

**In the Name of God**

**The Hydrocarbons (Petroleum and Gas) Law**

# **Hydrocarbons (Petroleum and gas) Law**

## **Chapter One**

### **General Provisions**

#### **Base**

#### **Article First**

Based upon the article ninth of Afghanistan Constitution, this Law has been designed to determine the ownership and control of the state over petroleum and Gas (Hydrocarbons) and to regulate preservation, usage , concluding related contracts , exploration method , rental entitlement , development and production of petroleum and Gas in Afghanistan .

#### **Terminology**

#### **Article Second**

The terms used in the Law convey the following meanings:

1. “Hydrocarbons”: Petroleum and Gas and their other derivatives.
2. “Petroleum and gas operations”: All operations related to exploration, development, extraction, production. , field separation, transportation, storage, sale, or consumption of petroleum and gas (Hydrocarbons).

The petroleum and gas transportation activity does not include beyond the point of export or in the case of petroleum and gas processed within Afghanistan beyond the point of delivery into a refinery or liquefaction process plant whatsoever.

3. “Liquid Hydrocarbons”: crude oil, asphalt and all other kind of Hydrocarbons and bitumen regardless of gravity which are produced at the wellhead in a liquid or solid state at ambient conditions of temperature and atmospheric pressure , or which are obtained from natural Gas by condensation or extraction.
4. “Natural Gas “ : Any Hydrocarbon which , at atmospheric state conditions of temperature and pressure , is in a gaseous state and includes wet mineral gas , dry mineral gas , wet gas and residue gas remaining after the extraction , processing or separation of Liquid petroleum and gas from wet gas as well as non-petroleum and gas or gases produced in association with Liquid or gaseous Hydrocarbons excluding condensed or extracted Liquid petroleum and Gas , but including the residue gas remaining after the condensation of liquid petroleum and gas from gas , and excluding coal-based methane gas obtained from coal .
5. “Register”: the registration of documents, reports and records of petroleum and gas.
6. “Person”: Means :
  - Domestic natural Person having Afghan citizenship.
  - Domestic Legal entity that includes institutions, companies, monopolized ownership, companies with limited liability, temporary partnership, temporary investment, joint-stock private or public companies or any other profit making association or organization established according to the law.
  - External natural person having non-Afghan citizenship.

- External Legal entity having been specified in external Laws.
- 7. “Commercial Discovery “: A Discovery of petroleum and gas which, as determined in accordance with the provisions of the relevant contract , can be exploited commercially in accordance with the practices accepted in international petroleum and gas industry .
- 8. “Contract””: Any written agreement concluded between the State and a contractor for the conduct of petroleum and gas exploration, development, production and utilization method in accordance with the Law.
- 9. “Contractor “: Any person with whom the State enters into a contract pursuant to this Law.
- 10. “Contract Area “: A Geographical area that is covered by the contract and includes the whole of or such part of the original area awarded to a contractor as shall remain at the disposal of such contractor pursuant to the terms of the contract .
- 11. “Exploration Contract “: Specifies the exclusive right of exploration or development and production of petroleum and gas in a specific area for the contractor in accordance with the contract.
- 12. “Exploration phase “: The tenure of exploration contract consisting of exploration and development – production phases.
- 13. “Development – Production Area “: The area of contract which covers one or some blocks or specifies the limited geographical service area.
- 14. “Petroleum and gas (Hydrocarbons) Data Bank “: The archive of petroleum and gas exploration and production data maintained pursuant to this Law.
- 15. “Licence “: A permit granted for petroleum and gas (Hydrocarbons) operations according to the provisions of this Law.

## **Ownership of Petroleum and Gas**

### **Articles Third**

1. The entire property in and control over all petroleum and gas (Hydrocarbons) located on or underground in the territory of the county belong to the State.
2. The petroleum and gas operations in the country shall be carried out by the state permission. Any person shall conduct petroleum and gas operations on the basis of a licence granted according to this Law.
3. The contractor shall have the possession of and control on his share of petroleum and gas extracted according to the contract.
4. The Ministry of Mines and Industries is the competent authority of granting a Licence of petroleum and gas in accordance with this Law.
5. In case, petroleum and gas resources are discovered in a private land the owner cannot claim the right of ownership. In such an event, the state shall acquire the site in conformity with the provisions of this Law.

## **Inter – Ministerial Committee**

### **Article Fourth**

1. For the management of the related affairs of monitoring , supervision , approval and dissolution of petroleum and gas contracts and their related issues an Inter – Ministerial Committee is established with the following composition:

- 1- Minister of Mines and Industries as Chairman.
- 2- Minister of Finance as Vice – Chairman.
- 3- Minister of Foreign Affairs as Member.
- 4- Minister of Economy as Member.
- 5- Minister of Commerce as Member.
- 6- The President of Environment Preservation as Member.

(2) Government, in case of need, can include other members to the Inter-Ministerial Committee.

(3) The Inter- Ministerial Committee shall have the following authorities:

- 1- To evaluate and approve the bidding documents including the terms and conditions, revision , transfer, referring of the contract set forth by the Ministry of Mines and Industries
- 2- To evaluate bidding and introduce the winner.
- 3- To approve the contract according to this Law.

## **Chapter Two**

### **Duties and Authorities of the Ministry of Mines and Industries**

#### **Duties and Authorities**

##### **Article Fifth**

The Ministry of Mines and Industries shall have the following duties and authorities for the administration and implementation of this Law:

1. To formulate and implement policies relating to petroleum and gas and their development in Afghanistan; including polices for the promotion of private investment in the area of petroleum and gas activities and their development in the country.
2. To propose to the Inter – Ministerial Committee for its approval the classification declassification or reclassification of areas as areas closed to or prohibited from petroleum and gas activities.
3. To supervise any State administration or other agencies and companies carrying out petroleum and gas operations.
4. To Organize bidding rounds for individual participation according to the Law.
5. To conclude Petroleum and gas contracts with other persons and propose it to the Inter – Ministerial Committee for approval.
6. To Supervise the implementation of the contract conditions and certifies their fulfillment.
7. To Revoke and terminate contracts or transfer them as per Inter- Ministerial Committee’s resolution.
8. To fix surface rentals and ensure their collection.
9. To determine the percentage of minerals royalties in normal condition and ensure their collection.

10. To divide the territory of the country petroleum and gas operations into blocks for inviting the bids accordingly.
11. To register petroleum and gas operations.
12. To grant or cancel petroleum and gas operations Licences and determine their rights and obligations pursuant to this Law.
13. To propose Regulations for better implementation of this Law.
14. To issue the unified report of financial revenues and other direct and indirect economic profits of the state that are to be collected from the Petroleum and Gas operations according to the international accepted norms at least once in a year.
15. To obtain information from contractors and state agencies on their annual financial production achievements including direct and indirect economic gains and profits out of the operations related to petroleum and gas.
16. To use the information of items 14 & 15 by the state and disclose and issue the information in accordance with the international accepted norms.
17. To disclose and issue the information mentioned under items 14&15 of this article with written consent of the related contractors.
18. To perform other duties and authorities according to the provisions of this law.

## **Petroleum and Gas Registration**

### **Article Sixth**

(1) An office shall be established at the Ministry of Mines and Industries to register petroleum and gas operations. The office shall have the following duties:

1. To prepare a map to illustrate the areas where petroleum and gas operations are being conducted by the state, the areas closed to Petroleum and Gas operations and the areas remain available for being awarded to contractors according to the law.

2. To prepare a list of all concluded contracts to show the following information:

▶ The complete name of contractor, office address, designated local assignees or his legal representative.

▶ A description of the areas under contract including the contract area given over.

▶ The validity duration of the contract and of any phase set forth in the contract including any extension, renewal and expiration thereof.

▶ A description of any significant issue related to the information on the contract or licence, potential discovery and decisions connected with the development of commercial gains or production commencement.

3. To keep the copies of all contracts, licences and their related documents and other appropriate instruments of extension, renewal termination or expiration of licences and contracts.

4. To prepare a list of all areas closed to or prohibited from petroleum and gas operations according to the law.

5. To provide other information required by the Ministry of Mines and Industries.

### **Inspection of Petroleum and Gas Registration**

#### **Article Seventh**

Subject to the prevailing laws of Afghanistan related to the disclosure of the State records (Public registered documents) in accordance with the contract provisions, the Minister of Mines and Industries, if deem it necessary and upon a request for inspection of petroleum and Gas registration, shall authorize the inspection at any time without any charge. Copies of the petroleum and gas registration information may be provided upon request and prescribed fee.

### **Petroleum and Gas Data Bank**

#### **Article Eight**

The Geological Survey office has to maintain, according to international standard, Petroleum and Gas Data Bank containing the following information of exploration and production:

1. Geophysical and geological information or reports regardless of their form and extent.
2. Well data including location, name, category, log data, core data and geo-chemical.
2. Production reports

### **The use of Petroleum and Gas Data**

#### **Article Ninth**

The conditions governing the disclosure of renewed assessment and the manner of the use of Petroleum and Gas data bank, including payable fees, with observance of the contract terms, shall be set by the Ministry of Mines and Industries.

### **Giving out Information to Provincial offices**

#### **Article Tenth**

The Ministry of Mines and Industries shall send the details of the contractors or licences, transfer, approval or termination, as may be entered in the Petroleum and Gas register, to the provincial offices of the Ministry of Mines and Industries whose areas are covered by the contract or licence. The provincial office shall bring the information to the notice of the Governor.

## **Chapter Three Operations Sites and the Right of Surface**

### **Possession Manner and Utilization of Land**

## **Article Eleventh:**

1. should a contractor need to possess or use the area connected to his contract for conducting Petroleum and Gas Operations , but the site belongs to or is at the control of the State the area shall be put according to the Law at the disposal of the contractor , during the contract life , for Petroleum and gas Operations.
2. The State shall guarantee a suitable passage route and other rights required for Petroleum and Gas Operations.

## **Performing the Operations on Required Site**

### **Article Twelfth:**

In case a contractor takes in his possession a land included in the contract site , but owned by a person to carry out Petroleum and Gas Operations , the State upon the request of the contractor and the proposal of the Ministry of Mines and Industries, shall obtain the consent of the owner, according to the law , as to the purchase or lease of the site .

## **The Right of Having Passage**

### **Article Thirteenth**

1. In the event that a contractor for conducting Petroleum and Gas Operations requires the right of Passage route the state shall assist him with this respect. Any compensation to the owner or occupier shall be borne by the contractor.
2. After the termination of the contract the right of passage way shall be expired.

## **Indemnity for Incurring a Loss**

### **Article Fourteenth**

- (1) If any ownership or legal rights of individuals sustain a loss due to Petroleum and Gas surface and based on depth exploration operations taking into consideration the demolitions occurred on surface of land, agricultural crops, trees, buildings and animals the contractor has to pay a fair compensation .
- (2) The amount of indemnity shall be determined by mutual consent. In case of disagreement by either side the dispute shall be reviewed and the amount of indemnity fixed by the officials in charge of the Ministry of Mines and Industries.
- (3) Should both sides do not agree with the amount decided upon by the officials of the Ministry the dispute shall be settled by the judicial and justice authorities.
- (4)

## **Restricted Areas**

### **Article Fifteenth**

No person shall conduct Petroleum and Gas Operations on the following areas unless authorized by the Ministry of Mines and Industries:

- (1) Any land containing archeological remains or national monuments specified by law.
- (2) Any land being the site of or located within one hundred meters of any state building or dams of any village or town.

- (3) Any land forming a part of an airport or a cemetery.
- (4) Any land used or owned by the Ministry of National Defense.
- (5) Any land used as a road, highway, railway, pipeline or other public utilities.

### **Obtaining operations permission on private land**

#### **Article sixteenth**

Those who carry out Petroleum and Gas operations have to produce evidence of right to conduct the operations on the private land .The permission shall be obtained from the owner of land or its legal occupier or their competent representative. Otherwise, such individuals shall be treated as trespassers and punished according to the law.

### **Areas closed to petroleum and Gas operations**

#### **Article seventeenth**

(1) For the sake of national interests ( the health and safety of the population , national security , public order requirement, incompatibility of Petroleum and Gas operations with other existing or planned utilization of soil , surface land , underground resources , protection of historic and cultural relics or other natural values or other values or other vulnerable social welfare of the locality ) the Ministry of Mines and Industries may close an area or areas for some or all Petroleum and Gas operations and submit the case to the Inter – Ministerial Committee for approval .

(2) Should the action inserted in item (1) of this article is taken irrationally the contractor can present the case before the Inter – Ministerial Committee described under Article (fourth) of this law.

The Inter- ministerial committee has the authority to permit Petroleum and Gas operations under particular conditions on the required areas.

### **Granting Mineral Licence in Petroleum and Gas Operations Area**

#### **Article Eighteenth.**

Considering the conditions inserted in the contract the state can grant, according to the provisions of Mineral Law the mineral search. exploration and exploitation licence to persons in the Petroleum and Gas contracted area provided that the new operations do not hinder Petroleum and Gas operations.

In this case, the contractor has to provide a suitable passage for the holder of mineral rights licence to reach the related area.

### **Discovery of Mineral Items**

#### **Article Nineteenth:**

Whenever the Petroleum and Gas contractor, during his operations, discovers mineral items of economic value and capable of development, shall report the matter along with the mineral sample to the Ministry of Mines and Industries.

### **Discovery of Historic and Cultural Monuments**

#### **Article Twentieth:**

- 1- The contractor of Petroleum and Gas operations shall immediately report the signs and symptoms or discovery of historic relics found during the Petroleum and Gas activities to the authorities of mines inspection and to that of preservation and reparation of historic monuments of the Ministry of Information, Culture and Tourism.
- 2- Fossils and other items included in the list of historic and cultural relics are also considered to be the elements of historic and cultural relics.
- 3- The contractor of Petroleum and Gas operations can not transfer the items mentioned under items (1 and 2) of this Article. However, on behalf of the state, he has to have them in safe custody till their transportation by the State authorities concerned is taken place.
- 4- Should the items indicated under item (3) of this Article are not transferred by the state related authorities within (60) days from the date of notice their subsequent direct expenses of safeguarding shall be paid by the related authorities.

## **Chapter Four**

### **The Contract of Petroleum and Gas Operations**

#### **Types of contract**

##### **Article Twenty First:**

The Contracts of Petroleum and Gas Operations shall take the following forms:

- 1- Exploration and production sharing agreement.
- 2- Services and production sharing agreement.

#### **Contract of Exploration and Production Sharing.**

##### **Article Twenty second:**

Under the contract of exploration and production sharing, the contractor shall be granted the right to explore petroleum and gas and, in the event of a commercial discovery, develop and produce Petroleum and Gas within the area designated in the contract .The Contract of Service and Production Sharing.

##### **Article Twenty Third:**

Under the contract of service and production sharing, the contractor shall be granted the right to upgrade and rehabilitate Petroleum and Gas production facilities and evaluate service operations and petroleum and gas production exclusively within the area defined in the contract.

#### **Contractors Obligations:**

## **Article Twenty Fourth:**

- 1- The contractor has to provide technology, capital, machinery, equipment and other enforceable necessities at the contract site on his own account for Petroleum and Gas operations. In case of non-commercial discovery the expences of the contractor shall not be compensated by the Ministry of Mines and Industries.
- 2- Taking into consideration the conditions laid down in the contract and the provisions of this law. the contractor can take, sell or export his share of petroleum and gas produced.
- 3- The contractor has to undertake all probable dangers arising from Petroleum and Gas operations and indemnify the losses in accordance with the law.

## **Employment of other contracts:**

### **Article Twenty fifth:**

For executing Petroleum and Gas direct operations and taking into account the provisions of this law, the Ministry of Mines and Industries, administration, State agencies, State and non - State companies who are engaged in Petroleum and Gas operations can employ independent contractors to perform special jobs or services against specified wage without taking possession of Petroleum and Gas.

## **Contract Biding:**

### **Article Twenty sixth:**

- 1- According to the provisions of Procurement Law, contracts are awarded through Public Tender.
- 2- Bidding for exploration contract shall cover one block or several blocks.
- 3- The bidding and the fees payable by bidders shall be determined by the Ministry of Mines and Industries.
- 4- If need be, the Ministry of Mines and Industries shall propose the amendment of contracts to the competent authority for approval.

## **Inviting Bidders**

### **Article Twenty seventh:**

The invitation of bidders for concluding exploration contracts of one block or service of a specific Petroleum and Gas project shall take place according to the provisions of Procurement Law unless the Government decides otherwise.

## **Demanding Documents**

## **Article Twenty Eight**

The Ministerial - Committee through the Ministry of Mines and Industries can ask for documents and evidences to prove the specialization and economic and technical capability of the contractor.

## **Conditions of contractor**

### **Article Twenty Ninth**

A contract can be entered into a person who is reputable and in good Legal and financial standing and prove his capability to provide the required capital, machinery, equipment and expertise for better performance of the contract.

## **Conditions of being Qualified for contract Conclusion**

### **Article Thirtieth**

- (1) The following persons can obtain the licence of Petroleum and Gas operations:
  - 1- Any citizen of Afghanistan who has completed the age of eighteen.
  - 2- Any foreign person who has completed the age of eighteen and has the right to reside in Afghanistan legally.
  - 3- Legal entity established according to the Law or formed as cooperating legal entity.
  - 4- Foreign legal entity established according to external law or is a collaborator and has the right to reside in Afghanistan legally and embark amp investment and trade.
- (2) The following persons cannot obtain the right of Petroleum and Gas Operations:
  1. State high ranking authorities' members of National Assembly judges' attorneys, related officials to the Ministries of National Defense and the Interior Affairs and General Department of National Security and other state officials.
  2. A Person with no legal capacity.
  3. A person declared bankrupt.
  4. A person charged with criminal offences and sentenced to imprisonment for more than two years according to the verdict of a competent court.
  5. A Person whose operation is cancelled, stopped or withdrawn before the contract tenure.
- (3) The foreign national inserted in item (1) of this Article for obtaining the licence of Petroleum and Gas Operations shall have to establish and maintain a permanent operative representative office in Afghanistan and supply information on the matter to the related authorities or to appoint and maintain his authorized resident agent in Afghanistan.

## **Contract Areas**

## **Article Thirty First**

The territory of Afghanistan or parts thereof shall be divided into blocks by the Ministry of Mines and Industries in conformity with the law and in accordance with a grid system described in the regulation.

### **Area Designation**

## **Article Thirty Second**

The Petroleum and Gas Operation area shall be divided into block or blocks and the service contract shall be defined with reference to the geographical coordinate of the region or area of the contract text.

### **Abandoning the Exploration Contract Area**

## **Article Thirty Third**

The exploration contractor can, upon written notice, relinquish according to the related procedures during the exploration Phase, a Part or parts of the area included in the contract. The part or parts in which commercial discovery has taken place shall be excepted.

### **Contract Rendezvous**

## **Article thirty Fourth**

The tenure of exploration contract shall be divided into two phases: Exploration – production phase and Development- production phase as the following:

1. An Exploration phase shall not exceed 10 years unless the discovery of petroleum and gas in the contract area have taken place and the additional time shall be considered necessary for the completion of the operation and assessment of the discovery , In this case, the tenure of the contract can be extended.
2. Where no commercial discovery is made during the exploration phase, the contract shall be terminated.
3. Wherever a commercial discovery is made its related development – producing phase shall not exceed 25 years from the beginning of the discovery.
4. In the event that the contractor has fulfilled all his obligations completely during the specified time he can, taking into consideration the provisions of this law, ask for an extension of Development – production phase for another 10 years.
5. The service contract term cannot exceed 25 years.

### **Contract Dissolution**

## **Article Thirty Fifth**

The conditions of the contract dissolution (by the State or contractor) and its tenure and consequences are anticipated in the contract. In case of contract dissolution, the contractor has to discharge all his obligations not fulfilled prior to the dissolution.

### **Undertaking Activities on the Required Areas**

#### **Article Thirty Sixth**

- (1) A contractor can undertake the following activities on the areas required for Petroleum and Gas Operations ,
1. Erect temporary or permanent residential houses, install engineering plants, construct roads and other activities, according to the law to facilitate Petroleum and Gas Operations.
  2. Use of water for daily consumption and petroleum and Gas operations according to the relevant law.
  3. Subject to the provisions of law, construct, maintain and operate airports, roads; bridges, communication system and sanatoriums in accordance with the law.
  4. Install water pipes; make water courses, ponds, dams and reservoirs, lay drains and sewers and construct and maintain sewage disposal plants according to the law.
  5. Subject to the prior approval of the Ministry of Mines and Industries provide other necessary facilities including pipelines outside the contract area for carrying out Petroleum and Gas Operations.
- (2) The areas mentioned in Article 15 of this law shall be excepted from the item (1) of this Article.
- (3) Contractor has to compensate any losses occurred as a result of operations inserted under item (1) of this Article on the land owned or occupied by a person.

### **Transfer and storage**

#### **Article Thirty Seventh**

A Contractor can transport his petroleum and Gas share from the country by his own, state or other transport facilities against fixed fare to sale or export places or store it inside or outside the contract area.

### **Recruitment of Experts**

#### **Article Thirty Eight**

(1)- Contractor can recruit the required personnel directly or indirectly from inside or outside of the country. Priority should be given to those Afghan citizens who have equivalent education and experience.

(2)- Contractor can conclude a service contract with second hand contractor for conducting petroleum and gas activities.

(3)The related State administrations shall provide necessary facilities for foreign contracted personnel and their second hand foreign contractor to obtain the required documents.

## **The Obligation of Contractor**

### **Article Thirty Ninth**

A contractor shall undertake the following obligations:

- 1- To carry out specific work in the contract area.
- 2- To prepare annual complete work program and budget for Petroleum and Gas Operations.
- 3- To present quarterly reports on accounting records, account statements, samples and other data concerning Petroleum and Gas operations to the Ministry of Mines and Industries.
- 4- To keep current financial and cost accounting records of Petroleum and Gas operations with pertinent records and vouchers , during the term of the contract , in accordance with the normal accounting method practiced in the Petroleum and Gas industry.
- 5- To report immediately to the Ministry of Mines and Industries any discovery of Petroleum and Gas and supply a sample thereof.
- 6- In the case of a commercial discovery of Petroleum and Gas to delimit the area involved and make endeavor for its development and production.
- 7- To produce Petroleum and Gas at the appropriate rate of production compatible with the nature and extent of the Petroleum and Gas reservoir discovered.
- 8- To conduct Petroleum and Gas operations diligently, expeditiously and efficiently in accordance with generally accepted best practices in the Petroleum industry, and to supply equipment, materials, storage facilities and installation to comply with generally accepted best international standards.
- 9- To take all measures to observe the laws and regulations of health, work safety, human rights, use of water, environment protection and safeguard affected communities.
- 10- To investigate , manage and evaluate the related issues , the impacts of Petroleum and Gas Contract operations over environment and Socio-Economic conditions of individuals.
- 11- To pave the way for inspection and control of the State representative of the Petroleum and Gas operations affairs, offices, accounts, reports and accounts Statements.

## **State Actions to Attend Complaints**

### **Article Fortieth**

The State, upon the claim of a third party legal entity or natural person with respect to (any injury, damage or loss caused by an act or omission of the contractor, his sub-contractor or his agents, employees or representatives) in the course of Petroleum and Gas operations shall take appropriate actions.

## **The Conditions of Petroleum Industries Operations**

### **Article Forty First**

Taking into consideration the provisions of this Law , the activities of Petroleum industries shall be under the following conditions:

- 1- To avoid any damage to flora, fauna and any other pollution of the environment.
- 2- To make sure that conducting Petroleum and Gas operations do not sustain any damage to the health , welfare, and tranquility of the related personnel and other people.

## **Area Clearance**

### **Article Forty Second**

Upon the termination of the contract the contractor has to remove any structure or facility ceased to be used, carry out clean up operations of the contract area and make the site safe.

## **Employment of Afghan Nationals**

### **Article Forty Third**

The contractor shall employ and train, as far as possible, Afghan nationals for the rehabilitation and carrying out his Petroleum and Gas Project.

## **Supply of Internal Goods and Services**

### **Article Forty Fourth**

The contractor should purchase and supply Afghan goods and services, if they are in terms of quantity, quality, price and availability similar to those to be imported.

## **Designating Representative**

### **Article Forty Fifth**

To appoint an agent or representative, in cases where a contractor is not resident in Afghanistan or whose head office is elsewhere.

## **Supply of Petroleum and Gas to the State**

### **Article Forty Sixth**

Should the State require for its internal consumption some Petroleum and Gas, in addition to its related share, the contractors taking into account their production volume shall supply the same against the specified price.

### **Transfer of Contract Concession**

#### **Article Forty Seventh**

Prior to the approval of the Inter –Ministerial Committee and consent of the Ministry of Mines and Industries , a contractor shall not turn over , pledge or transfer the contract or any rights or obligations arising out of it to any other person.

### **The Contents of Enclosure to Contract Application**

#### **Article Forty Eight**

The application shall include the following subject – matters:

- 1- Environment protection and management plan in connection with the development plan of commercial discovery.
- 2- Decommissioning and work commencement regarding Petroleum and Gas operations, environment assessment including the description of ecosystem prior to the development – Production, commencement comprising flora, fauna, soil, air quality, under- ground and surface water, and shall specify the ecosystem and landscape.
- 3- The effect of Petroleum and Gas operations upon the inhabitants of the region.
- 4- The environment management plan shall include the measures for the protection of the environment, the elimination or reduction of pollution and compensation to the affected people.
- 5- The decommissioning and abandonment plan and measures foreseen to rehabilitate the environment affected by the Petroleum and Gas operation to its natural and previous state.

### **Observing the Enacted Directions**

#### **Article Forty Ninth**

Contractors shall comply with measures and directions issued by the Ministry of Mines and Industries to prevent and remove the dangers or damage that the Petroleum and Gas operations inflict upon the affected communities , personnel and preservation of environment.

## **Preparing Plan**

### **Article Fiftieth**

Contractors shall draw up and publish a health and safety plan including a mutual emergency action plan taking into consideration the special conditions of Petroleum and Gas operations and explain the plan to employees and other public of the site.

## **Reporting Incident**

### **Article Fifty First**

(1)- Contractors shall report any serious or fatal accident that occurs, or any imminent hazard that may be forthcoming in connection with the Petroleum and Gas operations by the most rapid means of communications to the MMI or the administrative authorities under whose jurisdiction an accident occurs.

(2)- In the event of vital incidents or forthcoming dangers, the Ministry of Mines and Industries has to take the required measures to remove the danger.

## **Observance of Laws in Employment**

### **Article Fifty Second**

Contractors have to take into consideration the binding laws at the time of external and internal employment.

## **The Environment Department**

### **Article Fifty Third**

The Environment Department of the Ministry of Mines and Industries, taking into account Article 13 of the Mineral Law shall, in coordination with the National Department of Environment, perform the following duties and obligations:

- 1- Giving advice for the protection of Environment.
- 2- Technical study and evaluation of environment, environment management plan, decommissioning and work abandonment.
- 3- Monitoring of contractors compliance with the environment protection requirements according to the provisions of the related legal documents and the contract.

## **Creation of Mutual Consent**

### **Article Fifty Fourth**

Where an accumulation of Petroleum and Gas extends into several contract areas, the relevant contractors shall organize Petroleum and Gas operations coordinately. Should

the parties fail to reach a coordinated agreement on such activities within a reasonable time limit, the Ministry of Mines and Industries shall decide upon the matter.

## **Chapter Five Pipelines**

### **The Erecting Conditions of Pipelines**

#### **Article Fifty Fifth**

Erection of Pipelines, pump station, tank, storage valve and transportation of Petroleum and Gas can take place under the following conditions:

- 1- Availability of contract.
- 2- Obtaining permission or licence.

(2)The way of Granting licence and permission of refinement, process and transfer of Petroleum and Gas including design, assigning routs and safety requirements shall be organized in accordance with the provisions of this Law by the regulations.

### **Use of Pipeline**

#### **Article Fifty Sixth**

(1)- If the State or any other contractors intend to transfer their additional petroleum and gas through the pipeline commissioned by a person according to the provisions of this Law and the relevant regulations, obtaining the permission of the pipeline owner shall be indispensable. In case of disagreement of the owner, the Ministry of Mines and Industries, considering the agreement of the pipeline owner, shall take appropriate decision concerning the use of the Pipeline.

(2)- The rate of transportation and the use of the Pipeline shall be determined by the Ministry of Mines and Industries.

## **Chapter Six Income Tax of Petroleum and Gas**

### **Accounting**

#### **Article Fifty Seventh**

Contractors shall maintain their related accounts in accordance with the International Accounting Standards (I A S).

### **Payment of Taxes**

#### **Article Fifty Eight**

Contractors shall be required to pay their income taxes, taxes and customs charges in accordance with the related laws.

(2) The Ministry of Mines and Industries can consider financial assurances on the stability of taxes and charges according to the provision of valid laws and in understanding with the Ministry of Finance to protect contractors.

## **Royalties**

### **Article Fifty Ninth**

- (1) Contractors' shall be required to pay the royalties from the productions of liquid Hydrocarbons and natural gas of the related area.
- (2) The value or volume of royalty from liquid Hydrocarbons and natural gas, after deducting the quantities used and consumed in the conduct of operations, shall be set by the Inter - Ministerial Committee upon the proposal of the Ministry of Mines and Industries .

## **Surface Rentals and fees**

### **Article sixtieth**

- (1) Contractors shall pay surface rentals to the owner or occupier of the contract area.
- (2) The rental per square Kilometer and the amount of process and production fees shall be specified in the Regulations.
- (3) The Minister if Mines and Industries, as a competent organ according to the law, shall collect and implement the fees, royalties and surface rentals and deposit them in the State Revenue Bank Account.

## **Chapter Seventh Final Provisions**

## **Revocation of Contract**

### **Article Sixty First.**

- (1) Where any contract is entered into and is subsequently found that such contract was entered into as a result of any false or fraudulent representation or in consequence of any incorrect information by contractor or he commits frequent violations of the contract the Ministry of Mines and Industries can ask for the required information. If the contractor cannot present satisfactory explanations, the contract shall be terminated by the competent authority.
- (2) The Ministry of Mines and Industries has to issue the convincing reasons of the contract cancellation and dispatch a copy of it to the contractor. In this case, the rights and privileges granted to the contractor shall be suspended; and the area concerned and securities given shall belong to the State.
- (3) The related issues of fine and compensation connected with the violation of this law shall be specified in the Regulations.

- (4) In case of the contractor dissatisfaction with imposing fine or penalty or as to the termination of the contact, the dispute shall be referred to a commercial arbitration or a competent court.

### **Transfer of Foreign Exchange**

#### **Article sixty second**

The contactor shall be bound to observe the legal banking documents of the country. After payment of taxes, fulfilling his financial obligations and the State other claims he can embark upon the following activities.

- (1) To bring in foreign exchange to carry out Petroleum and Gas operations.
- (2) To transfer foreign exchange to outside of the country for the debt payment of Petroleum and Gas Operations and paying to fund suppliers, machinery, equipment and tools required for the Petroleum and Gas operations.
- (3) To transfer foreign exchange to share holders abroad for the payment of dividends and other profits of Petroleum and Gas operations.
- (4) To transfer foreign capitals invested in Petroleum and Gas affairs.
- (5) To transfer foreign exchange, properties and possessions earned out of the sale of contractor's assets or compensation related to foreign investment.
- (6) To purchase freely Afghan currency or foreign exchange according to the market exchange rate.
- (7) To have banking account in Afghani or foreign exchange or both in Afghanistan.
- (8) To have banking account in foreign exchange outside of Afghanistan in accordance with the legal documents of Da Afghanistan Bank.

### **Expropriation**

#### **Article Sixty Third**

- (1) For the public profits and interests the Ministry of Mines and Industries can expropriate the assets, share, capital rights and privileges of the contractor related to Petroleum and Gas according to the provision of Expropriation law.
- (2) In case of expropriation the State shall provide compensation for the contractor and his properties in conformity with the standards of international law and fair market value. Such compensation shall also include an interest at the one year London Inter – Bank Offered Rate for the period between the date of the expropriation and the date of complete payment of the compensation.

### **Prohibition of Alluring the State Officials**

#### **Article sixty fourth:**

No person shall offer or provide directly or indirectly any compensation, gratuity, favor, fees or anything of material and spiritual value to any State officials of

Afghanistan or the Ministry of Mines and Industries or their relatives up to grade third aiming at influencing or rewarding such officials for the award of any contract , permit licence , approval and other facilities. Any breach of the provisions of this article shall cause the revocation of the contract as well as the imposition of fixed fines and penalties.

### **Disputes settlement** **Article Sixty Fifth**

(1) Any dispute arisen between the State and the contractor shall be settled according to the contract provisions. Should the dispute not settled, the case shall be referred to and taken care of by the International Center for Settlement of Investment Dispute (ICSID) pursuant to the convention on the settlement of Investment Dispute between States and nationals of other states and of March 8, 1965 AD.

(2) If the settlement shall not be possible through ICSID or the contractor prefers to have the settlement by the United Nations On International Trade Law (UNCTRAL) or any other arbitration or other procedure of dispute settlement and the Ministry of Mines and Industries and the Contractor agree upon, the dispute shall be settled in this very manner. In this case, the Government would agree to the submission of any such dispute to be referred to ICSID according to the provision of part (1), Article Twenty Fifth of the said Convention.

(3) If over 25 % of the ownership interest is owned by a foreign investor the contractor shall be treated as a national of a state other than Afghanistan and the dispute shall be resolved according to part (1) Article Twenty Fifth of the ICSID.

(4) If over 25% of the ownership interest belongs to the State, according to part (3) Article Twenty Fifth of ICSID, the dispute shall be referred to it only after the consent of the State.

### **Enactment of Regulation and the Date of Enforcement** **Article Sixty sixth**

(1) For better implementation of the provisions of this law the Ministry of Mines and Industries shall set forth and pass a regulation.

(2) This Law shall be enforced as of the date of promulgation and published on the Official Gazette.