring will be fixed, discounting the time of duration of the previous licenses.

Article 350. *Conditions and Terms.* The conditions, terms and obligations consecrated in the previous Acts for the beneficiaries of executory or consolidated mining titles, will be accomplished according with such Acts.

Article 351. *Contracts on Areas of Contribution.* The mining contracts of any type or denomination celebrated by decentralized agencies on areas of contribution, will continue in force, including the agreed deferrals. The form filling and proceedings of contests and bids that the above mentioned agencies had decided to open or had started in order to contract other areas within the areas of contribution, will continue its conclusion and the corresponding contracts will be celebrated according to the terms of reference or bidding specifications made for

such effect. The remaining areas of the contributions, will be explored and exploited according to the common regime of concession

Article 352. *Benefits and Deferrals.* The terms, conditions and obligations established in the previous Acts for the beneficiaries of executory mining titles, will be accomplished according to such Acts and to the corresponding contractual clauses, subject to being applicable the benefits of operative and technical order, as well as the facilities and elimination or condensation of form fillings and reports that are stated in this Code, with the exception of those referent to the economic conditions or considerations. As far as the corresponding to the reversion of goods it will be done according to the dispositions in Article 113 and 357 of this Code.

Article 353. *Promotion of the Mining Activity.* The projects and programs of promotion of the mining activities that are financed with funds from the National Royalties Fund, Coal Promotion Fund and the Precious Metals Promotion Fund, once approved by the mining authority, will be executed by territorial entities of its location as follows: if it is carried out within the jurisdiction of a municipal, it will be executed by it. If it covers a territory of more than one municipal, its execution will be in charge of the corresponding department.

The above mentioned, may carry out projects and programs of promotion of mining, directly, by means of agreements with other public organisms or by means of individual contractors.

In the previous terms, the Articles 1 of Act 141 of 1994 and Decrees 2656 and 2657 of 1988 are included.

Article 354. *Transition.* Starting from the coming into force of this Code, the environmental and mining authorities of national character, will have a term of one (1) year to adopt the terms of reference and the guides foreseen in this Code and of two (2) years to adopt the proceedings of external auditing contemplated in this Statute.

While the terms of reference, guides and proceedings of this Article are not issued, the actual norms and proceedings of each one of the subjects will be applied.

Article 355. *Contracts over Areas of Investment.* The areas that by the date of promulgation of the present Code are free or have been recovered by any cause and have been object of special studies of exploration, of more intensity that of those of simple prospecting or superficial exploration, financed with State's funds of any nature and amount, will be submitted to the system of concession but its contracting will be made by means of bidding process, subject to what is foreseen in Article 60 of the Political Constitution. In order to carry out these process, the mining authority will establish in each case, in the terms of reference, the economic considerations different from royalties that the bidders should offer. If to the bids, no bidder is presented, such areas will be contracted through the normal

proceedings established in this Code. The no offerings of bids for a period of two (2) years, counted as from the promulgation of the present Code, will make the responsible officers to incur in a causal of misconduct.

Article 356. *Mines of Special Reserve and Salt mines.* The contracts celebrated on the areas of special reserve of Muzo, Coscuez and Peñas Blancas, to explore and exploit emeralds, those of Marmato, Supía, Distritos Vecinos, Guamo or Cerro Marmato and Cien Pesos to explore and exploit precious minerals and on the marine and terrestrial salt mines, the terms agreed upon, including its actual deferrals at the moment of issuing of this Code, will remain in force.

Once those contracts are completed, these mines and salt mines will be contracted by means of the general system of concession, previous proceedings of bidding or call for bids foreseen in the previous Article 355, if in such areas the government's investments of any type and amount have been carried out.

Article 357. *Clause of Reversion.* In the contracts celebrated previous to the issuing of the present Code, in which it has been agreed the obligation to submit goods acquired or built by the contractor, according to legal principle of free reversion, this may, at the completion of the contract, agree to the substitution of that obligation for that of paying to the contracting entity a sum equivalent to the value of such securities. In case that there is no agreement on the amount of the mentioned sum, the parties may appeal to a technical arbitration in a manner foreseen in Article 294 of this Code and the costs and fees caused, due to it, will be on account of the contractor. There can not be any substitution of the obligation they have of reversion of the real estate premises and permanent installations, at the mining authority's opinion, due to the characteristics and dimensions they make as infrastructure to a public service of transportation or shipping or be given for use to the community.

Article 358. *Restructuring of the National Mining Company.* The National Mining Company Ltd.- MINERCOL LTDA. should, in a term not over six (6) months, counted as from the issuing of the present Code, restructure its administrative organization and its staff, according with the guidelines established by the National Government.

Article 359. The first clause of the sole paragraph of Article 5 of Act 141 of 1994 will be as follows:

The Commission will assign the thirteen point five percent (13.5%) of the annual fund-raising, for projects presented by territorial entities according with the established in this Act and will exclusive purposes to specified in Article 361 of the Political Constitution, distributed as follows:

To this paragraph the numeral 18 is added, which will be as follows:

18. The zero point five per cent (0.5%) of the municipalities of Chimichagua, Chiriguaná, Curumaní, Tamalameque, Department of El Cesar, and El Banco, Department of Magdalena, on equal parts of its territorial participation in the muddy system, for the conservation, preservation and disinfecting of the Ciénaga de Zapatoza.

Article 360. The paragraph 2nd. of Article 1st. of Act 141 of 1994 will be as follows:

The total of the National Royalties Fund own resource, included the financial balance and the reappraisals made, once discounted the allotments contemplated in Article 1 Paragraph 1, Article 5th., Paragraph; Article 8 number 8, which percentage will be raised to one percent (1%) of the real fund-raising the National Royalties Fund might make, considering for its estimate the incomes of the immediate previous semester and the projections of income estimated for the following period of validity; and of Article 30 of the present Act, will be destined to the mining promotion, at to the preservation of the environment and the financing of regional projects of investment, applying the following percentage as minimum :

20% for the mining promotion.

20% for the preservation of the environment.

59% for the financing of regional projects of investment, defined as of preference in the Plans of Development of the respective territorial entities, that benefit two (2) or more municipals.

Article 361. Derogation. All the dispositions contrary to those of the present Code, are derogated, in special all corresponding to Decree 2655 of 1988 (Code of Mines), the Decrees 2656 and 2657 of 1988.

Those foreseen for the Funds of Promotion established for the preexisting Acts and Decrees are not derogated.

Article 362. Commencement. The present Code comes into force as from the date of its promulgation.

President of the Honorable Senate of the Republic,

Mario Uribe Escobar.

The Secretary General of the Honorable Senate of the Republic.

Manuel Enriquez Rosero.

The President of the Honorable House of Representatives,

Basilio Villamizar Trujillo.

The Secretary General of the Honorable House of Representatives,

Angelino Lizcano Rivera.

REPUBLIC OF COLOMBIA – NATIONAL GOVERNMENT

Let it be known and comply.

Given in Bogota, on August 15, 2001.

ANDRES PASTRANA ARANGO

The Ministry of Mines and Energy,

Ramiro Valencia Cossio.