



DECREE No.  
THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,

**WHEREAS**

- I. Legislative Decree No. 544, dated December 14 of 1995, published in the Official Journal No. 16, Volume 330, January 24, 1996, enacted the Mining Act which permits mining and extraction of metallic minerals.
- II. The exploration and exploitation of metallic minerals involves the use of polluting agents such as cyanide, affecting mainly the water, which is vital for human survival. The deadly effects of metal mining have already been experienced in towns of El Salvador, such as Santa Rosa de Lima, La Union and San Isidro, Cabañas. Also internationally dramatic cases of contamination are known in countries like Peru, Honduras, Guatemala, among others.
- III. The Strategic Environmental Assessment prepared by the Spanish company TAU, in 2011, established that the problem of water pollution has reached a critical level in El Salvador; it compromises the possibilities for development of the country because it impacts the availability of drinking water and human health. It also contends that 88.7% of the Salvadoran territory is considered environmentally vulnerable due to its geographical location and geological conditions.
- IV. Article 1 of the Constitution of the Republic requires the state to guarantee its citizens the enjoyment of health, and further noting that El Salvador recognizes the individual as the origin and purpose of the activity of the State. As well, Article 65 of the Constitution requires the state to protect the health of Salvadorans, noting that: "The health of the inhabitants of the Republic is a public good. The state and the people are obliged to ensure their conservation and restoration." Furthermore, Articles 69, paragraph two, and 117 of the Constitution reiterate that the State must protect the environment.
- V. In addition to the State's duty to ensure the health of the people, the constitution and international treaties, note its duty of care for the environment. In this regard, Legislative Decree No. 233 of March 2 of 1998, published in the Official Journal No. 79, Vol. 339, May 4 of the same year, pronounced the Environment Act, which aims, among other things, to implement the provisions of the Constitution, which relate to the protection, conservation and restoration of the environment, the sustainable use of natural resources to improve the quality of life for present and future generations, as well as, to regulate public and private environmental management, and environmental protection as a basic obligation of the state, municipalities and residents in general.

Furthermore, Article 12 of the International Covenant on Economic, Social and Cultural Rights, signed by El Salvador on 24 September, 2009, establishes that Party States recognize the right of every person to the enjoyment of the highest attainable standard of physical and mental health, and that all necessary measures should be adopted to improve all aspects of occupational health and the environment.

- VI. The protection of the health of the inhabitants of the Republic and the State's duty to ensure the recovery, protection and conservation of the environment should be taken into consideration when deciding, through secondary legislation, on the granting of concessions for the exploitation of subsoil belonging to the State as provided in Article 103 of the Constitution of the Republic.
- VII. Decree No. 379, dated May 23, 2013 pronounced the Special Law of Public-Private, Partnerships which stipulates, in Article 7, that licenses, authorizations, approvals or similar complementary acts, including natural resource concessions regulated by special laws, that may be necessary in order to perform activities related to a contract, must be obtained prior to the signing of the contract, without prejudice to those which by their nature may be obtained later.
- VIII. In accordance with the considerations above, it becomes urgent to ensure the enjoyment of the human rights to water, security and life of all Salvadorans.

## **THEREFORE**

In the exercise of the constitutional faculties vested in the President and members of the Legislative Assembly,

**DECREES** the following:

### **SPECIAL LAW FOR THE PROHIBITION OF METAL MINING IN EL SALVADOR**

#### **Object**

Art 1. This Law is to establish the necessary legal framework to prohibit any type of exploration, exploitation or extraction of metal mining in El Salvador with the objective of preventing its effects on the health of the people of El Salvador and further environmental deterioration resulting from the pollution related to metal mining.

#### Prohibition of concessions for mining activity

Art 2. Under no regulation there may be authorization of any type of exploration, exploitation or metal extraction in El Salvador, nor the granting of licenses, contracts or concessions for the same purpose.

### **Cancellation of exploration procedures**

Art 3. For the ecological and environmental protection of El Salvador, the entry into effect of this Law cancels all procedures relating to the execution of mineral exploration projects, as well as those processes aiming to obtain licenses for this purpose are cancelled.

### **Special character of the law**

Art 4. This Act is of social interest and its provisions thereof, of special character, shall prevail over any other previous general or special laws that contradict it. For the repeal or amendment of this law, it must be named specifically.

### **Revocation**

Art 5. All provisions of the Mining Law issued by Legislative Decree No. 544, dated December 14 of 1995, published in the Official Journal No. 16, Volume 330, January 24 of 1996, which are contrary to this law shall be repealed.

### **Transitional provision**

Art 6. Any natural or legal person, foreign or national at the time of enactment of this law, who rightfully holds valid licenses for exploration or exploitation of metallic deposits granted by any government institution shall have a non-extendable period of one hundred and eighty days for decommissioning such exploration or exploitation projects currently in progress, complying with existing labor legislation, and must, within the same period, start the respective severance process.

The Executive Branch in the area of economics, must reform current regulations harmonizing the Mining Act with this Act, and develop appropriate guidelines for the processing and payment of the respective compensations, within a maximum period of sixty days.

### **Validity**

Art 7. This Act shall enter into effect eight days after its publication in the Official Journal.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE. San Salvador, on the --- day of ----- the year two thousand and thirteen.

Mesa Nacional frente a la Minería Metálica  
*San Salvador, 1 de octubre de 2013*