

Law 445

LAW OF COMMUNAL PROPERTY REGIME
OF THE INDIGENOUS PEOPLES AND
ETHNIC COMMUNITIES OF THE
AUTONOMOUS REGIONS OF THE
ATLANTIC COAST OF NICARAGUA AND
OF THE RIVERS BOCAY, COCO, INDIO
AND MAIZ

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NATIONAL ASSEMBLY
OF THE REPUBLIC OF NICARAGUA

LAW No. 445

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

Hereby makes known to the people of Nicaragua that:

THE NATIONAL ASSEMBLY OF THE REPUBLIC OF NICARAGUA

WHEREAS

I

It is the ineludible commitment of the State of Nicaragua to respond to the claim for the titling of the lands and territories of the indigenous peoples and ethnic communities of the former Mosquitia of Nicaragua; right set forth in the International Treaties entered into between England and Nicaragua, such as the 1860 Managua Treaty and the 1905 Harrison-Altamirano Treaty. This right to the land is recognized in the 1987 Political Constitution of Nicaragua and in the Statute of Autonomy of the Autonomous Regions of the Atlantic Coast.

II

Article 5 of the Political Constitution of Nicaragua sets out the different forms of property, among which it includes communal property, expressly stating the recognition of the existence of the indigenous peoples in everything concerning the right of ownership over their lands.

III

In Article 89 of the Political Constitution of Nicaragua, the State particularly recognizes the communal forms of property ownership of the lands of the indigenous peoples and ethnic communities of the Atlantic Coast.

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IV

In accordance with Article 107 of the Political Constitution of Nicaragua, the land ownership regime of the indigenous peoples and ethnic communities of the Atlantic Coast is characterized by its sui generis nature, regulated by the laws on the matter.

V

Article 180 of the Political Constitution of Nicaragua guarantees the indigenous peoples and ethnic communities of the Atlantic Coast of Nicaragua the effectiveness of their forms of communal property.

VI

The International Treaties referred to, and the cited constitutional provisions, have not been fully applied due to the lack of a specific legal instrument to regulate the delimitation and titling of the lands of the indigenous peoples and ethnic communities.

By the powers invested in him;

HAS DECREED

The following:

LAW OF COMMUNAL PROPERTY REGIME OF THE INDIGENOUS PEOPLES AND ETHNIC COMMUNITIES OF THE AUTONOMOUS REGIONS OF THE ATLANTIC COAST OF NICARAGUA AND OF THE RIVERS BOCAY, COCO, INDIO AND MAIZ

CHAPTER ONE GENERAL PROVISIONS

Article 1 The object of the present Law is to regulate the regime of communal property ownership of the lands of the indigenous and ethnic communities of the Atlantic Coast and the basins of the rivers Coco, Bocay, Indio and Maiz.

Article 2 The specific objectives of this Law are the following:

1. To guarantee the indigenous peoples and ethnic communities the full recognition of communal property ownership rights, the use, administration and management of traditional lands and their natural resources, through the demarcation and titling of the same.

2. To regulate communal property ownership rights, use and administration of the natural resources in the traditional communal lands of the indigenous peoples and ethnic communities.
3. To determine the legislative procedures necessary for such recognition, taking into account the full participation of the indigenous peoples and ethnic communities, through their traditional authorities.
4. To establish the fundamental principles of the administrative regime of the indigenous peoples and ethnic communities in the management of their communal territories.
5. To set forth the rules and proceedings for the process of demarcation and titling regarding the communal property ownership right object of this Law.
6. To define the institutional order that will govern the process for the titling of the communal lands of all the different indigenous peoples and ethnic communities object of this Law.

Article 3 For the purposes of this Law, the following definitions are hereby set forth:

Complementary Areas: Are the spaces traditionally occupied by the communities under the concept of communal lands, which presently are not included in their title deeds.

Communal Assembly: Is a meeting of the community members, assembled to make decisions about matters of interest to the community, in accord with their customs and traditions.

Territorial Assembly: Is the meeting of the traditional community authorities integrating a territorial unit, assembled to decide matters inherent to territory.

Traditional Community Authority: Is the authority of the indigenous and ethnic community, such as the Syndic, Wihta, Coordinator or others, elected in Communal Assembly according to their customs and traditions to represent and govern them.

Territorial Authority: Is the inter-communal authority elected at an assembly of Traditional Community Authorities, representing a group of ethnic or indigenous communities integrating a territorial unit. This election shall be carried out according to the procedures adopted.

Ethnic Community: Is the group of families of Afro-Caribbean ancestry having the same ethnic identity inherent to their culture, values, and traditions, related to their cultural roots, natural resources and forms of tenure.

Indigenous Community: Is the group of families of Amerindian ancestry settled in a territorial area, sharing a sense of identification related to the original past of their indigenous peoples, and upholding an identity and values inherent to a traditional culture, as well as communal forms of tenure and use of their lands and having their own social organization.

Consultation: Is the expression and delivery of the technical information regarding the operation or project, followed by a process of discussion and decision making. The communities shall have interpreters to translate everything that is said during said process into their own languages and shall be assisted by technicians, experts on the subject matter. Both, the interpreter as well as the technician, shall be chosen by the communities.

Third Parties: Natural or juridical persons, other than the communities, alleging property rights within a communal land or an indigenous territory.

Ethnic and Indigenous Territory: Is the geographic area covering the entire habitat of a group of indigenous or ethnic communities who integrate a territorial unit, where they develop in accordance with their customs and traditions.

Communal Land: Is the geographic area in the possession of an indigenous or ethnic community, whether it is under title of absolute ownership (dominium plenum) or not. It comprises the lands inhabited by the community and those constituting the traditional realm for their social, economic, and cultural activities, sacred places, forest areas for flora and fauna reproduction and multiplication, boatbuilding, as well as subsistence activities, including hunting, fishing, and agriculture. Communal lands cannot be mortgaged, and are imprescriptible, inalienable, and not attachable.

Communal Property: Is the collective property constituted by the lands, water, forests, and other natural resources contained therein which have traditionally belonged to the community, intellectual and cultural property, biodiversity resources and other assets, rights and securities belonging to one or more ethnic or indigenous communities.

Indigenous Peoples: Are the human collectivities preserving a historic continuity with the societies prior to the colonization whose social, cultural and economic conditions distinguish them from other sectors of national society and are governed fully or in part by their own customs and traditions.

Common Use Areas: Are the territorial areas shared by two or more indigenous and/or ethnic communities, object of this Law, in a traditional form.

CHAPTER II

THE COMMUNAL AND TERRITORIAL AUTHORITIES WITH LEGAL REPRESENTATION

Article 4 The Communal Assembly constitutes the maximum authority of the indigenous and ethnic communities. The Legal Representation of the communities corresponds to the communal authorities. Every community will define which communal authority shall legally represent them.

The territorial Assembly is the maximum authority of the territory and it is summoned according to the procedures established by the group of communities which integrate the territorial unit.

Article 5 Communal Authorities are traditional governmental and administrative bodies representing the communities that elected them in accordance with their customs and traditions.

The territorial authorities are administrative bodies of the territorial unit which they legally represent.

Article 6 Elections, reelections, dismissals from office, and mandate periods of the communal and territorial authorities, shall be carried out according to the traditional procedures and customs of the indigenous communities and ethnic communities.

Article 7 Elections of the communal authorities shall be held in the presence of a member of the territorial authorities, where they exist, and a member of the respective Regional Council, who will certify (attest to) the election of the corresponding authority.

Article 8 Elections of the territorial authorities shall be held in the presence of at least one representative of the corresponding Autonomous Regional Council, as a witness commissioned for that end by the Board of Directors of the aforementioned body. The Secretary of the Regional Council's Board of Directors shall issue due certification within a term not exceeding eight days following the election.

If the aforementioned authority is absent, the Territorial Assembly shall forward the certificate of election to the Regional Council to be registered and certified.

If the Secretary fails to provide the Certification in the designated period; the President of the corresponding Regional Council shall do so *jure et de jure*.

Article 9 Every Autonomous Regional Council shall keep an updated record of the communal and territorial authorities elected. For that end, it will be the official, responsible for the registration, who shall be fluent in at least two of the languages of the regions.

In the case of regional authorities outside of the Autonomous Regions, the representative of the Regional Council shall be the one who appears at the elections.

The corresponding municipality shall keep a Registry Book of Regional Authorities and shall be responsible for issuing the certification, within an eight day period, after the election has been held. Regional Authorities may also register the certificates of election at the corresponding Registry Office of the Autonomous Regional Council.

Article 10 Traditional community authorities may grant authorizations for the exploitation of communal lands in favor of third parties, provided that they are specifically commissioned to do so by the Communal Assembly. This authorization will not be required in order to carry out subsistence activities.

With regard to the exploitation of common use natural resources, by member communities of the territory, the authorizations shall be granted by the specific commission of the Territorial Assembly.

The corresponding Autonomous Regional Council shall support the communities by providing technical assistance in the process of approval and rational exploitation of their regional resources.

CHAPTER III THE MUNICIPAL AUTHORITIES

Article 11 The municipal authorities, in compliance with the Political Constitution, shall respect the communal property ownership rights that the indigenous peoples and ethnic communities, located within their jurisdiction, have over their lands and over the natural resources contained therein.

Article 12 In cases relating to the granting of concessions and contracts for the rational exploitation of natural resources found in the subsoil of the indigenous lands, the municipality shall express its opinion upon consultation with the indigenous community on whose lands the natural resources are located. This consultation does not exhaust the requirement for the Regional Council, or any other entity, to directly consult the communities on matters concerning exploitation of the natural resources.

The granting of any type of concessions or contracts for the rational exploitation of natural resources shall be performed in coordination with the Central Government.

Article 13 In the cases of forest exploitation within communal lands, the municipal authority may extend the corresponding endorsement only upon request of the community or when the community cedes its rights to third parties, according to what is set forth in the forest legislation currently in effect.

In the case of timber exploitation for domestic use in the communities, the endorsement of the municipality shall not be required. This exploitation shall be overseen by the community judge (Wihta), in order to prevent abuses. In cases of abuse, the community shall impose the corresponding penalty, regardless of any other administrative penalties prescribed by the law.

Article 14 The municipalities may not declare municipal ecologic parks on communal lands located within their jurisdiction.

CHAPTER IV AUTONOMOUS REGIONAL AUTHORITIES

Article 15 Autonomous Regional Councils and Autonomous Regional Governments shall respect the rights of ownership that the indigenous and ethnic communities, located within their jurisdiction, have over their communal lands and over the natural resources they contain.

Autonomous Regional Councils shall have the responsibility of promoting the procedures for the demarcation and titling of the communal lands, in accordance with their jurisdiction, for which they shall act in coordination with the Central Government.

Article 16 In cases regarding the granting of concessions and contracts for the rational exploitation of the resources found in the subsoil of the ethnic and indigenous communities' lands, by the State, the corresponding Regional Council shall issue the resolution upon consultation with the indigenous communities on whose lands the natural resources are located.

As a result of the consultation, the communities shall respond positively or negatively to the request of the Autonomous Regional Council.

Article 17 In the cases where the community is opposed to the performance of the project, the granting of the concession, or the contract for exploitation, the Regional Council shall initiate a negotiation process with the community.

In this negotiation process, the communities shall be represented by the traditional authorities, who shall be assisted by technical advisors of their choice.

In all cases, the negotiation of the Regional Council shall foresee indemnification for eventual damages to the community, regardless of their participation in the project. Displacement or resettlement of the community will not be considered under any circumstances.

In each of these procedures, and for the purpose of further protecting the natural resources, the Central Government shall directly participate in supporting the communities in their negotiations.

Article 18 When the consultation process is completed for the execution of the project or the granting of the concession or contract, the community, the respective Autonomous Regional Council and the interested entity or company shall sign an agreement specifying the technical terms and the participation in the economic benefits of the community.

This negotiation process shall include the following aspects: environmental preservation and the right to compensation regardless of the profit sharing benefits.

Article 19 The Autonomous Regional Council, through the Demarcation Commission, shall be responsible for resolving any community border disputes, that the communities themselves have not been able to resolve in a direct fashion, if all the options have been exhausted by the territorial authorities.

Article 20 The representatives of the communities shall present their arguments to the members of the Demarcation Commission, who, when necessary, shall verify the information at the site of the incident. The Commission shall draw up the minutes of all proceedings during the resolution process.

Article 21 The Regional Council's Demarcation Commission shall issue a resolution about the matter, signed by the Chairman and the Secretary of the same, and present it to the Regional Council for its ratification by the plenary. If one of the parties does not agree with the resolution, that party may impugn it before the Regional Council's Board of Directors, who shall convey the request to the plenary, to be resolved at the next meeting by a final resolution.

Article 22 If the Chairman of the Regional Council does not respond within the allotted period or does not allow the impugning, the interested party may request the Secretary of the Council, in writing, that the case be discussed in a plenary meeting of the Regional Council. The resolution of the Council exhausts the administrative route.

In the case of the indigenous communities in the Coco, Bocay, Indio and Maíz River basins, outside the jurisdiction of the Autonomous Regions, the border disputes between the communities shall be resolved by the National Commission for Demarcation and Titling (CONADETI in Spanish).

CHAPTER V

THE CENTRAL GOVERNMENT AUTHORITIES

Article 23 According to Article 5 of the Political Constitution, the State recognizes the juristic person of the indigenous and ethnic communities, without need of any further proceedings. Likewise, it recognizes their constitutional right to have their own forms of internal government.

Article 24 The State recognizes the right of the indigenous and ethnic communities over the lands that they traditionally occupy. Likewise, it recognizes and guaranties the inalienability, the imprescriptibility and the inability to attach said property.

Article 25 In the contracts to exploit the natural resources on the indigenous and ethnic communal properties, the State shall recognize the right of ownership of the community or territory where these are to be found.

Article 26 In order for the State to declare an area of the communal properties as a protected area, it must first agree with the legal representatives of the indigenous community on the issuance of the corresponding legislative decree before issuing such declaration. If the communities are against said procedure, it shall be carried out according to what is set forth in Articles 15, 16 and 17 under this Law.

Article 27 The administration of protected areas on communal lands shall be carried out under a joint management system by the indigenous communities and the State. For this purpose, the indigenous communities may avail themselves of any environmental non-governmental organization of their choice, without impairment of the technical support to be provided by MARENA (Ministry of Natural Resources).

Article 28 The Management Plan for the protected areas on the indigenous and ethnic communal lands shall be a joint effort between the indigenous communities involved and MARENA, and shall take into account the traditional use of natural resources by the communities.

CHAPTER VI PROPERTY REGIME

Article 29 The rights of ownership over the communal lands belong collectively to the indigenous and ethnic communities. The members of the communities or group of communities have the rights of occupation and usufruct, according to the traditional forms of tenure of communal property.

Article 30 According to the Statute of Autonomy, the communal property rights and those regarding common use areas incorporated to an indigenous territory shall be managed by the corresponding territorial authority and the community authorities.

Article 31 The Government of the Republic, the Autonomous Regions and the Municipalities shall respect the rights in rem over the communal lands that they have traditionally occupied, as well as the rights over the natural resources that the indigenous peoples and ethnic communities have traditionally exploited.

Article 32 The communities that have acquired title deeds over determined areas, as well as those granted by the Mosquitia Titling Commission as a result of the Harrison-Altamirano Treaty of 1905, or others, also have a right to the complementary areas of the spaces traditionally occupied.

Article 33 The indigenous and ethnic communities on the Atlantic littoral, islands and cays, have the exclusive right to exploit the marine resources for communal and non-industrial fishing, within the three miles adjacent to the coastline and twenty-five miles around the adjacent cays and islands.

Article 34 The taxes collected by the Treasury (Fisco in Spanish) from the exploitation rights over the natural resources in the Autonomous Regions, shall be used to directly benefit the indigenous communities who own the areas where the natural resources are located. This income shall be distributed in the following manner:

- 1) Twenty-five percent for the indigenous community or communities where the resource is located;
- 2) Twenty-five percent for the Municipality to which the indigenous community belongs;
- 3) Twenty-five percent for the corresponding Regional Government and Council; and
- 4) Twenty-five percent for the Central Government.

These funds shall be handed over by the Ministry of Treasury and Public Credit (Ministerio de Hacienda y Crédito Público in Spanish) to the legal representative of each of the institutions or authorities mentioned above.

The use of these reserves shall be supervised by the Central Government together with the regional authorities.

CHAPTER VII

THIRD PARTIES ON COMMUNAL LANDS

Article 35 The property ownership rights and historic occupation of the indigenous and ethnic communities shall prevail over the titles issued in favor of third parties who have never possessed said properties and who have intended to occupy them since 1987.

Article 36 Third parties holding an Agrarian Title on Indigenous Lands, who have occupied and possessed the land protected under this title, have the right to continue possessing it as a matter of law. In case they intend to alienate the property they shall sell the improvements to the community.

Article 37 Third parties who received agrarian titles on indigenous lands containing any defect of form or substance will be compensated in order for them to return the lands to the affected indigenous communities.

Article 38 Third parties on indigenous lands, who have no title at all, shall leave the indigenous lands without receiving any compensation; but in case they intend to remain there, they shall pay a rate of rental to the community.

CHAPTER VIII

PROCEDURE FOR LEGALIZING THE LANDS

Article 39 The indigenous and ethnic communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the territories of the Coco, Bocay, Indio and Maiz River basins, have a right to be granted, by the State, communal property title deeds for the lands and territories that they have occupied and possessed for many years.

The titles shall recognize the absolute ownership (dominium plenum) in a communal form over said areas, including the natural resources contained therein, and shall be registered at the Public Real-Estate Record Office (Registro Público de la Propiedad in Spanish).

Article 40 The demarcation and legal recognition of the territorial property of the indigenous and ethnic communities, which initiation, promotion and execution shall be carried out within the terms, by the entities and persons indicated in the rules subsequent to this same law, shall be complied with throughout its development with complete respect for and subject to the following principles and general criteria:

- a) Full and direct participation of the indigenous peoples and ethnic communities with authority to speak and to vote, through their traditional authorities;
- b) The disposition and constant will to focus and harmonize among the various institutions and people involved in developing the procedures of the process;
- c) The determination of the area and limits of the territorial spaces to be recognized, taking into account the historical and cultural possession exercised by the petitioning community or communities;
- d) The will to contribute peacefully and reasonably in finding a solution to any possible conflict that may arise between communities or between adjacent or neighboring community groups in their assents.

Article 41 The National Demarcation and Titling Commission (CONADETI in Spanish), is hereby created. It shall be integrated by:

- The two Chairmen of the Regional Autonomous Councils that alternately preside it;
- The Director of the Rural Lands Titling Office (Oficina de Titulación Rural – OTR, in Spanish);
- Two representatives from the Bocay Basin;
- A delegate from the Ministry of Agriculture, Livestock and Forestry (MAG-FOR in Spanish);
- The Director of the Nicaraguan Institute of Territorial Studies (INETER in Spanish);
- A representative from each of the ethnic groups of the Autonomous Regions;

- A representative of the National Assembly Commission for Ethnic and Community Issues on the Atlantic Coast; native of the autonomous regions of the Atlantic Coast of Nicaragua.
- The Mayors of the municipalities included in the demarcation and titling area.

Article 42 Three Intersectorial Commissions for Demarcation and Titling (CIDT in Spanish) shall be created in the Autonomous Regions and in the territories of the Coco and Bocay River basins, as operative instances in the demarcation and titling process object of this Law.

For these purposes each CIDT shall be integrated by:

- The Chairman of the corresponding Regional Council;
- The Delegate from the Rural Lands Titling Office (OTR);
- The Delegate from the Nicaraguan Institute of Territorial Studies (INETER);
- A representative from each of the ethnic groups in the region or territory, appointed by their traditional authorities;
- A representative from the communities in the Coco and Bocay River basin, when applicable; and
- The Mayor of the municipality corresponding to the demarcation and titling area.

The communities of Indio and Maiz shall appear before the Intersectorial Commission for Demarcation and Titling (CIDT) for the South Atlantic Autonomous Region (RAAS).

Article 43 The National Commission for Demarcation and Titling (CONADETI), shall perform the following duties:

- Render opinions and resolve matters regarding petitions for demarcation and titling;
- Direct the process of demarcation;
- Create technical, regional and territorial commissions;
- Create its Rules of Procedure;

- Manage its budget;
- Coordinate with the Rural Lands Titling Office (OTR), the issuance of titles for the lands and territories of the indigenous peoples and ethnic communities.

Article 44 The CIDT shall perform the following duties:

- a) Receive the petitions from the communities, regarding the titling of communal lands; accept them if they are in conformance with the law or make the corresponding observations if they do not meet the legal requirements, so that they may be corrected.
- b) Process the requests for demarcation and titling of indigenous communal lands; for this end it shall:
 1. Establish the necessary coordination with the interested entities;
 2. Facilitate the participation of the communities and their authorities during the complete process;
 3. Propose the creation of technical teams with the necessary professional support personnel, and follow-up on the activities assigned to them;
 4. Issue processing resolutions that tend to promote the process and resolve situations that arise therein;
 5. Make a technical and legal evaluation of the proceedings and reports produced during the process, to ensure that necessary actions are not omitted.
- c) Create an effective mechanism to delimit, demarcate and title the indigenous community properties, according to the Common Law, their values, uses and customs.

Article 45 The process of demarcation and titling shall consist of the following stages:

1. Submittal of Application Stage;
2. Dispute Settlement Stage;
3. Measuring and Marking out Stage;
4. Titling Stage; and

5. Title Clearance Stage.

Article 46 The procedure of delimitation and legal recognition of the communal lands shall commence with the presentation of the written application, which must contain:

1. The name of the petitioning community or communities and the authorities who will represent them during the process;
2. Designate the address for receiving notices in the locality where the application is presented.
3. A diagnosis of the community or communities, which shall include:
 - a) The historical background of the petitioning community or communities;
 - b) The demographic, social, economic and cultural characteristics of the petitioning community or communities;
 - c) The traditional forms of management, use and tenancy for the requested area;
 - d) The name of the indigenous or ethnic communities and other entities or persons occupying the land adjacent to the requested areas;
 - e) Any possible conflicts that may arise between the petitioning community or communities and the neighboring communities or with third parties.

Article 47 The corresponding Intersectorial Commission for Demarcation and Titling (CIDT), once it has reviewed the diagnostic study and the land survey of the petitioned lands, shall proceed to create a draft resolution, recognizing the area in favor of the community or communities, within 30 days.

Said resolution shall accredit, according to the constitutional rules and the Law of Autonomy, the recognition on behalf of the State, in favor of the communities, and also:

- a) The historical and legal grounds on which the resolution is based;
- b) The clear identification of the community or communities owning the communal land;

- c) The collective absolute ownership over the lands and territories object of the resolution;
- d) The clear designation of the geographic location, limits, boundaries and area;
- e) The use and management of the natural resources of said lands; and
- f) The inherent features and the other rights and authority implied in communal ownership of land.

Article 48 Once the diagnostic study has been presented to the corresponding Intersectorial Commission for Demarcation and Titling (CIDT), they shall issue an opinion no later than thirty (30) days after its receipt.

Article 49 The corresponding Intersectorial Commission for Demarcation and Titling (CIDT), through an interdisciplinary technical team, shall carry out the studies to provide the necessary information and basis for making a decision regarding the delimitation and legalization of the land.

Article 50 The communities shall have the option to carry out the studies indicated in the previous article, with their own resources, provided they comply with the technical and legal specifications set forth in this Law. Said studies must be approved by the corresponding Intersectorial Commission for Demarcation and Titling (CIDT).

Article 51 At the same time of the performance of the diagnosis, the Intersectorial Commission for Demarcation and Titling (CIDT) shall request that the Nicaraguan Institute for Territorial Studies (INETER) carry out the technical work of topographic surveying and demarcation of the requested territories.

CHAPTER IX DISPUTE SETTLEMENT STAGE

Article 52 The communities wishing to delimit and legalize their territories, shall make every effort to perform the dialogue and conciliation necessary to achieve understanding and agreement between the parties involved, and thus resolve possible disputes that may arise during the course of the process.

If, despite the efforts made by the communities involved and their authorities, the disputes cannot be resolved, the corresponding Intersectorial Commission for Demarcation and Titling (CIDT), once it has received the

diagnosis and within the already indicated term of thirty (30) days, shall submit the informative compilation to the respective Regional Council, so that it may proceed to seek a definite agreement, following the procedure defined under Articles 19 through 22 under this Law

Article 53 When the diagnosis reflects an unresolved boundary dispute, the CIDT shall verify with the appointed communal authority if the conciliatory procedures were exhausted, submitting the information concerning the dispute to the respective Regional Council, to be resolved according to what is set forth under Article 22 of this Law. The dispute shall be resolved by the Regional Council within a maximum period of three (3) months.

CHAPTER X MEASURING AND MARKING OUT

Article 54 The corresponding Intersectorial Commission for Demarcation and Titling (CIDT), once it has concluded the stages of dispute settlement, shall avail itself of the technical and material resources to proceed with the delimitation and marking of boundaries; it shall have a maximum period of twelve (12) months for this activity.

Article 55 The resources to be used for the process of delimitation and marking of boundaries, shall be the responsibility of the State, regardless of whether the communities are able to carry this out with their own resources and/or with foreign cooperation or aid.

The National Commission for Demarcation and Titling (CONADETI), shall submit to the President of the Republic, a General Plan for Measuring, Marking Out and Titling, with its respective budget, which shall be included with priority in the General Budget of the Republic and financed according to the annual breakdown.

In the case of non-compliance of the term set for measuring and marking out, the term may be extended for a maximum of six months.

CHAPTER XI TITLING STAGE

Article 56 Once the land has been measured and marked out, the paperwork shall be submitted to CONADETI, who shall issue the corresponding title within a term of 45 days.

The title deed granted in favor of the community or group of communities shall contain:

- a) The name of the community or group of communities benefited;
- b) The area of the lands or territory;
- c) The geographic location of the property;
- d) The property boundaries;
- e) The traditional forms of managing and using the resources;
- f) Its character of being a right that is inalienable, imprescriptible, not attachable, social and of collective ownership.

Article 57 The Title deed issued by the National Commission of Demarcation and Titling, in recognition of the communal property ownership right of the petitioning community or group of communities shall be recorded, without cost to the beneficiaries, at the respective Public Real State Record Office.

Article 58 The actions of the administration that may occur during the course of the process of demarcation and legalization of the communal lands, of whatever nature, whether simple procedural or of substance, shall be notified personally to the petitioning community or group of communities, who may, in any of the cases, file a legal claim against the offending party using the resources established by the Law.

CHAPTER XII TITLE CLEARANCE STAGE

Article 59 Each of the communities, once they have obtained their title deed, may commence, with the technical and material support from the Rural Lands Titling Office (OTR), the title clearance stage, in relation to third parties occupying their lands.

CHAPTER XIII REMEDIES

Article 60 The administrative remedies established in Articles 39 through 45 of Law No. 290, Law of Organizations, Jurisdiction and Procedures of the Executive Power, may be invoked by the communal and territorial author-

ities or any other citizen who considers that his rights have been violated in the process of demarcation and titling.

Article 61 Once the administrative route has been exhausted, according to the procedures that, for this purpose have been set forth in Law No. 290, the citizens may commence a legal process for the protection of civil rights (*recurrir de amparo* in Spanish), a remedy in conformance with the Constitutional Guaranty Law ("*Ley de Amparo*" in Spanish) currently in force, because the indigenous peoples rights to the land are constitutional rights.

CHAPTER XIV METHOD OF FINANCING

Article 62 For the duration of the process of demarcation and legalization, the State shall include in the General Budget of the Republic of each year, the allotments needed to finance all the necessary work and processing of any kind, to ensure the completion of the purpose indicated under this Law.

Article 63 The "National Fund for Demarcation and Legalization of Communal Lands" is hereby created for the execution of this Law. It is to be managed by the National Commission for Demarcation and Titling (CONADETI), under the supervision of the Ministry of Treasury and Public Credit, through the Rural Lands Titling Office (OTR).

Article 64 The Fund created by the previous article shall be established through the following contributions:

- a) The annual allocations specifically established in the General Budget of the Republic;
- b) The foreign financing requested and received for this purpose;
- c) Donations, inheritance or bequests made by national or international entities;
- d) Other resources expressly set aside for that purpose.

Article 65 The National Commission for Demarcation and Titling (CONADETI), shall render account of the management of the resources of the National Fund referred to in the previous articles and regarding the application of its annual expense budget, to the Ministry of the Treasury and Public Credit.

CHAPTER XV
FINAL AND TRANSITORY PROVISIONS

- Article 66** This Law, because of its nature, is defined as a special law.
- Article 67** This Law shall be translated and widely disseminated by the Regional Councils in the languages of the indigenous peoples and ethnic communities of the Autonomous Regions of the Atlantic Coast of Nicaragua, within three months from the date of its publication.
- Article 68** The National Commission of Demarcation and Titling (CONADETI), with the support and active participation of the corresponding Intersectorial Commission of Demarcation and Titling (CIDT), shall be responsible for carrying out the process of demarcation and titling of the lands belonging to the communities object of this Law, whereby they must be integrated within a period of no more than thirty (30) days after the present Law enters into force.
- Article 69** The indigenous communities that have already carried out the relevant studies for the demarcation and legalization of their communal lands by the date on which this Law enters into force, shall present their documents to the corresponding Intersectorial Commission of Demarcation and Titling (CIDT), for the titling procedures before the National Commission for Demarcation and Titling (CONADETI).
- Article 70** This law abolishes Decrees 16-96 and 23-97, regarding the Creation and Modification of the National Commission for the Demarcation of the Lands of the Indigenous Communities on the Atlantic Coast and any other Law which opposes this one.
- Article 71** As of the date on which this Law enters into force, the issuance of supplementary titles and land reform titles for lands claimed by the communities, object of this Law, are suspended.

Article 72 The present Law shall enter into effect as of the date of its publication by any social and written means of communication, regardless of its later publication in the Official Daily "La Gaceta".

Given in the city of Managua, in the boardroom of the National Assembly, on December thirteen of the year two thousand and two.

JAIME CUADRA SOMARRIBA, President of the National Assembly, MIGUEL LOPEZ BALDIZON, Secretary of the National Assembly.

Therefore: I Decree it as Law of the Republic, to be Executed. Managua, January twenty-two of the year two thousand and three. ENRIQUE BOLAÑOS GEYER, President of the Republic of Nicaragua.