
MINING LAW

The Mexican Constitution assigns ownership of all subsoil mineral resources to the public. This has been reinterpreted over the years by a series of mining laws. The 1961 Mining Law required that all mining companies be majority owned and managed by Mexican citizens. A new mining law enacted in 1975 increased government control over the industry. It limited foreign ownership to 34 percent where concessions on national reserves or the production of certain strategic minerals were involved. Exploitation of oil and gas, phosphate rock, potassium, sulphur and uranium was reserved for the Government. In practice, many other minerals were also exploited exclusively by state-owned enterprises. The rules were liberalized slightly in 1990 by a new regulation of the *Secretaría de Energía, Minas e Industria Paraestatal (SEMIP)*, Secretariat of Energy, Mines and State-owned Industries, that allowed the use of trusts to expand foreign ownership.

Mexico's current mining law came into force in September 1992, and it was followed by new mining regulations in early 1993. The new law creates a much larger role for the private sector. It allows direct private investment, with up to 100 percent ownership, in all mining activities including exploration. It also provides greater security for holders of exploration and exploitation concessions. The list of strategic minerals reserved for the state has been drastically cut, although oil and gas remain exclusively in the hands of *Petróleos Mexicanos (PEMEX)*, the national oil company.

The term of exploitation concessions has been increased from 25 to 50 years. These concessions are renewable, but not transferable. Exploration concessions are now good for six years but are not renewable. Any company can approach the government with a petition to explore or exploit mineral resources. If there are no competing petitions, concessions are awarded on a first-come, first-served basis. In developed areas, or where the government has already proven reserves, mining concessions are typically allocated by competitive tenders. Awards are based on the financial and technical strength of the bidders. Canadian and American companies have been the most favoured. Concessions are available for minerals on the continental shelf as well as in the subsoil.

Under the new law, it is no longer necessary to obtain concessions for ore preparation plants, although producers must still comply with a series of reporting requirements and conform to specific technical and environmental standards.

FOREIGN INVESTMENT LAW

The changes to the mining law have been reinforced by a new law to promote Mexican investment and regulate foreign investment. This law was published in the *Diario Oficial*, Official Gazette, in March, 1993. Article 5 specifies that foreign individuals and corporations can hold up to 49 percent of operations engaged in the exploitation and use of ordinary concessions and 34 percent of special