



REPUBLICA DE COLOMBIA  
MINISTERIO DE MINAS Y ENERGÍA  
**UNIDAD DE PLANEACIÓN MINERO ENERGÉTICA**

# **MINING, AN EXCELLENT CHOICE FOR INVESTING IN COLOMBIA**

**The Investor's Guide**

**2005**

# CONTENTS

## INTRODUCTION

### I. COLOMBIAN ADVANTAGES FOR MINING INVESTORS

1. An excellent geographical location
2. An attractive mineral potential
3. A modern mining legislation
4. A stable and expanding economy

### II. INSTRUMENTS FOR INVESTMENT AS APPLICABLE TO MINING

1. The Investment Regulatory System
2. The Tax System
3. Mining Tax and Customs Incentives
4. Incentives to exports
5. The Labor Code

### ANNEXES:

The Colombian Mining Sector's administrative structure  
Areas subject to environmental constraints and limitations

## INTRODUCTION

For Colombia, foreign investment means and constitutes an essential factor in the modernization and internationalization of the country's economy, since it is a fundamental access tool to leading-edge technology, modern knowledge, and the shaping of export-oriented industries.

Within the framework of the internationalization process, the mining sector has benefited from important foreign investments in the development of the Colombian northern-zone coal project, as well as in the expansion of the Cerro Matoso ferro-nickel operation, and the consolidation of the cement industry. Moreover, the space for new investment in the other branches such as basic and precious metals, ornamental stones, and industrial minerals is, likewise, quite wide.

The Colombian State has concentrated its efforts in attracting both capital and technology of foreign nature, for which purpose it has been in the process of consolidating comparative advantages enabling it to compete in the most favorable terms in raising foreign investment resources.

Following this line, the Ministry of Mines and Energy through the Mining and Energy Planning Unit ("UPME") has prepared this Investor's Guide". It is designed to provide basic information to support the decision-making choices of the foreign investor interested in becoming actively involved in the development of the Colombian mining sector.

LUIS ERNESTO MEJIA-CASTRO  
Ministry of Mines and Energy

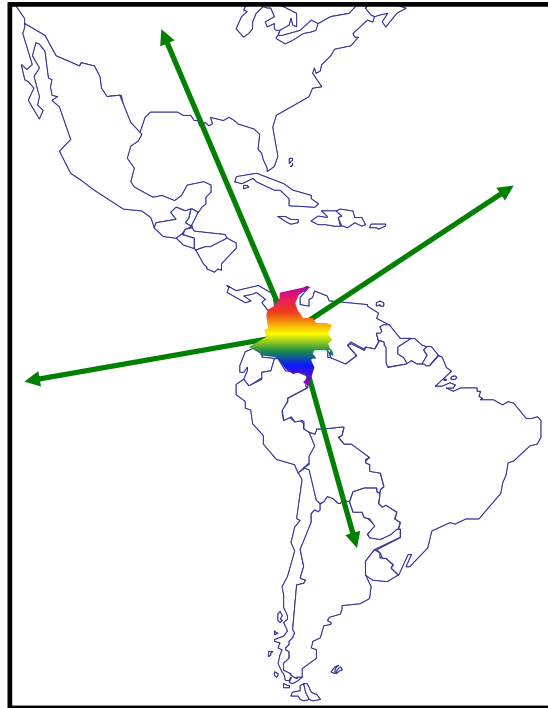
CARLOS ARTURO FLOREZ-PIEDRAHITA  
UPME General Manager

Bogotá, 2005

# **I. COLOMBIAN ADVANTAGES FOR MINING INVESTORS**

## **1. A STRATEGIC GEOGRAPHIC LOCATION**

Colombia is located at a strategic point between North and South America, with ports on both the Caribbean Sea and the Pacific Ocean. This privileged position facilitates ready access to the markets of the American Continent, Europe, Asia, and the Pacific, a very favorable condition to competing within economic blocks and attain a successful positioning at globalized markets.



The country has a road system connecting the midland with its major seaports, under an ongoing improvement process through concessions entered into with the private sector for enlargement, including the rehabilitation of railway and river transportation. Likewise, five airports for international operations and a modern telecommunications infrastructure are available as an important foundation for the agile development of multiple businesses destined to international markets.

## **2. AN ATTRACTIVE MINERAL POTENTIAL**

Thanks to the significant potential found in the Colombian territory in terms of coal, ferro-nickel, gold, and emeralds, among others, the mining industry in the country projects itself as one of the most essential pillars in the national economy.

The country has a very vast geological mining potential, ready for use and profit. The presence of many diverse geological environments facilitates the exploitation and development of a wide variety of minerals and metals of significant economic interest.

Colombia enjoys a privileged position in geotectonic and metallogenic terms, since it shares two extremely promising geological environments: the Guiana System, and the Andean System. The application of modern systematic exploration techniques in areas potentially rich in mining resources is highly likely to enhance the probabilities of generating projects of paramount economic importance.

**Figure 1. Geomorphologic Regions**



In these systems, a variety can be found of metallogenic systems very similar to those that, in other countries in the region, harbor large deposits of precious metals, base metals, industrial minerals, and ornamental rocks.

The Colombian Andean System is shaped by three mountain ranges, each offering a complex structural framework as well as various magmatic pulse logs, these elements being intimately related to mineral deposits. In metallogenesis, both the western and central mountain ranges ("*Cordillera Occidental*" and "*Cordillera Central*") stand out in the Mesozoic and Cenozoic periods, a common situation in the Chilean, Peruvian and Mexican Andes (known as the "*Sistema de la Sierra Madre*").

This System is supplemented eastwards by the Guiana Shield ("*Escudo Guayanés*"); this is an important metallogenic province having generated great expectations not only due to its considerable geographical size (over half million km<sup>2</sup>) but for the acknowledgement of significant deposits of iron, gold, aluminum, diamonds, rare earths, and manganese located in Venezuela and Brazil, very close to the Colombian borders.

There are several geological zones with high probabilities for findings of mineral deposits such as:

**Figure 2. Zones of Interest for Exploration**

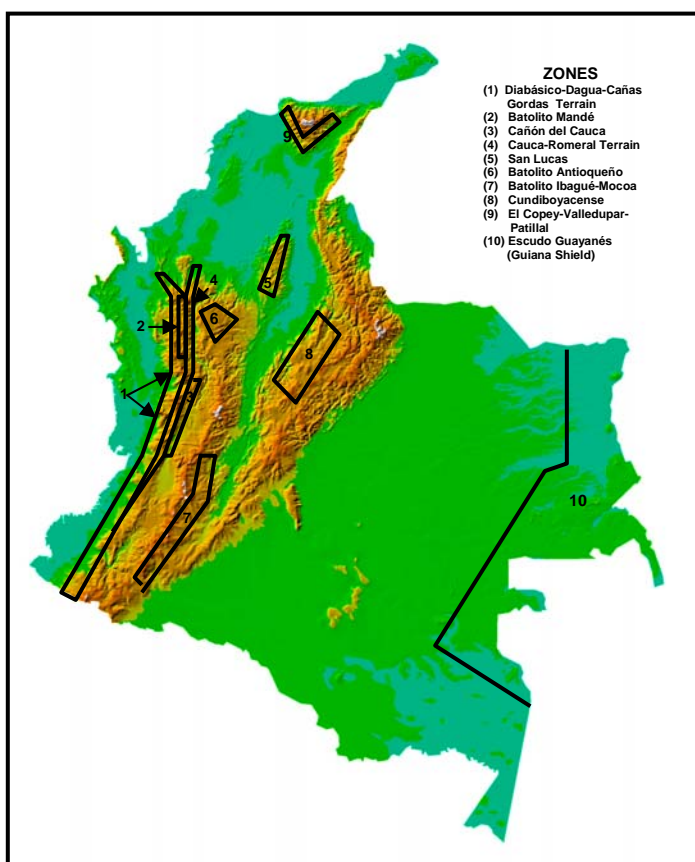


TABLE 1. Main zones of interest for exploration		
ZONES	PROBABLE TYPES OF DEPOSITS	PROBABLE MINING RESOURCE
(1) THE "TERRENOS DIABÁSICO-DAGUA-CAÑAS GORDAS" (DIABASIC TERRAINS)	SMV, CHIPRE : Cu – Zn, (Au)	INFERRED 1-100 MTM 3 - 6% Cu (eq.)
	SMV, BESSHI : Cu – Zn, (Au)	
	SMV, KUROKO : Zn – Cu – Pb, (Au – Ag)	
	EXHALATIVE SEDIMENTARY: Zn – Pb, (Ag)	
(2) THE "COMPLEJO ÍGNEO MANDE" (IGNEOUS COMPLEX)	CUPRIFEROUS PORPHYRS: Cu – Au – Mo	INDICATED 250 – 500 MTM 0.7 – 1.2% Cu (eq)
(3) THE "COMPLEJO ÍGNEO CAÑÓN DEL CAUCA" (IGNEOUS COMPLEX)	EPITHERMAL GOLD Disseminated: Au, Ag Polymetal Veins: Au – Ag, Pb – Zn – Cu, (As, Sb, Hg)	INDICATED Vein: 0.1– 0.5 MTM, 8-15 g, Au/t Disseminated: 10 – 100 MTM 1 – 2.5 Grs gold/ton
(4) THE "TERRENOS ÍGNEO-METAMÓRFICOS CAUCA-ROMERAL" (IGNEOUS-METAMORPHIC TERRAINS)	Podiform: Cr, Ni, Co, (PGM)	>40 MTM 2-2.5 % Ni
	Lateritic: Ni, Co	
	Magnesite, Talc, Asbestos	
(5) THE "TERRENOS VULCANICOS DE SAN LUCAS" (VOLCANIC TERRAINS)	EPITHERMAL and MESOTHERMAL GOLD Disseminated: Au - Ag	INFERRED 10-100 MTM 1-12.5 g.Au/t 0.1 -2.0 MTM 8 -15 g.Au/t
	MESOTHERMAL GOLD Polymetal Veins: Au, Ag, base metals.	
(6) THE "BATOLITO ANTIOQUEÑO" (BATHOLITH)	MESOTHERMAL GOLD Vein: Au – Ag	MEASURED – INDICATED 0.1 – 1.0 MTM 8 - 15g.Au/t
	Polymetal Veins: Au – Ag, base metals	
(7) THE "BATOLITOS IBAGUÉ – MOCOA" (BATHOLITHS)	CUPRIFEROUS PORPHYR: Cu – Mo	MEASURED – INDICATED >300 MTM 0.4 % Cu, 0.07% Mo 0.1 – 1.0 MTM 8 – 15 Au/t
	MESOTHERMAL GOLD : Polymetal Veins: Au, Ag	
(8) THE "CUNDI – BOYACENSE" REGION SEDIMENTITES	HYDROTHERMAL: Emeralds	
	EVAPORITES: Salt, Gypsum	
	Phosphorites	
(9) THE "TERRENOS ÍGNEO-SEDIMENTARIOS DE EL COPEY - VALLEDUPAR - PATILLAL" (IGNEOUS- SEDIMENTARY TERRAINS)	Ornamental Stones: Granites, Marbles, Marble Limestone	>500.000 m <sup>3</sup>
(10) THE "ESCUDO GUAYANES" (GUIANA SHIELD)	Auriferous paleoconglomerates (WIT Type): Au, U, Ti	0.1-0.2 MTM 2-8 g.Au/t
	RESIDUAL: Bauxites	

### Geological-Mining Information

In order to contribute to the mining investor's decision-making process, basic information records and geological-mining cartography is being gradually structured as supported on modern geographic information systems (GIS). This information is available at the SIMCO<sup>1</sup>, the Colombian Mining Information System, where data mainly relating to mines into operation, historical production, reserves, free areas and

<sup>1</sup> [www.upme.gov.co/simco](http://www.upme.gov.co/simco)

environmental restrictions can be found, as well as geological maps, mining charts, and mineral occurrence charts, among others.

Likewise, through the Colombian Geology and Mining Institute (“INGEOMINAS”), the Mining Cadastre records can be consulted on line, thus allowing the visualization of free areas for exploitation/development and contracts recorded in the National Mining Register (“Registro Minero Nacional”), as well as requests, geological potential, infrastructure (transportation system), restricted natural park and forest reserve zones, and hydrography, among other aspects of interest. In addition, integral geoscientific information is displayed by means of either thematic coverage or layer information relating to a large portion of the Colombian territory like, for example, the following: <sup>2</sup>

TABLE 2. Cartographic Information available at Ingeominas	
PRODUCT	CONTENTS
<i>Atlas Geológico – Minero</i> (Geological-Mining Atlas) Scale: 1:500.000 Available in analog and digital means	It offers a thorough overview of the geological environment and the country's mineral-resource potential.
Geological Maps Scales: 1:200.000 and 1:100.000. Available in analog and digital means	They contain the country's cartography systematically produced by INGEOMINAS.
Departmental (Provincial) Geological Maps. Scales: Different, between 1:100.000 and 1:400.000 Available in analog and/or digital means	They contain an overview of the regional geology of each one of the country's departments (provinces).
Departmental (Provincial Maps) of Mines and Mineral Occurrences. Scales: Different, between 1:100.000 and 1:400.000. Available in analog and/or digital means	They offer a graphic compilation of the different mines and mineral occurrences found in each department (province).

### 3. MODERN MINING LEGISLATION

The mining activity in Colombia is governed by a Mining Code, the “*Código de Minas*”, issued by Act 685 of 2001. The most essential objective of this Code is encouraging technical exploration and reasonable development/exploitation of state-owned and private mining resources for the purposes of meeting both internal and external demand thereof within an integral concept of sustainable development and invigoration of the national economy.

The legal framework created by this code establishes clear limits to the State's intervention sphere to the extent it is essential, while determining the necessary autonomy that, in terms of economic management and entrepreneurial initiative, investors require to develop a given mining project. In this way, a management model is set up where the State acts as a facilitator of the mining operator work belonging to the private investor.

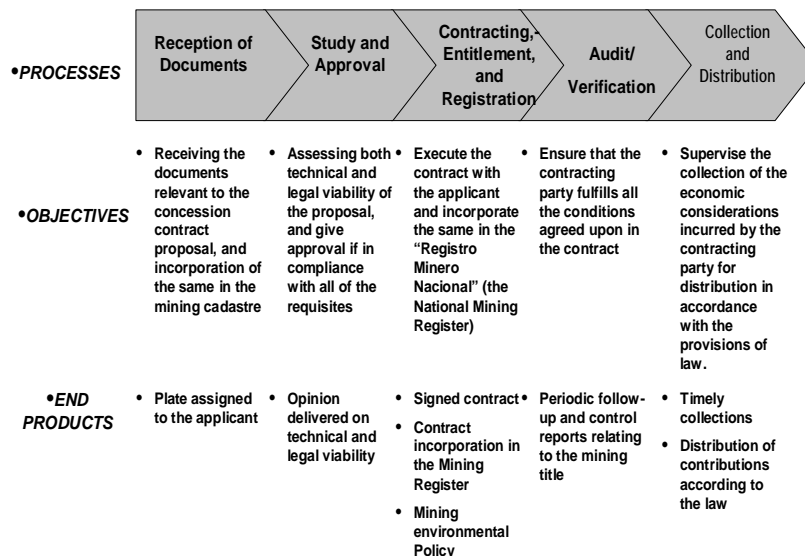
Some of the basic normative aspects pertaining to the mining investor's decision-making process are synthesized below:<sup>3</sup>

- The right to explore and exploit/develop state-owned mines is obtained through the execution of a mining concession contract (“*contrato de concesión minera*”) granted by the Mining Authority as represented by Ingeominas, and registered at the National Mining Register.

<sup>2</sup> [www.ingeominas.gov.co/web/mapas/cartos\\_tematic.html](http://www.ingeominas.gov.co/web/mapas/cartos_tematic.html)

<sup>3</sup> The whole text of the Mining Code can be consulted at [www.upme.gov.co/simco/](http://www.upme.gov.co/simco/)

- For the awarding of mining titles, the principle “first in time, first in right” applies.
- The concession area may cover up to 5,000 hectares in terms of water currents or beds, and up to 10,000 hectares in other types of terrains.
- The duration term of these contracts is, initially, 30 years –including a 3-year period for exploration and a 3-year construction and assembly period - and may be extended up to 30 more years for continued exploitation/development purposes.
- The concession holder shall have the right to exploit/develop, in addition to minerals expressly included in the contract, those that are intimately linked or associated therewith or obtained as exploitation by-products.
- The rights issuing from a concession or other mining title may be assigned to a third party, either in whole or in part. Partial assignments may include the material division of the zone covered by the title, in which case any such assignment will give origin to a new contract, the execution of which is to be completed with the registration of the assignment document at the National Mining Register. The right may also be assigned for the entitlement to use works, facilities/installations, equipment and machinery, as well as for the exercise of contract-inherent easements and rights.
- The investor shall deliver a delimitation map for the contract area applied for, as well as an agreement proposal<sup>4</sup>. This proposal becomes a part of the mining cadastre after having been filed with the mining authority. The term for the relevant study and subsequent approval of the proposal is approximately 60 days, and the process dealing with contracting, entitlement and registration with the National Mining Register takes about 30 days.
- The processes performed by the mining authority for the administration of mineral resources are as follows:



<sup>4</sup> It must be completed on a form with an approximated cost of US\$10

## Environmental Aspects

The Mining Code ordains the principle of *environmental sustainability* throughout the mining cycle. At the same time, it establishes the simultaneity of both technical and environmental viability studies and works for increased celerity and efficiency in the process.

Although surface mining prospecting does not require authorization or permits of environmental nature, it must nonetheless be carried out in accordance with certain mining-environmental guidelines<sup>5</sup> adopted by the relevant authorities. Upon completion of the exploration phase, the interested party shall submit the respective environmental impact study together with the prospective activities and works scheduled for the mining project, the approval of which is a prerequisite for the granting of the environmental license. This study must be in line with both the terms of reference<sup>6</sup> and the environmental authorities' guidelines for mining projects.

The Ministry of the Environment and the Ministry of Mines and Energy have established procedures whereby qualified professionals and important private firms are authorized, as selected by the users and on their own expense, to audit performance of and compliance with the environmental obligations incurred in and under concession contracts.

It is important noticing that Mining Code establishes certain zones - like natural parks - as excluded for mining activities, and other areas where mining may be allowed though subject to certain constraints. In Annex 2 to this Guide, the different categories of these excluded and restricted zones are listed.

Where intended to take place at natural reserve and/or ethnic minority zones, or those reserved for national security purposes, as well as marine areas, mining will be subject to certain restrictions and specific rules<sup>7</sup>. The Ministries of Mines and Energy, of the Environment, and of the Interior provide investors with the relevant information regarding the special location and conditions for access to these zones.

## 4. A STABLE AND EXPANDING ECONOMY

Colombia is seen today as one of the most stable countries in the region, given the sustained growth of its economy throughout the past five decades, the growth rate and most macroeconomic variables been recording a favorable behavior, thus promoting a favorable investment climate.

The current macroeconomic stability is to great extent due to the growing confidence of the private sector in the work carried out by the Government to improve the security conditions throughout the national territory. The impact of these efforts has been a higher growth rate in the economy.

---

<sup>5</sup> The mining - environmental guides ("*guías minero – ambientales*") can be consulted at [www.minminas.gov.co](http://www.minminas.gov.co)

<sup>6</sup> The Terms of Reference [ "*Términos de Referencia*" ] can be consulted at [www.minminas.gov.co](http://www.minminas.gov.co)

<sup>7</sup> More information can be consulted in Chapter III of the Mining Code ("*Código de Minas*").

TABLE 3. Major economic indicators					
INDICATOR	UNIT	2000	2001	2002	2003
GDP	US\$ Million	83,786	81,990	85,204	81,810
GDP Growth	Annual %	2.2	1.4	1.5	3.4
Exports	US\$ Million	13,121	12,309	11,907	12,987
Foreign Direct Investment Flow	US\$ Million	2,395	2,525	2,115	1,746
Inflation	Annual %	8.75	7.65	6.99	6.49

Source: Departamento Nacional de Planeación - DNP - (National Planning Department)

In the fiscal sphere, the Government has imposed strict controls on public spending, this having an influence in the low levels attained by the interest rates during the past few years, which has favored investments in the production sector. In addition, the Government keeps the tradition of strictly meeting its credit obligations incurred with the international banking system.

### Contribution of the Colombian Mining Sector to the Country's Economy

The fact that mining has become a growing contribution to the economy in Colombia is due, mainly to the gradual development that coal production has been going through since the 80s at El Cerrejón (La Guajira) and La Jagua (Cesar). Likewise, an increase has been recorded in the Cerromatoso production of ferronickel, as well as in gold, platinum and emerald mining that, while maintaining relatively sustained production levels, have shown some peaks induced by rises and falls in international prices.

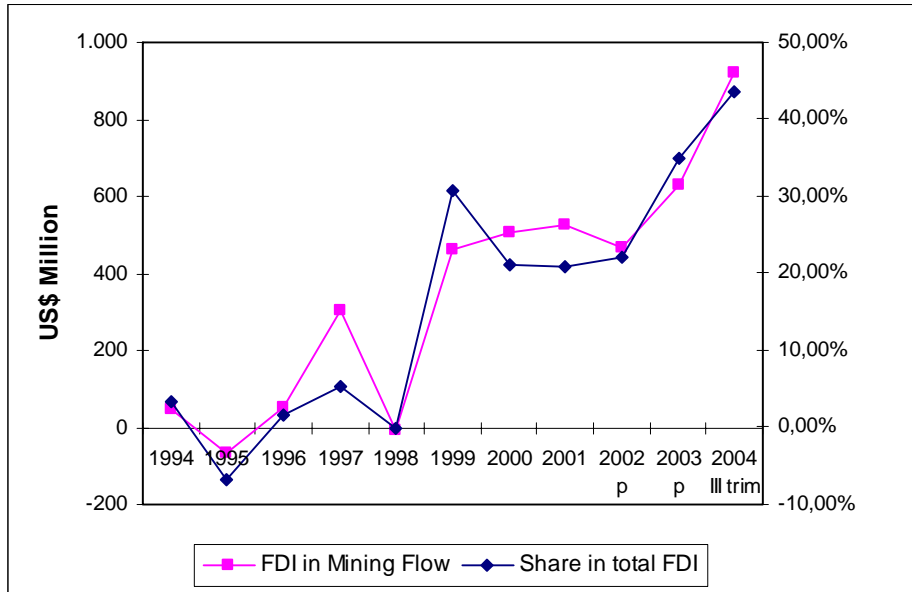
The dynamism of the mining industry is witnessed mostly in foreign investment oriented towards the sector and in the international trade of its products. In 2004, the mining sector attracted 43.5% of foreign investments flows into the country, and Colombian mining sales accounted for 20% of the total country's exports.

TABLE 4. Major Mining Activity Indicators						
INDICATOR	UNIT	2000	2001	2002	2003p	2004*
Mining GDP (without hydrocarbons)	US\$ Million	1,375	1,555	1,539	2,176	2,105
Share in national GDP	%	1.90	2.03	1.90	2.53	2.58
Mining exports	US\$ Million	1,411	1,556	1,524	2,630	2,645
Share in total exports	%	10.75	12.64	12.80	20.25	20.17
Foreign Direct Investment in mining	US\$ Million	507	524	466	627	922
Share in total FDI	%	21.16	20.74	22.05	35.00	43.53

Source: DANE, Banco de la República (the Central Bank), DNP, UPME \* Figures as of the third quarter

The mining activity in the country is being carried out by the private sector and its development has influenced and fostered to a great extent the involvement of major foreign investors like Drummond, BHP Billiton, Glencore, Amcoal, y Rio Tinto, all of them having implemented large-scale exploitation/development projects.

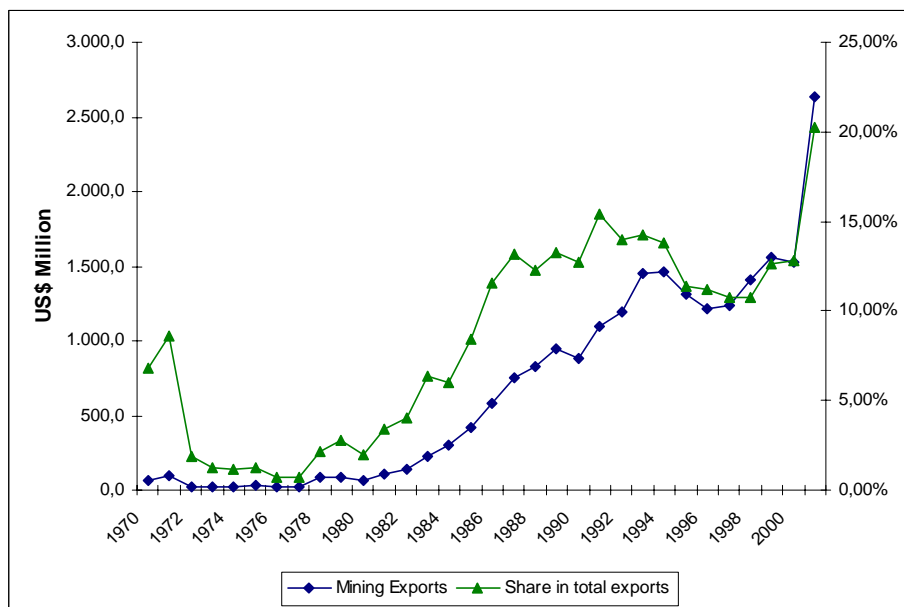
**FIGURE 3. Foreign Direct Investment (FDI) in the Mining Sector**



Source: Balance of Payments, Banco de la República (Central Bank)

The growth in the international trade of Colombian mining products is essentially supported and sustained by its major sales of coal, ferronickel and precious metals. The country is exporting about 40 raw-mineral products and over 10 other products with added value from industrial transformation processes. In addition, among the first group of exports, platinum and ornamental (marble and granite) stones stand out, while the most important in the second group are cement, ceramics, coke, and jewelry products.

**FIGURE 4. Mineral Exports**



Source: Dane, UPME Calculations

Regarding national production, although the historical share of the mining sector (without hydrocarbons) in the GDP has not been high in percent terms, a remarkable increase has been seen in the past few years to the extent that, in 2003, it was the sector having recorded the highest growth index. The main production lines in the Colombian mining activity are coal, ferronickel, and gold.

**FIGURE 5. Historical contribution of mineral products to the mining GDP**

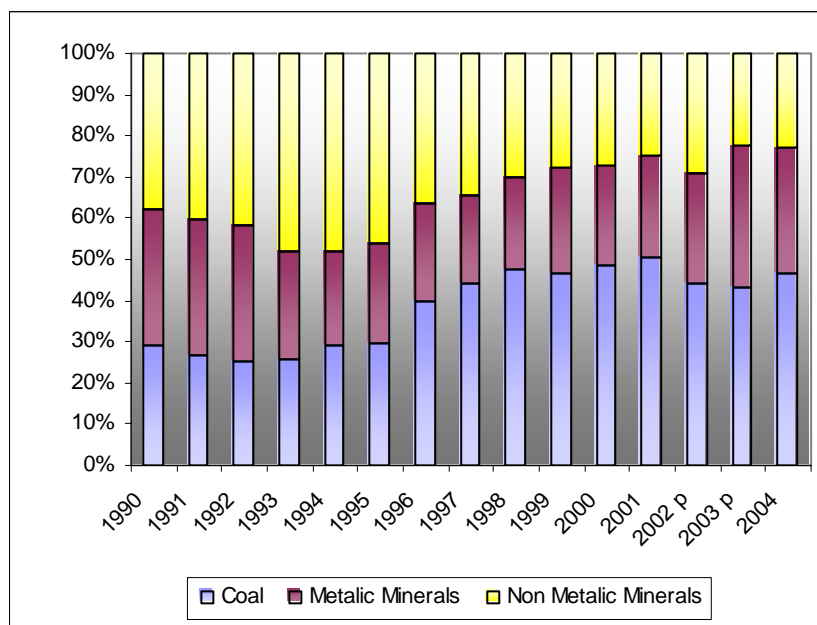


TABLE 5. Major mineral production						
MINERAL	UNIDAD	2000	2001	2002	2003	2004**
Coal	t x 10 <sup>3</sup>	38,242	43,911	39,484	50,028	25,854
Emeralds*	Thousand Karats	8,453	5,499	5,391	8,963	4,523
Ferronickel	t	27,730	38,438	43,978	47,868	24,475
Iron mineral	t	660,109	636,837	688,106	625,002	334,077
Gold	Kg.	37,018	21,813	20,823	46,515	15,696
Silver	Kg.	7,970	7,242	6,986	9,511	3,874
Platinum	Kg.	339	673	661	828	496

Source: UPME,

\* Pertains to export data

\*\* First semester, 2004

## **II. INSTRUMENTS FOR FOREIGN INVESTMENT AS APPLICABLE TO MINING**

The Colombian State is committed to the consolidation of those comparative advantages enabling it to compete in favorable conditions in attracting foreign investment into the country in order to make the best use of the geological-mining potential of its territory. Likewise, the necessary administrative reforms have been carried out to dismount the so-called “Entrepreneurial State” and reduce the state investments in the mining sector down to those required for the basic soil-exploration phase; the objective is bringing private capital and technology for the development of the subsequent phases of the mining cycle.

### **1. THE INVESTMENT REGULATORY SYSTEM**

In Colombia, foreign and national investors enjoy the same treatment. The Colombian Government does not impose special conditions or discriminatory rules upon foreign investors. Foreign investment is welcome in all the economic sectors, excluding those relating to national defense and security or in connection with the processing or disposal of toxic, dangerous or radioactive waste not produced in the country.

The general regime for investment of foreign capital in Colombia is established in Decree 2080 of 2000<sup>8</sup> issued by the National Planning Department (DNP) as amended, and with the additions introduced by Decree 1844 of 2003. Although the rules contained in these decrees apply to all foreign investment forms, some of them are applicable solely to mining.

In Colombia, foreign direct investment, FDI can be destined to the acquisition of stakes, shares, social quotas, contributions representing a company's capital, compulsory convertible bonds, right in/on equity constituted by mercantile trust, real estate, construction projects, property funds, contributions to agreements such as cooperation, concession, and/or administration services, and license or transference of technology contracts, among others.<sup>9</sup>

The major methods through which direct investment of foreign capital can be made are imports of foreign exchange freely convertible into the national currency and imports of tangible goods such as machinery, equipment and other physical assets, as well as contributions in kind to a business or company's capital. Likewise, contributions in national currency can be made in those amounts relating to the right of making remittances destined abroad as relating to interest on external credits, amounts due for reimbursable imports, profits entitled to drawing rights, and royalties deriving from agreements or contracts.

---

<sup>8</sup> Additional information can be consulted at [www.dnp.gov.co/02\\_SEC/INVERSIE/Inv\\_ext.htm](http://www.dnp.gov.co/02_SEC/INVERSIE/Inv_ext.htm)

<sup>9</sup> Complete information about rules for foreign investment in Colombia can be found at [www.coinvertir.org.co](http://www.coinvertir.org.co)

TABLE 6. Rules and Regulations relating to Foreign Investment	
RULING	TITLE / MATTER
Political Constitution of Colombia, Articles 150, 189, 371, 372, and 373	
Act 09 de 1991 <sup>10</sup>	International exchange master act
Act 31 de 1992 <sup>idem</sup> Article 17	Central Bank (Banco de la República) law.
Act 685 de 2001 <sup>idem</sup> Title Sixth	The Mining Code (Código de Minas), mining economic and social aspects
Decree 1735 of 1993 <sup>11</sup>	Regulatory of Act [Ley] of 1991
Decree 2520 of 1993 <sup>idem</sup>	Regulatory of Act [Ley] of 31 of 1992
Decree 1295 of 1996 <sup>idem</sup>	About foreign investment
Decree 2080 of 2000 of the DNP <sup>12</sup>	General regime for investments of foreign capital in Colombia and of Colombian capital abroad
Central Bank * Board of Directors' External Resolution 8 of 2000 <sup>13</sup>	Regime for International Exchange, superseding External Resolution 21 of 1993
Central Bank* Board of Directors' External Resolution 9 of 2000 <sup>14</sup>	Amending External Resolution [Resolución Externa] 8 of 2000
Central Bank* Circular Letter DCIN-31 of June 2000 <sup>15</sup>	International Exchange Manual ("Manual de Cambios Internacionales") published on June 8 2000. Amended in part by the Statutory External Circular Letter DCIN - 04 of January 5 2001
Central Bank* Statutory External Circular Letter DCIN - 04 of January 2001 <sup>9</sup>	Supersedes in whole the statutory external circular letters DCIN -01 of January 12 1999 and DCIN - 2 of January 27 1999
International Investment Statute	Formed by: CONPES Resolution 51 of 1991 as amended: Conpes Resolutions 52 of 1991, 53, 55, 56, and 57 of 1992 and 60 of 1993, and Decrees 2348 of 1993 and 98, 1812, 2012, 2764 of 1994 and 517 of 1995, 1295 of 1996, 1874 of 1998 and 241 of 1999
Decree 1844 de 2003 <sup>16</sup>	Whereby amendments were introduced to the international investment regime
Central Bank* Circular Letter DCIN - 83 of November 2003 <sup>9</sup>	Amending the exchange and the foreign investment regime

\*Banco de la República

### Special Regime for the Mining Sector<sup>17</sup>

For the mining sector, a special foreign investment regime, more flexible and favorable than the general regulatory system is applicable, in the light of certain particular aspects taken into consideration.

For instance, foreign capital investment destined to activities such as mineral exploration, exploitation/development, benefit, and transformation (as well as investments made by technical service companies) are granted the privilege of being exclusively subject to compliance with the rules set forth in the Mining Code, and to the terms and conditions of the relevant contract made between the foreign investor and the mining authority.

<sup>10</sup> See [www.secretariassenado.gov.co/compendio\\_legislativo.HTM](http://www.secretariassenado.gov.co/compendio_legislativo.HTM)

<sup>11</sup> See [www.banrep.gov.co/regimen/d1735934.htm](http://www.banrep.gov.co/regimen/d1735934.htm)

<sup>12</sup> See [http://juriscol.banrep.gov.co:1025/basisjurid\\_docs/legislacion/normas\\_buscar\\_cont.html](http://juriscol.banrep.gov.co:1025/basisjurid_docs/legislacion/normas_buscar_cont.html)

<sup>13</sup> See [www.banrep.gov.co/regimen/resoluciones/Res8-2000.pdf](http://www.banrep.gov.co/regimen/resoluciones/Res8-2000.pdf)

<sup>14</sup> See [www.banrep.gov.co/regimen/resoluciones/re9200.pdf](http://www.banrep.gov.co/regimen/resoluciones/re9200.pdf)

<sup>15</sup> See [www.banrep.gov.co/cambios/cir31/cir04/home4.htm](http://www.banrep.gov.co/cambios/cir31/cir04/home4.htm)

<sup>16</sup> See [www.banrep.gov.co/regimen/decreto1844-03.pdf](http://www.banrep.gov.co/regimen/decreto1844-03.pdf)

<sup>17</sup> The general regime for foreign capital investment in the hydrocarbon and mining sector is subject to the rules of Title III, Chapter II of Decree 2080 of 2000.

Likewise, the branches of foreign companies carrying out coal, ferronickel and uranium exploration and exploitation/development activities are not obliged to reenter or return into the country foreign currency deriving from their exports. However, they must refund the necessary portion required by them to meet their expenses in Colombian currency. In addition, both national and foreign companies carrying out these types of activities may enter into and pay agreements or contracts entered between them in any foreign currency.

### **Investment Registration**

All capital investments from abroad must be registered with the Central Bank [*"Banco de la República"*]: This condition is necessary in foreign investors being allowed to exercise the foreign exchange rights conferred on them by law, such as: remitting and/or reinvesting profits, or retaining/withholding undistributed earnings, as well as those relating to the remittance of alienation or disposal proceeds, and/or moneys deriving from liquidations or capital reductions.

Investors or their proxies, or the legal representative of the recipient company, must register their investment within three (3) months from the date it was actually made. Generally, as a rule, foreign investment registration is automatic upon submission of the foreign exchange declaration for international investments with the intermediary of the exchange market, or upon payment into account, and the preparation of the exchange declaration if the foreign currency is channeled through current exchange equalization accounts.

When the same company that has foreign capital investment in the hydrocarbon and the mining sector develops in addition within the sector other or several economic activities to which different exchange rules apply, it must provide accurate evidence to the Central Bank of all profits generated in each accounting period for each one of any such activities, by means of generally approved accounting procedures allowing full identification of each activity's assets and liabilities, and the relevant investment. In these cases, neither assets nor liabilities common to the different activities will be accepted.

### **Foreign Investment Protection**

Investments made by foreigners in the country may be object of the benefits offered by international organizations like the Overseas Private Investment Corporation OPIC (an entity engaged in promoting investments made by the United States in the developing countries through financing investment projects including insurance/protection against risks such as foreign currency inconvertibility, expropriation, and political violence), or the Multilateral Investments Guarantees Agency MIGA, an institution that grants guarantees against non-commercial risks such as foreign currency inconvertibility, discriminatory expropriation, war, and civil disturbances.

In addition, the Colombian law allows investors to agree on settling their contingent controversies through international arbitration procedures. For this purpose, the Colombian Congress has ratified the constitutive agreement of the ICSID, the international center for the solution of investment-related disputes, in order to have access to an agile conciliation and arbitration mechanism at the international level.

## 2. THE TAX REGULATORY SYSTEM<sup>18</sup>

The following table describes the current taxes relating to foreign investments in the country:

TABLE 7. General Taxes		
Tax	Rate	Remarks
Income	38.5%	<ul style="list-style-type: none"> <li>• Tax shield : 5 years</li> <li>• Depreciation: straight-line method in general. Moderate acceleration schemes</li> <li>• Deferred tax amortization: Within a maximum 5-year term</li> <li>• Tax exempt unproductive period, applied to great mining activities</li> <li>• For occasional gains: the same rate established for the income tax is applied.</li> </ul>
Remittances	7%	<ul style="list-style-type: none"> <li>• On foreign company's dividends, it is deferred if reinvested.</li> </ul>
VAT	16%	<ul style="list-style-type: none"> <li>• Regulated by Act 788 of 2002.</li> <li>• The VAT paid on temporary imports of heavy machinery for base industry (including mining) as well as relating to inputs designed to produce export goods, may be deducted from income taxes.</li> </ul>
Tariffs	5-15%	<ul style="list-style-type: none"> <li>• Exempt for export destined inputs ("Plan Vallejo"), among others.</li> </ul>
Net Worth/ Capital	0,3 %	<ul style="list-style-type: none"> <li>• On equity or net worth above 3,000 million Colombian pesos, it shall be paid during years 2004, 2005, and 2006.</li> </ul>
Financial Transactions	4/1000	<ul style="list-style-type: none"> <li>• In 2007, the rate shall be three per thousand (3/1000).</li> </ul>

There are other lower encumbrances of either regional or local nature; the most common among them is the *industry and commerce tax*, for which the tax base is the income value while the rate of taxation is assessed by each municipality within the following limits established by law, and the real estate tax on landed property located within the territory of the relevant municipality.

### Compensation and Taxes on the Mining Activity

The Colombian State, as an economic compensation for the good use made by a private individual of national mineral resources, receives certain *royalties* of obligatory nature that are paid as a percentage of the value or amount of the mining production estimated at the edge or in the mouth of the mine. This rate, as applicable for royalties, as well as the method used for settlement and readjustments of the same, shall be those in force at the time of the execution of the concession contract, and shall apply during the entire contractual term.<sup>19</sup>

In addition, a surface canon is charged during the exploration and assembly stages. In the exploration phase, it is paid exclusively on the area retained for continued exploration purposes.

<sup>18</sup> The text of the Tax Law [*Estatuto Tributario*] (Decree 624 of 1989) and of its implementation rules can be consulted at [www.dian.gov.co](http://www.dian.gov.co)

<sup>19</sup> Article 228 of the Mining Code, "Royalty Stability"

TABLE 8. Taxes on Mining		
Tax	Rate	Characteristics or Observations
Royalties	1-12%	Gold and silver 4% The rate is 6% for alluvium with concession contracts. Platinum 5% Emeralds 4% Coal 10%, for exploitation/developments over 3 million tons. 5%, for less Nickel 12% on the price less 75% of costs Other 1-12% (limestone(s), gypsums, clays, and gravels 1%, metal mineral 5%, Non-metal minerals 3%, salt 12%, radioactive minerals 10%).
Surface canon	1 to 3 mdw	Applies during the exploration phase. Its amount depends on the area size. A minimum daily wage in force (mdwif) for areas of up to 2000 Ha (approximately US\$4.00/ha), two mdwif for areas between 2000 and 5000 Ha (approximately US\$8.00/ha), three mdwif for areas between 5000 and 1000 Ha (approximately US\$12.00/ha)
Additional Remunerations		For bids on areas where the State has invested in exploration. Considerations/remunerations are defined in the bidding forms.

### 3. TAX AND CUSTOMS INCENTIVES TO MINING

Some particular tax rules have been established to facilitate and motivate the development of mining activities in the country, like the following:

Table 9. Tax and Customs Incentives	
Incentive	Main features
Exemption from the obligation of refunding foreign currency for exports	Special exchange treatment to foreign investment in hydrocarbons and mining with respect to the refunding of currencies originating in/from exports.
Tariff Exemption	<ul style="list-style-type: none"> <li>For imports of machinery, technical equipment and their accessories, materials and spare parts destined to the mining exploration and exploitation, development, benefit, transformation and transportation activity or to oil exploration and hydrocarbon exploitation/development, transportation through pipelines, and refining.</li> <li>Capital goods intended to be used in the exploration of small auriferous units.</li> </ul>
VAT exemptions	<ul style="list-style-type: none"> <li>Imports of machinery not being produced in the country to be made by leading exporting companies (60% of sales) and destined to raw-material transformation.</li> <li>Temporary imports of heavy machinery (includes supplementary or accessory elements of main equipment) for the mining industry.</li> <li>Sales and imports of: <ul style="list-style-type: none"> <li>Natural sulfur</li> <li>Natural calcium phosphates (tricalcium phosphates or Phosphorites) whether ground or not</li> <li>Coal, briquettes, ovate and analogous solid fuels obtained from coals.</li> <li>Cokes, coal, lignite or peat semi-cokes, whether agglomerated or not.</li> </ul> </li> </ul>
Income tax base deductions	<ul style="list-style-type: none"> <li>Royalties paid for mineral resource exploitation/development.</li> <li>The VAT paid on machinery purchases by the producers of goods excluded from the tax in the taxable year during which the machinery has been purchased or imported.</li> <li>The VAT paid for imports of heavy machinery for mining.</li> <li>Necessary investments made with respect to mines and oils and relating to mine acquisition or exploitation/development costs, other than those made in lands or depreciable goods (in both development and non-producing areas, either continuous or discontinuous).</li> <li>Thirty percent (30%) of the amount of effective investments made solely in productive real fixed assets acquired, even with the method of financial leasing with irrevocable option to purchase.</li> </ul>

Presumptive income exemption	The presumptive income concept applied to all economic activities was eliminated by the Mining Code Art. 233, Act 685 of 2001) with respect to mining. From the total amount of liquid assets of the immediately preceding year, which serves as a basis to assess presumptive income, deduction can be made of the net worth of goods or properties directly connected to enterprises the exclusive corporate purpose of which shall be mining other than the exploitation of liquid and gaseous hydrocarbons.
Tax exemption for investments in reforestation	Investments exceeding 5% of mining exports, destined for reforestation purposes, will be exempt from any taxes (Mining Code, Art. 235)
Further flexibility in the cost amortization system	For tax purposes, a cost amortization method was established according to mining exploration and development risks (Art. 236 of the Mining Code).

#### 4. INCENTIVES TO EXPORTS

Colombia has entered into several commercial/trade agreements under which the country has been granted tariff preferences for access to international markets: To the United States, by virtue of the Andean Trade Promotion and Drug Eradication Act (ATPDEA). To Europe through the Andean Generalized Preferences System ("*SGP Andino*"); to the Andean economic community ("*CAN*"); and to Venezuela and Mexico within the G-3 Free Trade Agreement, all of them granting a privileged access of its exports to these markets and constituting an important competitive advantage for the country.

The most recent partial free trade agreement was signed by Colombia and the *CAN* countries with the *MERCOSUR*, the Latin America's southern community market. In addition, Colombia continues its *ALCA* negotiations as well as those relating to a bilateral free trade treaty with the United States.

On the other hand, other mechanisms such as the free trade zones ("*zonas francas*" - ZF) and the special export economic areas ("*zonas económicas especiales de exportación*") or ZEEEs have been created to promote investments in activities focused on purposes like, for instance, exporting goods and services as well.

The ZFs are areas in certain national localities where the government has established tax, exchange, and customs incentives as a mechanism intended to promote processes for the industrialization of goods and services primarily destined to external markets. These zones are quite proper for the purposes of developing methods serving to add value to gross mineral products.

Some of the benefits of the ZFs, among others, are: Exemption from payment of income and complementary taxes. No withholding taxes on payments on account and transfers abroad, which, in addition, are not subject to income taxes and remittances; Exemption from all import duties for imported goods. Prerogatives for trade or commercialization of all kind of foreign currencies, with no obligation to refund those obtained in commercial/business operations.

The ZEEEs belong in certain Colombian border territories where the national government has created varied incentives to the establishment of new companies and enterprises, including mining, willing to focus most part of their production towards the international markets. These enterprises are exempt from the payment of income taxes on earnings deriving from sales at external markets, and their payments or advances abroad shall not be subject to remittance or withholding taxes. Likewise, they can enjoy the same benefits granted by the ZFs in terms of customs privileges,

such as full exemption of customs duties, freedom to enter goods, and fast and simplified formality procedures for the introduction of commodities in the country.

In addition, special regimes have been established, mainly in fiscal terms, for certain Colombian zones affected by natural phenomena, i.e. "Quimbaya Act", and others like Plan Vallejo.

## **5. THE LABOR CODE REGIME**

The following are the major types of work contracts envisaged by the Colombian law as applicable to the mining activity are the following:

- Fixed-term contract, made in writing for a duration not to exceed three years, which can be extended by the parties for an indefinite term
- Contract per work, executed for the time or duration of a specific work or task assigned to the contractor.
- Indefinite-term contract, where the duration of the work or labor relationship is not stipulated, and no connection is established with an occasional work or task.

If a mining concessionaire or grantee employs foreign and national workers, it has to pay Colombian personnel overall no less than seventy per cent (70%) of the total amount of the payroll of specialists, directors or trust and reliance staff, and no less than eighty per cent of (80%) of the amount of the ordinary workers' payroll.

Foreign employees have the same rights and obligations established for Colombian workers; however, if they sign a work contract in Colombia, both the employee and the employer have to meet certain additional obligations, such as having a temporary visa in the contractual category, which can be valid for a period of up to two (2) years. Upon having obtained their visa, foreigners have to fulfill the necessary formalities to obtaining their foreigner identity card with the Security Administrative Department - DAS.<sup>20</sup>

---

<sup>20</sup> Mayor información en [www.das.gov.co/extranjeria](http://www.das.gov.co/extranjeria)

## ANNEX 1

### GOVERNMENT ENTITIES IN CHARGE OF THE MINING SECTOR

The functions of the Colombian Government entities relating to the Mining Sector are summarized below:

The **Ministry of Mines and Energy** [*"Ministerio de Minas y Energía"*] (**MME**) is the guiding entity of the country's national mining policies to be included by it into the National Mining Development Plan and other administrative acts.

Web page: [www.minminas.gov.co](http://www.minminas.gov.co)

The **General Mining Authority** [*"Dirección General de Minas"*] is the MME subordinate office in charge of directing and articulating the sector policy along with the regulations regarding the environment, ethnic minorities, and other mining-related matters.

The **Mining-Energy Planning Unit** [*"Unidad de Planeación Minero Energética"*], (**UPME**) is responsible, among other functions, of the formulation and updating of the National Mining Development Plan [*"Plan Nacional de Desarrollo Minero"*], and providing support to the MME in the definition of policies relating to the mining sector development. In addition, it integrates and administers the Colombian Mining Information System, "SIMCO", i.e.: the information relating either directly or indirectly to the mining activity: the geological-mining potential, the mining cadastre, the legal, fiscal, socioeconomic, institutional, and environmental frameworks; and, likewise, the infrastructure elements, and national and international statistics. This system is an essential tool for the sector development planning, as well as for mining investors' decision-making purposes.

Webpage: [www.upme.gov.co](http://www.upme.gov.co)

The **Colombian Geology and Mining Institute** [*"Instituto Colombiano de Geología y Minería"*] -**INGEOMINAS**, is the administrator of mineral resources and includes, among its several functions, the following: Basic exploration designed to identify both the potential and the restrictions inherent to the geological conditions of the Colombian territory subsoil, as well as the promotion of exploration and exploitation/development of the national mining resources. Likewise, the administration of mining resources - as delegated by the MME -, along with the steps and procedures leading to facilitate the introduction of capital and technology required to place the Colombian mining industry in a sustainable development position in economic, social, and environmental terms.

The activities performed by INGEOMINAS are distributed as follows in two large mission areas:

- **Geological Service.** It performs the necessary geological, geochemical and geophysical surveys required to generate geological subsoil-integrated models and categorize mineral, water, and geothermal resources according to their characteristics. In addition, it collects, compiles, validates, stores, and supplies geological-mining information available in the country on an automated basis, and according to international.
- **Mining Service.** It carries out the mining contracting processes, administers the mining registry system, and audits/controls the activity in a constructive fashion.

Webpage: [www.ingeminas.gov.co](http://www.ingeminas.gov.co)

## LIMITATIONS FOR THE USE OF THE TERRITORY IN MINING ACTIVITIES

### 1. Mining Excluded Zones

Zone Type	Categories	Jurisdiction	Mining Activity	Rules	Observations
Areas in the System of National Natural Parks	National Natural Park National Natural Reserve Way of the Flora and Fauna "Parque Santuario" de	MAVDT	In zones being declared and delimited as national natural park areas, no exploration and exploitation/development works are allowed.	Act 685/01, Arts. 34 and 39. Act 2811/74 Arts. 327 to 336 Decree 622/77	Zones of potential mining interest willing to be incorporated into the National Natural Park System must be delimited by the environmental authority as based on technical, social, and environmental studies, and with the assistance of the mining authority.
Regional Natural Park	Regional Protected Area	CARs	In principle, mining activities are prohibited within zones having been declared as regional parks	Act 685/01, Art. 34 Act 99/93 Art. 31, num 16	The regional park figure has not been regulated by the MAVDT.
Forest Reserve	National Forest Reserves (Act [Ley] 2/59)	MAVDT	Mining activities in Forest Reserves are subject to permit or special authorization obtained from the environmental authority	Decree 2811/ 74 Decree 877/76, Art.7  Act 99/93 Art, 31, Num 16	The interested entity or person shall submit all studies or surveys showing the compatibility of mining activities with the forest reserve zone purposes or objectives, in order for the environmental authority to decree the subtraction of the requested area and authorized any such activities either on a restricted basis or mainly by given extraction methods and systems not affecting or harming the forest reserve
	National Protective Forest Reserves	MAVDT			
	Regional Forest Reserves	CARs			
Reserved Mining Zones	Special Mining Reserves	MME	These are special reserved zones as delimited by the national government for social or economic reasons, where environmentally sustainable mining projects are carried out, as well as those relating to the use of renewable natural resources or for welfare purposes for the benefit of the population engaged in or linked with the mining activity.	Act 685/01, Art. 31 y 248 Dec. 2200/01 Dec. 1494/03	In these zones, subsistence, illegal, informal, and traditional hand-operated mining activities prevail. These populations have a low quality of life, a high index of unsatisfied needs, and a poor social structure contributing to affect public order. Special established Reserves: Six (6) as follows: Department of Bolivar: Municipalities of Arenal, Rio Viejo (2); Montecristo and Tisquisio (2). One (1) at the Department of Antioquia: Municipalities of Remedios and Segovia. And one (1) at the Department of Norte de Santander: Municipalities of Bochalema, San Cayetano and Cúcuta.
	Indigenous Mining Zone	MME	Indigenous communities take precedence in being granted concessions by the mining authorities on deposits located in these zones. Proposals submitted by private persons with respect to exploration and exploitation/development of minerals within an indigenous zone shall be decided upon and resolved with the concurrence of the relevant native community.	Act 685/01, Arts. 122,124 and 127	The mining authority delimits exclusive mining zones within the indigenous territories as based on technical and social studies. The indigenous authority may establish mining restraining zones
	Black Communities' Mining Zone	MME	Black communities take precedence in being granted concessions by the mining authorities on deposits located in these zones. Proposals submitted by private persons with respect to exploration and exploitation/development of minerals within these mineral zones shall be	Act 685/01, Art. 131	The mining authority delimits black community mining zones at their request, within wasteland areas located by rivers or lakes, or at plots allocated by the INCORA (the Agrarian Reform Institute) to a given black community as collective property.
	Mixed Mining Zone	MME	Indistinctly, indigenous groups and black communities take precedence in the granting of mining	Act 685/01, Art. 134	

## 2. Zones with restrictions imposed upon Mining

Zones of Specific Interest	Zones of archaeological, historic, or cultural interest	Various	Mining activities can be carried out if authorized by the relevant authorities	Act 685/01, Art. 35, par. c. Sent.C 339/02	The term "relevant authorities" includes both mining, environmental and any other authorities responsible for taking care of the archaeological, historic, and cultural heritage
	Beaches, low tide zones, and river ways	DIMAR (The Maritime Authority)	Mining activities can be carried out if authorized by the relevant authorities	Ley 685/01, Art. 35, paragraph d.	
	Areas within city boundaries	Municipal Councils	Mining activities can be carried out if approved by a municipal agreement in accordance with the relevant Territorial Planning Plan	Act 685/01, Art. 35, paragraph a. Sent. C 339/02	Although, generally, mining is prohibited within city boundaries, this prohibition is subject to local environmental and territorial planning rules in force.
	Constructed rural areas with orchards, gardens, plots	Plot Owner/Holder	Mining activities can be carried out with the owner or holder consent and provided they do not constitute any threats to the inhabitants' health or integrity.	Act 685/01, Art. 35, paragraph b.	
	Areas occupied by public works or assigned to utilities	Responsible Entity	Mining works can be carried out if permit is given by the responsible entity or person.	Act 685/01, Art. 35, paragraph e.	Rules and standards applicable to the work(s) or service shall not be incompatible with the mining activity
Other Protected Regional Areas	Integrated Management District, Soil Preservation District	Corporations	At the Integrated Management Districts, mining activities are feasible with a special permit. special. At the Soil Preservation Districts, mining activities are not allowed since they contradict the purposes for which they were created	Act 2811/74 , Art. 310, 324 Act 99/93 Art. 31, Num. 16, Decree 1974/89	Districts shall be geographically delimited in order for the mining authority to keep this information available at the mining registry office. Departmental (provincial) and municipal councils have created new natural resource preservation and protection figures not envisaged in the current Law.
Protected Private Areas	Civil Society' Natural Reserves		The uses of the civil society natural reserves are not regulated	Act 99/94 Arts.109 and 110 Decree 1996/99	Any owner/holder of a Civil Society's Natural Reserve must obtain a register or license with the MAVDT
Zones of National Ecological Interest	Zones non-compatible with construction material mining in the Sabana (grasslands) of Bogotá	MAVDT	Mining activities in the Sabana de Bogotá is subject to prior survey of mining-compatible zones	Act 99/93 Art. 61 Res. 222/94 Res. 1277/96 Res.803/99 Act 685/01, Art. 34	For the determination of mining-compatible zones at the Sabana de Bogotá, these areas shall first be geographically delimited by the environmental authority as based on technical, social, and environmental studies with the assistance of the mining authority

Acronyms: MME = Ministry of Mines and Energy. MAVDT = Ministry of the Environment, Housing, and Territorial Development. CARs = Regional Autonomous Corporations.