

# MINING REPORT

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P·P·O

ABOGADOS

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# WHAT'S NEW IN MINING?

## IN LESS THAN A MONTH, EPCORO COLLECTS THE METAL FOR THE FIRST SALE TO THE CENTRAL BANK OF BOLIVIA (BCB)

*Ministry of Mining and Metallurgy*

**30/07/2024:** The new State Company for the Production and Marketing of Gold (Epcoro), is in full operation and during July purchased the precious metal to deliver it to the BCB. The state-owned company was created in March of this year through Supreme Decree 5134, which, in turn, dissolved the Bolivian Gold Company (EBO).

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## MUTÚN STEEL COMPLEX BRINGS TOGETHER TECHNOLOGY FROM 8 COUNTRIES AND STANDS OUT FOR BEING ENVIRONMENTALLY FRIENDLY

*Ministry of Mining and Metallurgy*

**30/07/2024:** The work of the Mutún reached 93% of its progress and applies first-class technology from 8 countries in the world, including China, Mexico, the United States, Italy, Spain, Germany, France and the United Arab Emirates. This is one of the most important strategic projects in the history of Bolivia, according to the government of Luis Alberto Arce Catacora.

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## INDIGENOUS PEOPLES AFFECTED BY MINING TURN TO THE IACHR FOR LACK OF ATTENTION FROM THE BOLIVIAN STATE

*Opinion*

**19/09/2024:** The objective of the meeting, in addition to sharing their experiences about the pollution of which they are victims and examples of resistance to these problems, was to address Mishkila Rojas, specialist lawyer and rapporteur on the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights (IACHR) to take cognizance of the "serious violation of rights" and demand that the Bolivian State address the complaints of serious damage to human health caused by mining activity.

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# WHAT'S NEW IN MINING?

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## IN ALMOST 40 YEARS, AGRICULTURE GREW 427% AND MINING 1,013% IN THE AMAZON

*El Deber*

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**29/07/2024:** Through a Mapbiomas Network project, an updated collection of maps of changes in land cover in the country over 39 years was presented and there are warning signs.

It was identified that the biomes where there was the greatest impact are two: Amazonia with a growth of 1,013% in points such as Mapiri, and Los Andes 167%. This is not positive for two main reasons:

a) Water pollution, deforestation and health effects; and b) Illegal mining continues to affect the indigenous population and biodiversity.

[Read more](#)

## ECLAC PROMOTES INCLUSIVE MINING WITH GENDER EQUITY IN THE PLURINATIONAL STATE OF BOLIVIA

*ECLAC Notes*

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**21/06/2024:** On May 29 and June 6 and 13, 2024, dialogue sessions were held on "Gender Equity in Mining: Towards an Inclusive Future", where government authorities and representatives of civil society organizations and mining companies analyzed the challenges, opportunities, and proposals to achieve a public policy that allows for more inclusive and equitable mining in Bolivia. A roadmap and guidelines for gender equity in the mining sector were developed.

[Read more](#)



# ANALYSIS AND OPINION

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## REGULATORY COMPLIANCE AND EXPLOSIVES MANAGEMENT IN MINING: LAW 400 AND ITS REGULATIONS

Black powder, recognized as the first explosive used in mining and construction, originates from the 17th century. In 1863, Alfred Nobel revolutionized the field of explosives by patenting the first detonator, a wooden device loaded with black powder. Since then, innovations in explosive products and systems have led to profound changes in the industry, establishing its crucial role in modern mining worldwide.

In Bolivia, Law No. 400, enacted in 2013, establishes a regulatory framework for the control of firearms, ammunition, explosives, and related materials. Although its main focus is on public safety, the law also affects the mining industry by regulating the use and handling of explosives.

While the law only mentions mining tangentially, its further regulation, contained in Supreme Decree No. 2175 of 2014, details the specific regulations that mining companies must comply with. This decree sets a comprehensive framework for the transportation, storage, and use of explosives in, among others, mining activities highlighting the following key aspects:

- **Registration of Explosives Users:** Mining companies must register with the Ministry of Defense and meet the requirements to obtain the Company Registration Certificate. Among the documents required for this registration is an insurance policy.
- **Safety and Control Standards:** The decree reinforces the security measures that mining companies must implement in their explosive storage facilities.


This includes the obligation to keep a complete and up-to-date record of explosives, which must include their entry, exit, and any losses due to accidents or deterioration.

- **Control and Oversight:** The Ministry of Defense is empowered to conduct periodic inspections, both physical and documentary, of the facilities and records of mining companies. These inspections aim to ensure compliance with regulations and the prevention of accidents.

Furthermore, the regulations outline administrative sanctions for non-compliance. Offenses are classified as minor, serious, and very serious, with penalties ranging from fines to temporary suspension or the revocation of certificates.

1. **Minor Offenses:** For example, failing to report changes in legal representation or not submitting the required reports on time.
2. **Serious Offenses:** These include failure to comply with safety standards for the storage of explosives or transporting without an escort when required.
3. **Very Serious Offenses:** These involve the recurrence of serious offenses or the alteration of documents and authorizations.

The process of obtaining authorization for the use of explosives from the Ministry of Defense is of great importance to mining companies in Bolivia.



This procedure not only ensures that operations comply with the regulations established by Law No. 400 and its regulations, but also reinforces the companies' commitment to safety and legality in their activities. From a procedural standpoint, obtaining the certificate is not particularly complex; however, it is essential to note that before the certificate is issued, officials from the Ministry of Defense's Explosives Unit will inspect the facilities where the mining company stores explosive material, evaluating the following elements:

- Distance from human settlements.
- Distance from roads and highways.
- Separation barriers.
- Installation of lightning rods.
- Installation of first aid kits, fire extinguishers, signage, and other safety elements.
- Ventilation systems.

The importance of this process lies in the need to ensure that mining activities, which rely heavily on the use of explosives, are conducted safely and, above all, within legal limits.

Non-compliance with these regulations not only results in administrative sanctions that can severely impact the companies' operations, but also poses risks to the safety of personnel and nearby communities. Therefore, it is vital for mining companies to adhere to the provisions regarding user registration, proper handling of explosives, and maintaining accurate records. The constant supervision and oversight by the Ministry of Defense is a key factor in this process, as it seeks to ensure that safety measures are implemented and respected at all times, thus contributing to accident prevention and legal compliance.

# ANALYSIS AND OPINION

## ECONOMIC PROGRESS AND ENVIRONMENTAL SUSTAINABILITY IN RESPONSIBLE MINING

Mining is known for its high demand for natural resources and its considerable impact on the environment. Large-scale operations, if not strictly regulated, can cause the destruction of ecosystems and consequently serious alterations in the communities near the areas of exploitation. Faced with these challenges, Bolivia has adopted a regulatory framework that seeks to mitigate the negative effects of mining activities. This set of regulations, both international and national, guarantees that mining companies operate in a sustainable manner and respect the rights of local communities and ecosystems.

In this context, the concept of responsible mining takes on special relevance, as it refers to those mining activities that, in addition to complying with the country's set of regulations, take into account environmental and social impacts. Responsible mining involves making decisions that comply with environmental regulations, allowing operations to be transparent, subject to legal review and, in the event of non-compliance, subject to penalties.

The international legal framework plays a decisive role in the regulation of mining, especially in a global context where environmental protection, sustainable development and the protection of local communities are fundamental priorities. Therefore, countries must adhere to international regulations and agreements that guide their domestic policies and ensure the sustainable management of their resources.

It is important to point out that, under the fundamental principle of international law, each State has sovereignty over the management of its natural resources<sup>1</sup>, a principle that is reflected in Article 349 of the Political Constitution of the State.


Along the same lines, during the United Nations Conference on Sustainable Development (Rio+20) in 2012, the final document entitled "The Future We Want" was presented, through which the States, including Bolivia, recognized the relevance of establishing robust regulatory frameworks for the mining sector, which not only generate economic and social benefits, but also integrate effective guarantees to mitigate environmental and social impacts. These frameworks must be designed to preserve biodiversity and ecosystems, even after mining activities have been completed. Thus, the need to implement sound policies and practices that not only benefit local communities and economies, but also ensure the long-term protection and conservation of natural resources was highlighted.<sup>2</sup>

Notwithstanding the existence of these international agreements, the regulation of mining in Bolivia continues to be the responsibility of public institutions and national legal frameworks. In this sense, the normative set that regulates mining activities in our country is composed of the Political Constitution of the State, Law No. 1333 of the Environment, its regulations, the Environmental Regulations for Mining Activities (RAAM) and other regulations in force.<sup>3</sup>

<sup>1</sup> This right was formally recognized at the United Nations Conference on the Human Environment, held in Stockholm, Sweden, where Principle 21 of the Stockholm Declaration was adopted.

<sup>2</sup> Pár. 228 of The Future We Want, final document of the United Nations Conference on Sustainable Development.

<sup>3</sup> Art. 217 Law No. 535 Mining and Metallurgy Act.



The RAAM establishes a set of principles that seek to integrate environmental protection into the different phases of mining activity. By requiring environmental licenses and mandatory environmental impact assessments (EIAs), this regulation ensures that mining companies identify and mitigate potential damage to ecosystems before starting operations. In addition, it imposes the obligation to implement environmental management plans, constant monitoring, and restoration of affected areas, which promotes corporate responsibility in protecting the natural environment. These provisions not only ensure that mining activities contribute to the country's economic development, but also prevent the irreversible degradation of natural resources.

Under this regulatory context, an essential component for the protection of the rights of local communities arises: the prior consultation established in Art. 403 of the Political Constitution of the State. This process is crucial to guarantee that the rights of these communities are respected prior to the initiation of any mining project. Prior consultation allows for participation in decision-making on projects that impact their territories and natural resources, ensuring that their concerns and rights are fully considered during the elaboration and execution of mining contracts.

However, prior consultation also acts as a mechanism for environmental protection in mining projects by ensuring that indigenous communities, whose lives and territories are closely linked to ecosystems, participate in the evaluation of potential environmental impacts.

This process allows risks to be identified, respect for natural resources to be promoted and more sustainable decisions to be made, ensuring that mitigation and environmental protection measures are considered from an integral and culturally informed perspective.

In conclusion, mining, given its high demand for natural resources and its significant environmental impact, requires a robust regulatory framework to minimize its negative effects. Bolivia has responded to these challenges by adopting a set of national and international regulations that promote sustainable mining that respects the rights of local communities and ecosystems. The implementation of responsible mining, reflected in regulations such as the Environmental Regulations for Mining Activities (RAAM), ensures that operations are rigorously evaluated and that appropriate mitigation measures are adopted. Prior consultation emerges as a key mechanism to ensure that affected communities actively participate in decision-making, thus protecting their rights and the environment. Despite international agreements guiding these practices, the ultimate responsibility lies with national institutions, which must ensure the effective implementation of these regulations to ensure the long-term sustainability of mining activities in Bolivia.



# Did you know that

## REGULATIONS FOR THE APPLICATION OF PREFERENTIAL RIGHTS WHEN MIGRATING LPE TO CAM

On July 25, 2024, the Ministry of Mining and Metallurgy issued Ministerial Resolution No. 229/2024. This resolution aims to approve the Regulation for the Application of Preferential Right regarding the migration of Prospecting and Exploration Licenses to Mining Administrative Contracts.

The Prospecting and Exploration Licenses are granted by the AJAM to the productive mining actor, for the performance of prospecting and exploration activities in a specific mining area, which will include the preferential right to request the signing of a mining administrative contract.

The Preferential Right is stipulated in Art. 156 of Law No. 535 and describes that: "In the case of Prospecting and Exploitation Licenses exclusively, before the expiration of the term of their validity that was not due to revocation for non-compliance in accordance with the "This Law, the licensee will have the preferential right to request and sign a mining administrative contract, with respect to the areas that he or she has selected." However, there was no clarity in the procedure to materialize the exercise of the preemptive right.

The Regulation was born due to the aforementioned regulatory deficiency and its purpose is to establish the procedure for requesting a Mining Administrative Contract, in application of the preferential right of the holders of Prospecting and Exploitation Licenses, in accordance with Art. 156 of Law No. 535, Mining and Metallurgy.

Among the different requirements for this process, the requirements for private companies stand out:

- Legalized copy of the Constitution Certificate according to the type of company and proof of registration in SEPREC.
- Original certificate of updating of Commercial Registration issued by SEPREC whose purpose indicates the mining exploitation activity.
- Legalized copy of the Power of Attorney Testimony of the Legal Representative of the company.
- Work and Investment Plan in accordance with the format established in Annexes 1 or 2 of RM N. 100/2017 of May 29, 2017.

The holder of the LPE must submit an application to the Departmental or Regional Directorates of the AJAM for the subscription of a CAM, exercising their preferential right. and it can be made by all the grids that make up the area or by a part of it.

It is essential that migration requests are submitted before the expiration of the validity of the LPE and once the first year has passed since the start of prospecting and exploration activities. This guarantees that holders can exercise their preferential right in a timely manner and in accordance with current regulations.

The regulation not only establishes the documentary requirements, but also clearly defines the deadlines and procedures to ensure an orderly and legally supported transition from LPEs to CAMs. In this way, it seeks to encourage the continuity and development of mining activities, promoting a transparent and efficient legal framework for actors in the sector.

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