

Clearer Horizon for Ecuador's Mining Industry



Photo Caption — President Rafael Correa campaigns in Quito for approval of the new constitution whose provisions include creation of the Congresillo, an interim legislature which will pass the new mining law.
Photo Credit: Presidency of the Republic

*By Silvia Santacruz
Ecuador Mining News*

Washington D.C., September 15, 2008 — Last week Ecuador's mining industry welcomed two superb developments: the announced elimination of a proposed 70 percent windfall tax (WFT), and the release of the latest mining law draft, amended by President Rafael Correa. The new law is expected to be approved in October by the Congresillo, an interim legislature to be created if Ecuadorians approve the new constitution in elections held next September 28th.

Mining firms will be exempted from the feared WFT, and will only apply to oil and gas companies through amendments to the Reformed Tax Law, revealed the nation's acting vice minister of mines, Xavier Cordova. The announcement was made during the 2008 Denver Gold Forum, a precious metals event held in Colorado last Tuesday, as first published by the Canadian newspaper Report on Business. [Read Ecuadorean Official Pledges Fair Rules for Foreign Miners](#)

Cordova spread the surprise decision among the 700 mining investors, analysts, and executives who participated in the Denver forum, including the representatives of a handful of international companies with operations in Ecuador. Among these firms were International Minerals (TSX:IMZ), Kinross Gold Corporation (TSX:K, NYSE:KGC), Aurelian Resources (TSX:ARU), and IAMGOLD Corporation (TSX:IMG, NYSE:IAG). Links to participating firms' presentations: [IMZ](#), [KGC](#), [IMG](#).

Vice minister Cordova also revealed the contents of the latest mining law draft, which includes a revenue royalty of between 3 to 8 percent. Regulations specifying which projects will be taxed at what percent will be released 60 days after the mining law is passed, but a previous draft said that royalty rates would be determined by the annual monetary value of the processed minerals per project.

The vice minister also calmed waters regarding the rumor that the country was creating a national mining company to nationalize mining assets. "The intent of creating a national mining company has nothing to do with taking any concessions or projects," he was quoted in Report on Business. Nevertheless, according to draft law Art. 11, "...the state will perform mining activities through the National Mining Enterprise, which can create JVs with private companies..."

A copy of the draft law was obtained last week by the Ecuadorian Mining Chamber, in Quito, after

formally requesting it from Alexis Mera, the nation's attorney general. The 48-page draft, less than half the length of the original 110-page one, drafted two months ago by the Ministry of Mines and Petroleum (MMP), is now available online. [Go to the latest Mining Law draft – Spanish only](#)

If Ecuadorians vote in favor of the country's new constitution on September 28th, the draft law will be approved by the Congresillo, an interim legislative body which will maintain the former Constituent Assembly's representation—an overwhelming majority of the government's political party Alianza Pais. The latest Cedatos' survey reveals that 55 percent of Ecuadorians will approve the constitution, versus only 27 percent that plan to vote no. [Read Cedatos Survey](#)

Key changes in the most current mining law draft – compared to the initial draft – include a maximum royalty of 8 percent instead of the original 5 percent, and the extension of the exploration years per concession from non-renewable 20 years to a renewable 30-years concession. The latest version of the law also confirms MMP Minister Galo Chiriboga's June 30th statements regarding the non-binding consultations of communities in the vicinity of projects. [Read Chiriboga comments in Reuters](#)

The new law will also control land speculation, one of the main reasons the MMP once revoked concessions. For example, the law creates a new administrative fee, raises per-hectare concession fees, and ensures that concession holders invest in exploration projects annually. Thus, before applying for a mining concession, it is required that concession holders pay a nonrefundable \$1,000 administrative fee, according to Art. 20, and an annual patent fee of \$5 per hectare during exploration activities and \$10 per hectare for advanced exploration projects.

It also requires minimum investments per hectare: \$50 per hectare per year during the initial exploration phase, and \$100 per hectare per year during the advanced exploration and feasibility study phase, states Art. 25. This provision is designed to eliminate land speculators, who only hold concessions to sell them to serious mining companies.

The new document prevents mining firms from suing Ecuador through diplomatic intervention or international courts, according to the Art. 3. Ecuador recently faced a dozen international lawsuits from oil companies after President Correa imposed by decree a 99-percent windfall tax last October 2007. Altogether, the legal actions represented about US \$12 billion and involved Repsol YPF (Spain), Perenco (France, UK), Petrobrás (Brasil), City Oriente (United States), and Andes Petroleum (China). Ecuador has agreed to settle conflicts with international companies due to pressure from overseas.