

Petroleum Act No. 387 of 1949.

An Act To Promote The Exploration, Development, Exploitation, And Utilization Of The Petroleum Resources Of The Philippines; To Encourage The Conservation Of Such Petroleum Resources; To Authorize The Secretary Of Agriculture And Natural Resources To Create An Administration Unit And A Technical Board In The Bureau Of Mines; To Appropriate Funds Therefore; And For Other Purposes

Chapter I General Provisions

ARTICLE 1. *Short Title of Act.* The short title of this Act shall be "*Petroleum Act of 1949.*"

ARTICLE 2. *Definition of terms.* When used in this Act, the following terms shall, unless the context otherwise indicates, have the following respective meanings:

(a) "*Petroleum*" shall include any mineral oil, hydrocarbon gas, bitumen, asphalt, mineral wax, and all other similar or naturally associated substances; with the exception of coal, peat, bituminous shale, and/or other stratified mineral fuel deposits.

(b) "*Crude oil*" means oil in its natural state before the same has been refined or otherwise treated, but excluding water and foreign substances.

(c) "*Natural gas*" means gas obtained from boreholes and wells and consisting primarily of hydrocarbon.

(d) "*Government*" means the Government of the Philippines.

(e) "*State*" means the Republic of the Philippines.

(f) "*Permittee*," "*concessionaire*" or "*contractor*" means a person to whom a permit, concession, or contract, as the case may be, has been granted or awarded under the provisions of this Act, his successors and assigns.

(g) "*Person*" includes a natural person, corporation, or partnership.

(h) A "*barrel*" is equivalent to 158.98 liters or 42 U.S. gallons.

(i) All measurements of distances, width, length, areas, depth and volume, and weight shall be in the metric system.

(j) Words in singular shall include the plural, and vice versa.

ARTICLE 3. *State ownership.* All natural deposits or occurrences of petroleum or natural gas in public and/or private lands in the Philippines, whether found in, on or under the surface of dry lands, creeks, rivers, lakes, or other submerged lands within the territorial waters or on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries, belong to the State, inalienably and imprescriptibly.

ARTICLE 4. *Title to land.* The ownership or the right to the use of lands for agricultural, industrial, commercial, residential, mining, or for any purpose other than for petroleum exploration, development or exploitation does not include the ownership of, nor the right to explore for, exploit, or utilize the petroleum or natural gas deposits in, on or under the surface of such land.

ARTICLE 5. *Granting of petroleum rights.* The right to explore for, develop, exploit or utilize the petroleum resources described in article three hereof may only be granted to duly qualified persons by means of concessions in accordance with the provisions of this Act. The Government, however, reserves the right to undertake such work either by itself or through its instrumentalities, or through competent persons qualified to undertake such work as independent contractor or contractors under a contract of service executed for the Republic of the Philippines by the President and approved by the Congress of the Philippines in accordance with the provisions of article thirteen of this Act.

Exploration or exploitation rights may be exclusive within certain areas; but no exclusive rights may be granted for refining or transportation.

ARTICLE 6. *Granting of concession is discretionary with the Government.* The granting of concession under this Act is discretionary with the Government, except in the cases mentioned in article eleven hereof, where, upon the fulfillment of the formalities and requirements of this Act, the granting thereof is obligatory upon the Government.

ARTICLE 7. *Petroleum operation a public utility.* Everything relating to the exploration for and exploitation of petroleum which may exist naturally or below the surface of the earth, and everything relating to the manufacture, refining, storage, or transportation by special methods of petroleum as provided for in this Act, is hereby declared to be of public utility.

ARTICLE 8. *Concessionaire assumes risks.* Concessions referred to in this Act shall be granted at the complete risk of the interested party. The Government does not guarantee the existence of petroleum or undertake, in any case, title warranty.

ARTICLE 9. *Ownership not conferred.* Exploration and Exploitation Concessions do not confer upon the concessionaire the ownership over the petroleum lands and petroleum deposits, but only the right to explore for, develop, exploit, and utilize them for the period and under the conditions determined by this Act.

CHAPTER II

Concessions

ARTICLE 10. *Kinds of concessions.* Concessions may be any of the following kinds and have the following respective objects:

- a. Non-Exclusive Exploration Permit, which grants to the permittee the non-exclusive right to conduct geological or geophysical exploration on specified areas.
- b. Exploration Concession, which grants to the concessionaire the exclusive right to explore for petroleum within specified areas.

c. **Exploitation Concession**, which grants to the concessionaire the exclusive right to develop petroleum production within the specified areas.

d. **Refining Concession**, which grants to the concessionaire the right to manufacture or refine petroleum, or to extract its derivatives.

e. **Pipe Line Concession**, which grants to the concessionaire the right to provide and operate pipe line systems for transporting petroleum.

ARTICLE 11. *Obligatory concessions.* Subject to the fulfillment of the formalities and requirements provided for in this Act, the granting of the following concessions shall be obligatory upon the Government:

a. **Exploitation Concession**, to the holder of an Exploration Concession, for such parcels as he may select for exploitation and to the holders of Petroleum Drilling Leases issued under the Petroleum Act Numbered Twenty-nine hundred and thirty-two, or of petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, which are existing and in force at the time of the enactment of this Act, when said holders shall apply to have the same governed by the provisions of this Act, and be given the privileges granted thereby;

b. **Refining Concession and/or Pipe Line Concession**, to the holder of an Exploitation Concession, when the manufacturing or transportation is directly related, although not necessarily restricted, to the Exploitation Concession; and

c. **Refining Concession**, to the holder of a Pipe Line Concession, or Pipe Line Concession to the holder of a Refining Concession, when the two concessions are directly, although not restrictively, related.

The foregoing, however, shall not apply in the case of any concessionaire who is in arrears in any payments due the Government arising out of or in connection with any petroleum concession, lease, or mining claim, until such arrears have been paid, or, if in dispute, until a cash or surety bond has been posted, sufficient to cover all arrears in dispute.

The rights and obligations conferred by concessions which are obligatory under this article are to be regarded as following from the initial concessions which, under the provisions of this Act, include the right to receive such subsequent concessions.

ARTICLE 12. *Designation of petroleum regions.* For purposes of this Act, the Secretary of Agriculture and Natural Resources, after due study of the different prospective petroleum lands of the Philippines, may divide them into a number of prospective petroleum regions, delimiting their extent and boundaries, and issuing the order and notice establishing such regions.

ARTICLE 13. *Petroleum reservation.* Upon the recommendation of the Secretary of Agriculture and Natural Resources, the President of the Philippines may set apart petroleum reservations, and shall, by proclamation, declare the establishment of such reservations and the boundaries thereof.

The Government may explore, develop, and exploit such petroleum reservation either by itself or through its instrumentalities, or through competent persons under a contract of service, in accordance with article five of this Act. Proposals by qualified persons to carry out such work for the Government as independent contractor or contractors shall be filed with the Director of Mines who shall forward the same with his findings and recommendations to the Secretary of Agriculture and Natural Resources who, in turn, shall submit the same with his recommendations to the President of the Philippines. The President is hereby authorized to take such necessary action as he may deem proper on such proposals and for this purpose, may execute the necessary contract or contracts for and in behalf of the Government. In the event such contract is executed, the same shall be submitted to the Congress of the Philippines for its approval.

No petroleum reservation may be established over any areas covered by application for Exploration or Exploitation Concession already filed or granted. If at any time after the establishment of a petroleum reservation, the Secretary of Agriculture and Natural Resources, after due investigation, should find it to the best interest of the Government, that any area within the reservation should be opened to Exploration or Exploitation Concession under the provisions of this Act, such area or areas may be recommended to be released from the reservation and declared open to Exploration or Exploitation Concession under this Act by an executive proclamation of the President concurred in by a joint resolution of the Congress of the Philippines.

ARTICLE 14. *Free areas.* All lands within the territorial limits of the Philippines including those submerged beneath seas, bays, lakes, rivers, lagoons, or the territorial waters, or on the continental shelf, or its analogue in an archipelago, but which are not within the National Reserve Areas, or Petroleum Reservations, or covered by valid and existing Exploration or Exploitation Concession, or Petroleum Drilling Leases acquired under the Petroleum Act (Act No. 2932), or of petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, as amended, are called Free Areas and as such are open to application for Exploration Concession by any duly qualified person. Application for said areas shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act.

ARTICLE 15. *National Reserve Areas.* Areas which have been included in any Exploration or Exploitation Concession but which have been subsequently given up by the concessionaire voluntarily or in accordance with the requirement of articles fifty and fifty-three of this Act; or areas covered by Exploration or Exploitation Concession which have expired or have been canceled; or areas which have been included within any of the two kinds of concession but which are found to be in excess the maximum areas allowed by this Act for such concessions, are called National Reserve Areas, and as such may be applied either for Exploration or Exploitation Concession by duly qualified persons only after the Secretary of Agriculture and Natural Resources shall have first announced by means of notices published in the Official Gazette and in one daily English newspaper of general circulation published in the City of Manila, at least once a month for three consecutive months, that said lands duly described are ready for disposition and that application therefore may be filed within a certain date fixed in the notice. Application for such areas shall be filed with the Director of Mines in accordance with article twenty-eight of this Act, and the concession may be granted by the Secretary of Agriculture and Natural Resources in favor of the applicant whose offer shall be found best to serve the interest of the Government.

ARTICLE 16. *Lands covered by concessions are subject to public easements.* All lands covered by concessions granted under this Act shall be subject to public easements established or recognized by existing or future laws.

ARTICLE 17. *Operations of concessionaire subject to existing mining rights.* The operations of the concessionaire under the provisions of this Act shall be subject to existing mining rights, grants, permits, leases, and concessions in respect of substances other than petroleum and to existing petroleum rights, grants, leases, or concessions.

ARTICLE 18. *Right of Government to establish reservations or grant rights.* Concessions granted under this Act are subject to the right of the Government to establish reservations other than petroleum reservations, to grant mining rights, permits, leases, and concessions in respect of substances other than petroleum, and to grant rights other than mining rights in, on, or under any of the lands covered by the concession granted under this Act, provided that the rights of the petroleum concessionaire to search, prospect, and drill for, produce, extract, transport, store, process, and treat petroleum on, under, and from, said lands, and the other rights granted to him under this Act are not impaired or unreasonably interfered with.

ARTICLE 19. *Additional benefits to the Government in certain cases.* In the disposition of the National Reserve Areas and in case of conflicts of applications for concessions, the Secretary of Agriculture and Natural Resources may require additional benefits to the Government over and above the minimum requirements provided for in this Act. These additional benefits may include, but shall not be restricted to, bonuses or cash payments made singly or on installments over a period of time; or increased royalty on the quantity of oil produced; or undertakings in addition to those required by law for the promotion of education, public health, social welfare and amelioration, and other public services; or increased work obligations on the concession.

ARTICLE 20. *Right to enter private land.* Exploration and exploitation concessionaires are granted the right to enter upon private lands covered by their concessions for the purpose of conducting geological or geophysical studies, with the right to use all instruments and apparatus necessary to carry out such studies, subject to the obligations to indemnify the owner or legal occupant of the land for all material damage suffered by the property, its annexes or appurtenances as a result of such studies, provided that in no case shall the occupancy of private buildings, yards or gardens be authorized against the will of their owner.

In the event that the right granted in this article shall be denied by the owner of the private land or by its legal occupant, the concessionaire may apply for and, upon posting such bond as may be fixed and approved by the Court of First Instance of the province where the land is situated, the court shall issue an order allowing such right pending the final determination of the proper amount that shall be paid by the concessionaire to the landowner or legal occupant. chan robles virtual law library

ARTICLE 21. *Easements over private land.* When easements of temporary occupancy over private lands are needed by a concessionaire for the purpose of carrying out any work essential to his operations under the provisions of this Act, he may enter into the necessary agreement with the owner or legal occupant of such private lands. If no agreement could be reached, or if the owner or legal occupant refuses to grant such

easement, or in general, when any obstacle of whatever nature exists to the immediate and certain acquisition of the necessary surface area, or of any right indispensable to the concessionaire for the purpose of the concession, the Court of First Instance of the province where the land is situated shall, upon application of the concessionaire and posting of the necessary bond, grant to the said concessionaire authority to use and occupy the land needed by him in his operations, pending final determination of the case which shall include among others the reasonable value or rental of the land to be occupied and the compensation for any resulting damage that the landowner or legal occupant may suffer as a result of such occupation.

When the occupation of a private land is needed by the concessionaire in connection with his concession, for the purpose of constructing, maintaining, operating, and drilling oil wells, tanks, reservoirs, waterways, pipe lines, roads, railroads, tram lines, telephone and telegraph lines, airfields, radio stations, powerhouses, transmission lines, pumping stations, wharves, piers, and terminals, which are hereby declared to be for public use or benefit, the right of eminent domain may be exercised by the Government through the concessionaire, in accordance with the applicable laws on the matter.

In all cases of voluntary agreement between the concessionaire and a private landowner, as referred to in this article, a copy thereof shall be furnished to the Secretary of Agriculture and Natural Resources.

For the purpose of this article the necessity of the work will be presumed in the cases of well drilling and auxiliary works, construction of pipe lines, tanks, pumping plants, power systems, warehouses, shops, and means of transport and communication.

ARTICLE 22. *Easement over public land.* When easement or right of temporary occupancy over public land is needed by a concessionaire for the purpose of carrying out any work essential to his operations under this Act, such right may be granted by the Secretary of Agriculture and Natural Resources with due regard to prior rights of third parties and subject to applicable laws and regulations.

The presumption of necessity stated in article twenty-one applies likewise in this case.

ARTICLE 23. *Use of water, timber and clay.* Concessionaires under this Act may utilize for any of the work to which his concession relates, timber, water, and clay from any public lands within such concession, all subject to existing prior rights thereto, to the regulations issued under this Act and to other laws and regulations on the matter.

ARTICLE 24. *General obligations.* Work corresponding to concession granted under this Act shall be commenced with reasonable promptness and prosecuted with reasonable diligence in accordance with good oil field practice; provided, that in the case of Exploration or Exploitation Concession, the performances of the corresponding work, in compliance with the provisions of this article, successively in various areas included in the concession, in accordance with an efficient and economic program determined by the concessionaire and submitted to the Secretary of Agriculture and Natural Resources will be construed as reasonable diligence in regard to the total area included in such concession; conforming with accepted good practices in connection with modern and scientific methods of exploration, drilling, equipping and operating wells to enable

maximum economic production of petroleum; avoiding hazards to life, health and property; avoiding the pollution of the air, and of public or private land or waters.

Non-compliance with the provisions of this article may be the cause of the imposition of penalties under the provisions of this or other laws; or of court action to compel compliance therewith; and continued non-compliance shall constitute cause for cancellation of the concession.

ARTICLE 25. *Submission of information and reports by the concessionaires.*

Concessionaires shall submit to the Secretary of Agriculture and Natural Resources all information that the latter may require from time to time, particularly but not limited to, reports on the results of geological and geophysical examinations including a complete history of each well formation record; electric logs, and result of all tests; production reports showing all pertinent production data, etc., in the form and manner and at intervals prescribed by the regulations.

ARTICLE 26. *Employment of Filipinos.* Concessionaires under this Act are obligated to give preference to Philippine citizens in all types of employment within the country, insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations; and are obligated likewise to maintain effective programs of training and advancement commensurate with the demonstrated abilities of such citizens to perform satisfactorily the various types of operations involved in working the concession. The concessionaires, however, shall not be hindered from using employees of their own selection and without restriction for executive or technical work and for all other work which, in their judgment, and with the approval of the Director of Mines, requires highly specialized training or long experience.

Each concessionaire shall submit to the Government annual report giving statistical and descriptive information relevant to the provisions of this article, as provided in the Regulations, and shall be obligated to demonstrate to the satisfaction of the Secretary of Agriculture and Natural Resources, upon request, that these provisions are being complied with. In the event that, in the opinion of the Secretary of Agriculture and Natural Resources, such provisions are not complied with, he is empowered to require the concessionaire to take such steps as may be necessary to effect such compliance; without prejudice, however, to the right of the concessionaire under the exception provided in the last sentence of the first paragraph of this article.

ARTICLE 27. *Force meager.* Failure on the part of the concessionaire to fulfill any of the terms and conditions provided by this Act or its regulations or by other relevant laws shall not be deemed a breach of such obligation on the part of the concessionaire in so far as such failure results from force meager, including the act of God, war, insurrection, riot, civil commotion, strike, tide, storm, flood, lightning, explosion, fire earthquake, and any other happening which the concessionaire could not reasonably prevent or control or avoid.

ARTICLE 28. *Application for concession.* Application for concession under this Act shall be filed with the Director of Mines who shall examine and pass upon the same as well as upon the qualifications of the applicant. If he finds the application in order and the applicant duly qualified, he shall forward the said application, together with his findings

and recommendations thereon, to the Secretary of Agriculture and Natural Resources who may, unless otherwise provided for in this Act, publish a notice thereof at least once a week for three consecutive weeks in the Official Gazette and in any newspaper of general circulation, published in English in the City of Manila.

At any time during the period of publication of the said notice, an adverse claim stating the nature and grounds thereof, may be filed with the Director of Mines. If no adverse claim is filed within the said period of publication, it shall be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the granting of the concession shall be heard; and the contract of concession shall be executed by the Secretary of Agriculture and Natural Resources for the Republic of the Philippines, and the concessionaire, in accordance with existing laws and regulations for the conveyance of leasehold rights, which contract of concession shall state definitely the principal rights and obligations of the parties concerned.

ARTICLE 29. *Disposition of adverse claims.* Adverse claims based upon applications filed at any time after the first date of publication of the notice mentioned in article twenty-eight shall not be considered. Adverse claims based upon conflict of applications shall be disposed of in accordance with the provisions of article thirty hereof. Adverse claims based upon other grounds shall be decided by the Secretary of Agriculture and Natural Resources.

ARTICLE 30. *Disposition of applications in conflict.* In case an adverse claim is filed in accordance with article twenty-eight of this Act, covering areas in conflict and the adverse claimant is found to be duly qualified to apply for concession under this Act, the Director of Mines shall inform the applicant and the adverse claimant of the existence of such conflict and of any additional benefits to the Government which the Secretary of Agriculture and Natural Resources may require in accordance with the provisions of article nineteen of this Act, whereupon each of them shall, within sixty days from the date of the receipt of such information, submit to the Director of Mines an amended application stating therein such additional benefits to the Government as he may desire to offer for the area in conflict. The Secretary of Agriculture and Natural Resources may accept such application which, in his opinion, will best serve the national interest. The right of any aggrieved party to appeal to the courts as in ordinary cases is hereby recognized.

ARTICLE 31. *Qualifications of applicants.* Applicants for concessions under this Act shall have the following qualifications:

In case of an individual, he shall be a citizen of the Philippines, be of legal age, and have the capacity to contract obligations.

In case of an association of individuals, it shall be either a partnership or a corporation duly organized and constituted under the laws of the Philippines, at least sixty per centum of the capital of which is and shall at all times be owned and held by citizens of the Philippines. chan robles virtual law library

During the effectivity and subject to the provisions of the ordinance appended to the Constitution of the Philippines, citizens of the United States and all forms of business enterprises owned and controlled, directly or indirectly, by citizens of the United States

shall enjoy the same rights and obligations under the provisions of this Act in the same manner as to, and under the same conditions imposed upon, citizens of the Philippines or corporations or associations owned or controlled by citizens of the Philippines.

Any applicant shall present satisfactory evidence showing that sufficient finance, organization, resources, technical competence, and skills necessary to conduct the operations to be undertaken under the concession being applied for, in a manner which is in accordance with the best method known to the industry, are available to such applicant. chan robles virtual law library

ARTICLE 32. *Officials and employees of the Government disqualified.* Officials and employees of the executive branch of the Government connected with the administration and disposition of mineral resources including petroleum, shall not be allowed, directly or indirectly during their incumbency and for five years thereafter, to apply or acquire concessions, or to be interested, in anywise, in any application filed, or concession acquired, under this Act.

CHAPTER III

Non-Exclusive Exploration Permit

ARTICLE 33. *Who may apply.* Any person legally qualified to acquire concession under the provisions of this Act may, upon application, acquire a permit for a non-exclusive right to undertake surface geological or geophysical investigations within Free Areas as defined in article fourteen of this Act, subject to the provisions of article thirty-five and thirty-six of this Act and the Regulations.

ARTICLE 34. *Application for Non-Exclusive Exploration Permit.* Application for Non-Exclusive Exploration Permit shall be filed with the Director of Mines who shall examine and pass upon the application and qualifications of the applicant. He shall forward the same with his findings and recommendation to the Secretary of Agriculture and Natural Resources for his final action. The applicant shall pay an application fee of one hundred pesos in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application, as determined by the Regulations.

ARTICLE 35. *Entry upon private property.* Right to enter upon or to occupy private property in connection with the Non-Exclusive Exploration Permit must be secured from the owner or legal occupant thereof.

ARTICLE 36. *Right conveyed under Non-Exclusive Exploration Permit.* Non-Exclusive Exploration Permit issued under this Act conveys no right for the permittee to make any exploratory drilling, nor carry any priority or preferential right to the area it covers so as to entitle the permittee to exclusive Exploration or Exploitation Concession, but is intended only to permit geological and/or geophysical exploration, preparatory to making application for exclusive Exploration Concession.

The permittee shall inform the Secretary of Agriculture and Natural Resources prior to undertaking any exploratory work as to the general nature of the work proposed to be done, the size of the parties to be put in the field, and the areas to be covered by such work. He shall submit at the end of every six months a report on the result of the geological and/or geophysical surveys conducted by him.

ARTICLE 37. *Term of Non-Exclusive Exploration Permit.* The Non-Exclusive Exploration Permit shall be for a term of not exceeding two years, renewable for another two years, at the discretion of the Secretary of Agriculture and Natural Resources.

CHAPTER IV **Exploration Concession**

ARTICLE 38. *Definition of Exploration.* The term "*Exploration*" means all work that have for their object the discovery of petroleum, including, but not restricted to, surveying and mapping, aerial photography, surface geology, geophysical investigations, testing of subsurface conditions by means of borings or structural drillings, and all such auxiliary work as are useful in connection with such operations.

Test wells drilled for exploratory purposes may be of such size and type suitable for oil production, but the actual production of oil is not included in the term "*Exploration*," except that oil found during exploration may be freely used by the concessionaire in his operations for exploration purposes only within the same concession.

ARTICLE 39. *Application for Exploration Concession.* Application for Exploration Concession shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act. The Regulations shall prescribe the form and contents of application for Exploration Concession.

ARTICLE 40. *Map and technical descriptions.* A map of the block desired to be explored shall accompany the application for Exploration Concession. This map shall be prepared in accordance with the Regulations, and shall show the location of the block with regard to the municipalities and province or provinces in which it is located, the four corners of the block in case it is rectangular, or the natural boundaries thereof in case the block adjoins rivers, creeks, lakes, or shore lines, or the extension or projections thereof into these bodies of water in case the block is, in whole or in part, on submerged lands.

The location of the block shall be plotted on Coast and Geodetic Survey or Army base map, and shall show, among others, the topographic features of the area. The map shall be submitted together with the technical description of the corner markings and the metes and bounds or distances and bearings of the sides of the block. The technical description and map shall also indicate the bearings and distances of the tie line from some known reference location monument to one corner, preferably Number 1, of the block, in such a way that the block desired can be plotted from such tie line and descriptions on the Progress or Index Map of the Bureau of Mines, where all areas applied for shall be plotted to show the relative positions of such areas.

The boundaries of the block desired shall be well-established on the ground by placing permanent and conspicuous monuments, posts or mounds of earth on the corners, so that at any time, the block can be identified, and later be tied to accurate surveys. The bearings and distances of the block applied for exploration shall be sufficiently accurate so that the approximate area of the block can be computed from the given bearings and distances on the sides.

ARTICLE 41. *Application fee for Exploration Concession.* When an application for an Exploration Concession is filed, the applicant shall pay an application fee of one thousand pesos in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 42. *Areas available for Exploration Concessions.* Exploration Concessions may be granted on any lands within the Free, and National Reserve, Areas which are not covered by valid and existing Exploration or Exploitation Concessions, or by Petroleum Drilling Leases acquired under the Petroleum Act (Act No. 2932), or by petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, as amended.

ARTICLE 43. *Size and shape of exploration blocks.* Exploration Concessions may be granted in lots or blocks as compact as possible, and rectangular in shape except when contiguous with the sea, bays, lakes, rivers, lagoons, roads, or with other concessions already granted which are of irregular boundaries.

Each block or lot shall not be more than one hundred thousand hectares nor less than twenty thousand hectares in area, and in no case shall the long dimension of the rectangle be more than five times the short dimension.

ARTICLE 44. *Maximum exploration area a person may acquire.* No person shall be entitled to more than five hundred thousand hectares of exploration areas in any one petroleum region established in accordance with the provisions of article twelve of this Act, nor more than one million hectares in the whole territory of the Philippines.

ARTICLE 45. *Rights conveyed under Exploration Concession.* The Exploration Concession conveys upon the concessionaire, his heirs and assigns, from the date of the granting of the concession, and during the exploration period and any extension thereof, the exclusive right to explore the block granted, to do geological and geophysical work, to open test pits, to conduct drilling operations, and to do such other work related to exploration.

ARTICLE 46. *Term of Exploration Concession.* The initial term of an Exploration Concession shall be not more than four years counted from the date of its issuance: *Provided, however,* That if the concessionaire has complied with the provisions of this Act and the Regulations and with the terms and conditions contained in the contract of concession, the Secretary of Agriculture and Natural Resources may grant an extension of the same for a term of three years, for its entire area or for any part thereof, upon application of the concessionaire made prior to the expiration of the original term. If

during the said first extension, the concessionaire has also complied with the provisions of this Act and the Regulations and the terms and conditions contained in the contract of concession. The Secretary of Agriculture and Natural Resources may, upon application of the concessionaire made prior to the expiration of the first extension, grant, a further extension of the said concession for its entire area or for any part thereof, for another term of three years, making the total term for Exploration Concession not more than ten years.

The extension shall be granted under the same terms and conditions as those contained in the original concession, subject, however, to the provisions of articles forty-seven and forty-nine of this Act.

No further renewal shall be allowed to any exploration concessionaire at the end of ten years from the date of the original concession.

ARTICLE 47. *Exploration work obligations.* At the beginning of each calendar year during the life of the concession, the concessionaire shall submit to the Director of Mines, a program of exploration work to be undertaken by the concessionaire with his concession during that year.

He is obligated to spend in the direct prosecution of exploration work within his concession, such as topographic, or geological reconnaissance; mapping or cross sectioning, geophysical surveys by magnetometer, gravimeter or seismograph; core or exploratory drilling; or any combination of the said work, the following amounts:

Initial term:

First year

Not less than fifty centavos per hectare per year, or fraction thereof.

Second year

Not less than one peso per hectare per year, or fraction thereof.

Third year

Not less than one peso and fifty centavos per hectare per year, or fraction thereof.

Fourth year

Not less than two pesos per hectare per year, or fraction thereof.

First extension:

Fifth to seventh year

Not less than two pesos and fifty centavos per hectare per year, or fraction thereof.

Second extension:

Eight to tenth year

Not less than three pesos per hectare per year, or fraction thereof.

The cost of delivered materials or equipment used in the exploration work shall be considered as proper expenditures for such work. The concessionaire shall give satisfactory evidence to the Government of such expenditures in accordance with the Regulations.

Any amount actually spent for exploration work in excess of the minimum amount required for any year or years may be carried forward and credited to exploration work obligations required for the succeeding years during the existence of the concession.

For failure to comply with the minimum work obligations in any one year as herein above stipulated, the concessionaire shall pay to the Government the difference between the minimum amount required and that actually spent for any year. Continued failure to perform the necessary exploration work within the area covered by the concession shall, in addition to the above penalty, result in the cancellation of the concession as provided for in this Act.

In order to guarantee faithful compliance with the required exploration work, a bond of sufficient amount to be fixed by the Regulation, shall be posted by the concessionaire.

ARTICLE 48. *Work obligations on two or more exploration blocks within any one petroleum region.* In case two exploration blocks are held by the same concessionaire which are adjoining to each other in any one petroleum region, the total amount of work obligations for exploration required for the initial term of four years, for the two adjoining blocks, may be spent within any one of the two adjoining blocks or any portion thereof as if they are covered by a single concession.

The total amount of work obligations required to be spent annually during the first and second extensions under article forty-seven of this Act on any two or more exploration blocks, whether adjoining or not, then existing and held by a concessionaire for the first and second extensions within any established petroleum region, may be spent within any one or more of the said blocks or any portion thereof.

ARTICLE 49. *Annual exploration tax.* Each holder of an Exploration Concession shall pay during the whole period of such concession and its extension or extensions if any, an annual exploration tax as follows:

Initial term:

First year

Not less than five centavos per hectare per year, or fraction thereof.

Second and third year

Not less than seven and one-half centavos per hectare per year, or fraction thereof.

Fourth year

Not less than ten centavos per hectare per year, or fraction thereof.

First extension:

Fifth to seventh year

Ten centavos per hectare per year, or fraction thereof.

Second extension:

Eighth to tenth year

Twelve and one-half centavos per hectare per year, or fraction thereof.

ARTICLE 50. *Renunciation of areas covered by Exploration Concession.* The holder of an Exploration Concession may, at any time, renounce the whole or any part of the total area covered by his concession: *Provided, That, in case of partial renunciation, the portion retained shall be not less than twenty thousand hectares, unless the same is contiguous to another exploration block or blocks held by the same concessionaire, in which case, the total area of all the contiguous blocks thus retained for exploration shall be not less than twenty thousand hectares.*

CHAPTER V

Exploitation Concession

ARTICLE 51. *Definition of Exploitation.* "*Exploitation*" means all work within the area embraced by an Exploitation Concession that have for their object the production of petroleum within such area, including, but not restricted to, drilling and operating wells, providing and operating pumping and storage facilities; pipe lines and other such work and facilities as are useful for the purpose of making petroleum available for sale, manufacture or refining within or for shipment from such area; but does not include any operation which is a part of manufacturing or refining, or any work outside such area which are a part of a pipe line or other special transportation system.

ARTICLE 52. *Application for Exploitation Concession.* Application for Exploitation Concession shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act. The Regulations shall prescribe the form and contents of application for Exploitation Concession.

ARTICLE 53. *Application for Exploitation Concession covering areas within Exploration Concession.* An exploration concessionaire, at any time during the life of his concession, including any extension thereof, may select for exploitation purposes one or more parcels from the area covered by his Exploration Concession. Upon application and fulfillment of all the requirements of this Act, and provided that the total area of such parcel or parcels so selected from any one exploration block shall not exceed one-half of the area of such block, an Exploitation Concession covering such parcel or parcels, shall be granted to such applicant. Such parcels may be selected by the applicant anywhere within the exploration block, whether contiguously or separately.

Provided, that all the requirements of this Act and the Regulations have been complied with, an application for Exploitation Concession filed as provided for in this article shall, pending the issuance of an Exploitation Concession covering the areas for which application has been made, operate to confer upon the Concessionaire all the rights and obligations which are conferred by this Act through an Exploitation Concession:
Provided, further, That an Exploitation Concession may also be granted to any person

who without being a holder of Exploration Concession discovers and registers with the Bureau of Mines in accordance with article sixty-five hereof any natural deposit or seep or natural gas emanation.

ARTICLE 54. *Map of the exploitation areas.* In the exercise of the right of exploration, the concessionaire shall prepare at any time during the exploration period, or during extensions, if there be any, the general map of the respective exploration block, showing the exploitation parcel or parcels he may have selected, in preparation to obtaining the Exploitation Concession. This map shall be prepared from an accurate transit and chain survey or from an aerial photographic survey, or the combination of both, and shall be prepared in accordance with existing regulations governing such kinds of survey issued by the Director of Mines, and shall show the location of the boundary monuments of the exploration block and of the different exploitation parcel or parcels within the block and the area and true bearings and distances of the sides thereof. Copies of this map shall accompany the application for Exploitation Concession.

ARTICLE 55. *Application fee for Exploitation Concession.* When an application for an Exploitation Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 56. *Areas available for exploitation.* Areas covered by Exploration Concession held by the applicant, subject to the provisions of article fifty-three of this Act, and areas within the National Reserve, are available for exploitation.

ARTICLE 57. *Size and shape of Exploitation Concession.* The Exploitation Concession shall be granted in parcels or parcels, rectangular in shape as much as possible, except when contiguous with the seas, bays, lakes, rivers, lagoons, roads, or with other existing concessions of irregular boundaries; or when otherwise approved by the Secretary of Agricultural and Natural Resources.

The total area of the exploitation parcel or parcels which may be acquired under a single concession shall not be more than fifty thousand hectares nor less than ten thousand hectares, and in no case shall the greater dimension of the rectangle be more than five times the other, nor shall the total area of the parcel or parcels to be covered by the Exploitation Concession exceed one-half of the total area of the exploration block.

ARTICLE 58. *Maximum exploitation area that may be acquired.* No person shall be allowed to hold more than two hundred and fifty thousand hectares of exploitation area in any one petroleum region, nor more than five hundred thousand hectares in the whole territory of the Philippines.

ARTICLE 59. *Rights conveyed under exploitation concession.* An exploitation concessionaire, his heirs and assigns, has the exclusive right, during the term of the concession, to drill within the boundaries projected vertically downward of the parcel or parcels covered by his concession, to extract within the boundaries thereof the substances referred to in this Act, to utilize them once they are extracted, and to do all

acts authorized within the scope of exploitation, as defined in article fifty-one of this Act, subject to the provisions of this Act and the Regulations that may be issued by the Secretary of Agriculture and Natural Resources regarding conservation, prevention of waste, and other pertinent matter.

In case roads and/or bridges are constructed by the concessionaire in connection with the operation of his exploitation concession, the same shall be available for public use except when otherwise agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 60. *Exploitation work obligations.* At the beginning of each calendar year during the life of the concession, the concessionaire shall submit to the Director of Mines, a program of exploitation work proposed to be undertaken by the concessionaire within his concession during that year.

The concessionaire shall commence drilling operations within one year from the date the Exploitation Concession is granted within the area covered by the concession and shall continue diligently such drilling operations in accordance with good oil field practice. He shall be obligated to develop and bring into production the exploitation area granted to him and any discovery areas that he may find, and to continue such development and production until at least the domestic consumption requirements of petroleum in the Philippines, determined in consultation with the Secretary of Agriculture and Natural Resources, are met by the total net production from all sources of indigenous production in the Philippines, if the petroleum deposit discovered by the concessionaire shall permit such development in accordance with good petroleum engineering practice.

ARTICLE 61. *Exploitation work obligations in two or more Exploitation Concessions in the same petroleum region.* A person holding two or more Exploitation Concessions in the same petroleum region, may be permitted to concentrate the exploitation work obligations required for all the Exploitation Concessions held by him in the same petroleum region, within any one of his Exploitation Concession, as long as the drilling operations are diligently conducted with a creditable expenditure and in accordance with a drilling program: *Provided, however,* That no Exploitation Concession shall remain for a period of more than five consecutive years without drilling operations. Such work may be credited only upon prior written approval of the Secretary of Agriculture and Natural Resources.

ARTICLE 62. *Production operations.* Once production is established in an Exploitation Concession, production operations on the concession may not be suspended for more than six months without prior written approval of the Secretary of Agriculture and Natural Resources.

Suspension of operations shall in no case be authorized for more than two years at any one time, except in case of force meager.

ARTICLE 63. *Existing Petroleum Drilling Leases and petroleum mining claims may come under the provisions of this Act.* Holders of Petroleum Drilling Leases under the provisions of the Petroleum Act (Act No. 2932) and of petroleum mining claims located and held under the provisions of the Act of Congress of July first, nineteen hundred and two, as amended, may surrender their rights thereto by filing applications with the

Secretary of Agriculture and Natural Resources for Exploitation Concessions under the provisions of this Act, and the latter may, upon receipt of such applications, grant Exploitation Concessions covering the same, subject to all the conditions, obligations, and privileges provided for under this Act.

ARTICLE 64. *Annual exploitation tax.* Each holder of an Exploitation Concession shall pay throughout the life of such concession, in the manner prescribed by the Regulations, an exploitation tax as follows:

During the first five-year period, not less than fifty centavos per hectare per year, or fraction thereof. chan robles virtual law library

During the second five-year period, not less than one peso per hectare per year, or fraction thereof.

During the third five-year period, not less than one peso and fifty centavos per hectare per year, or fraction thereof.

During the fourth five-year period, not less than three pesos per hectare per year, or fraction thereof.

During the fifth five-year period, not less than five pesos per hectare per year, or fraction thereof.

Thereafter, during the period or periods of its renewal, if any, not less than five pesos per hectare per year or fraction thereof, unless modified by the Secretary of Agriculture and Natural Resources.

ARTICLE 65. *Royalty.* Exploitation concessionaires shall pay to the Government a royalty which shall not be less than twelve and one-half per cent of the petroleum produced and saved, less that consumed in the operations of the concessionaire in the working of such Exploitation Concession: Provided, That natural gas returned to the formation shall not be subjected to royalty.

The royalty paid to the Government on petroleum or natural gas produced from the date commercial production is started, from well or wells within the radius of one kilometer from any discovered, located, registered and verified petroleum natural deposit or seep or natural gas emanation, shall be deducted by ten per cent thereof, which deduction shall be due and payable to the discoverer of the said natural deposit or seep or gas emanation: *Provided*, That the petroleum natural deposit or seep or gas emanation is not covered by another discovery previously registered in the Bureau of Mines: And *Provided, further*, That the discovery and location are made and registered prior to the date of the granting of an Exploration or Exploitation Concession, covering the area where such petroleum natural deposit or seep or gas emanation was discovered.

The discoverer shall mark the point of discovery with prominent and permanent object and with a placard stating the name of the discovery, the name of the discoverer, and the date of discovery and location, within a period of thirty days from the date of the discovery or, if discovered before the approval of this Act, within thirty days after such approval.

Declaration of discovery and location describing specifically the facts and circumstances of the discovery, and containing such other matters as may be required by the Director of Mines, shall be prepared under oath by the locator or discoverer who shall register the same in the office of the Bureau of Mines, Manila, within ninety days from the date of location. The Director of Mines shall register such declaration upon payment of the registration fee of ten pesos and submittal of a sample of the oil or natural gas discovered. All discoveries not duly declared and registered within the period herein set forth, shall be considered as having been abandoned by the discoverer.

The rights acquired by the discoverer shall be based on actual discovery, followed by registration within the period provided for in this article. The rights of the discoverer to his discovery shall expire ten years after the date of registration: *Provided, however,* That if within the said period an Exploration or Exploitation Concession is granted covering the oil seeps or natural deposits or natural gas emanations discovered, the rights of the discoverer shall be deemed to continue from the date the Exploration or Exploitation Concession is granted until ten years from the date commercial production is first started from any well or wells within the discovery area.

ARTICLE 66. *Exploitation tax credited against royalty.* All exploitation taxes to which any concessionaire shall be liable under article sixty-four of this Act, during any year on any or all Exploitation Concessions held by him in the same petroleum region, shall be credited against the total royalty payments on all the petroleum produced by the concessionaire from any or all the Exploitation Concessions held by him within the same petroleum region and paid by such concessionaire in the same year: *Provided, That,* such deduction shall apply only to amounts due for exploitation tax in excess of fifty centavos per hectare per year.

For the purpose of computing the deduction due under this article, the value of any royalty paid in kind shall be converted to cash as provided for in article sixty-eight.

ARTICLE 67. *Manner for payment of royalty.* Royalty may be paid either wholly or partly in kind, or wholly or partly in cash, at the election of the Secretary of Agriculture and Natural Resources, but such election shall not be changed during any quarter for which it has once been made, nor shall it be changed for any succeeding quarter without written notice to the concessionaire at least thirty days prior to the commencement of such quarter.

When the Secretary of Agriculture and Natural Resources elects to receive the royalty wholly or partly in kind, the concessionaire shall make delivery thereof at the place of production or at any established receiving and storage station on the transportation system which is employed by the concessionaire for the transportation of his own petroleum or similar kind, as elected by the Secretary of Agriculture and Natural Resources.

When the Secretary of Agriculture and Natural Resources elects to receive the royalty in cash, the same shall be paid quarterly in advance, and the amount of royalty to be paid in any quarter shall be determined by the petroleum production during the next preceding quarter.

The procedure for determining the amount of royalty due and the payment of such royalty, except as specified in this Act, shall be fixed by the Regulations.

ARTICLE 68. *Liquidation of royalty in cash.* When the Secretary of Agriculture and Natural Resources elects to have the royalty paid in cash, as provided for in article sixty-seven of this Act, the market value of the petroleum at the place of its production shall be used for the calculation of the amount due; and it shall be determined by taking as a basis the average price of petroleum of the same quality, during the preceding quarter, in the governing market or markets as specified in the Regulations; and deducting from such average price the cost of transportation from the place of production to such markets; and deducting also the cost of any processing or treatment which is necessary to make the petroleum suitable for such transportation.

For this purpose the cost of transportation shall include all actual costs inherent therein, such as freight according to the usual tariffs, port fees, storage costs, pumping costs, and the costs of operating and maintaining the facilities provided expressly for such transportation. Similarly the cost of processing or treatment shall include all actual costs inherent therein, such as for chemicals, stabilization, compression, and the cost of operating and maintaining the facilities provided expressly for such processing or treatment.

The Secretary of Agriculture and Natural Resources is empowered to enter into agreement with the concessionaire for the purpose of determining the market value of petroleum and the deductions to be allowed in computing the market value at the place of production, for the purpose set forth in this article.

ARTICLE 69. *Acceptance of royalty payments.* Within sixty days following the end of each month during which the royalty has been paid in kind, or following the end of each quarter in which royalty has been paid in cash, the Secretary of Agriculture and Natural Resources shall notify the concessionaire in writing that such payment is accepted in full discharge of the corresponding obligations as fixed by this Act; or that such is not the case for certain stated reasons, in which latter case the procedure fixed in the Regulations shall be followed for the purpose of making any necessary corrections. Failure of the Secretary of Agriculture and Natural Resources to thus notify the concessionaire of objection to the royalty payments made, within the foregoing time limits, shall be construed as acceptance by the Secretary of Agriculture and Natural Resources of such payments.

Acceptance of royalty payments as provided for in this article shall be deemed irrevocable.

ARTICLE 70. *Field storage tanks and storage.* Exploitation concessionaire is obligated to construct and maintain at, or in the vicinity of, the place or places of production, storage tanks of sufficient capacity to operate the producing field or fields in accordance with good oil field practice.

The holder of such concession is under obligation to store, for a period not in excess of thirty days, such royalty in kind, free of expense to the Government. Should the Government have no adequate facilities for the handling and/or storage of such petroleum after said period, the concessionaire shall supply facilities for the handling

and/or storage of the same for a reasonable charge, which period and charge shall be as mutually agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire in advance: *Provided, That*, in no event shall the concessionaire be required to store beyond such thirty days more than one hundred thousand barrels of such petroleum at any one time, nor of any petroleum other than that produced within the area held by the concessionaire.

ARTICLE 71. *Exploitation concessionaire may be obliged to refine crude oil in the Philippines.* The Secretary of Agriculture and Natural Resources may, after due investigation, require an exploitation concessionaire to refine part or all of the crude oil produced in his concession, in any refinery established in the Philippines in accordance with the provisions of this Act: *Provided, That*, there is such refinery with sufficient capacity and adequate facilities to handle such crude oil in accordance with good refining practice: *And Provided, further*, That the quantity of such crude oil of the concessionaire that may be required to be refined in the Philippines in relation to the total net production from his concession shall not exceed the proportional amount that the total domestic requirements bear to the total net production from all indigenous sources in the Philippines. chan robles virtual law library

ARTICLE 72. *Term of Exploitation Concession.* The term of an Exploitation Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years at the option of and upon application of the concessionaire made prior to the expiration of the original term.

ARTICLE 73. *Renunciation of areas covered by Exploitation Concession.* The holder of an Exploitation Concession may, at any time, renounce the whole or any part of the total area covered by his Exploitation Concession: *Provided, That*, in case of partial renunciation, the area of the parcel or parcels whether contiguous or not retained for exploitation shall be not less than ten thousand hectares.

CHAPTER VI Refining Concession

ARTICLE 74. *Definition of Refining.* The term "*Refining*" means the processing or treating of petroleum by chemical or physical means for the purpose of making or separating marketable products; not including, however, such operations, separate from the foregoing, as gas compression, removal of noxious gases, crude oil stabilization or treatment for emulsion, or any other operation which has as its principal aim the avoidance of hazard or loss, or which is incidental to production or to transportation.

ARTICLE 75. *Application for Refining Concession.* Application for Refining Concession shall be filed with the Director of Mines in accordance with article twenty-eight of this Act.

When the granting of a Refining Concession is obligatory upon the Government by reason of the provisions of article eleven of this Act, and provided that the requirements of this Act and of the Regulations have been complied with, an application for Refining Concession filed as provided in article twenty-eight shall operate to confer upon the concessionaire all the rights and obligations which are conferred by this Act through

such concession, pending the execution of the contract of concession. The Secretary of Agriculture and Natural Resources may, in his discretion, grant a Refining Concession to any person duly qualified under the provisions of this Act even though he is not a holder of an Exploitation Concession. Likewise a refining concession may be granted to any person who, without being a holder of an Exploitation Concession discovers and registers with the Bureau of Mines under the provision of article sixty-five hereof, any natural deposit of oil or seep or emanation of gas.

ARTICLE 76. *Refining application fee.* When an application for a Refining Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 77. *Rights conveyed under Refining Concession.* Refining Concession confers upon the concessionaire the non-exclusive right to provide facilities for the manufacture of, and to manufacture, petroleum products, subject to the provisions of this Act; and to carry out such auxiliary works and operations as are essential to the successful conduct of the undertaking, such as, but not limited to, the generation of steam and electricity; the treatment and use of water; the production or regeneration of chemicals used in manufacturing; the fabrication and filling of containers; the erection of shops, warehouses, and other buildings; the construction and operation of communication systems and roads within and for access to the works; and the provision and operation of facilities for receiving, storing, and shipping materials or products and for their transportation within or between parts of the works to which the concession relates.

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It shall be understood that all auxiliary works and operations and the products thereof to which the rights provided in this article apply, shall be for the exclusive use of the concessionaire in the operation of his concession or concessions subject to the limitations set forth in article seventy-eight hereof: *Provided, however,* That all roads and bridges constructed by the concessionaire except those within the compound of the refinery, shall be available for public use, except when otherwise agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 78. *Utilization of refining capacity.* The holder of a Refining Concession shall have the preferential right to utilize his installations for the refining or manufacture of petroleum produced by him from his concession, but is obligated to utilize any remaining capacity for the refining or manufacture, *pro rata*, of such other petroleum as may be offered by others for refining or manufacture, and to charge without discrimination such rates as may have been approved by the Secretary of Agriculture and Natural Resources.

When a refining concessionaire is also an exploitation concessionaire, the Secretary of Agriculture and Natural Resources may require that the royalty in kind due to the Government from the same concessionaire, or an equivalent amount of petroleum of the Government from other sources, be refined or manufactured, *pro rata*, with that owned by the refining concessionaire, up to the capacity of the installation; and in all cases petroleum owned by the Government shall have priority over all other petroleum for the

utilization of the refining or manufacturing capacity in excess of that required to refine or manufacture petroleum owned by the refining concessionaire.

Procedure for the determination of refining rates and the conditions governing the refining of petroleum other than that owned by the refining concessionaire shall conform to the Regulations.

ARTICLE 79. *Petroleum produced under this Act shall be given refinery preference.* Any established refinery may be required by the Secretary of Agriculture and Natural Resources to refine crude petroleum produced in the Philippines in preference over any imported crude petroleum.

ARTICLE 80. *Term of Refining Concession.* The term of a Refining Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years, upon application of the concessionaire filed prior to the expiration of the original term.

ARTICLE 81. *Right to establish a refinery may be ceded but concessionaire may be required to establish a refinery under certain conditions.* An exploitation concessionaire may assign, transfer, or cede his right to establish a refinery in the Philippines granted him under article eleven of this Act in favor of any person qualified under the provisions of this Act, upon prior written permission of the Secretary of Agriculture and Natural Resources. However, the Secretary of Agriculture and Natural Resources may, after due study of the economic and technical problems involved on the part of the exploitation concessionaire and of the need of the Philippines for a suitable refinery, require an exploitation concessionaire, after he shall have developed a recoverable petroleum reserve of one hundred forty million barrels or more in any one or more of his concessions granted under this Act, capable of maintaining a production rate of ten thousand barrels a day for at least fifteen years, to establish in the Philippines a refinery of a capacity which shall be not less than ten thousand barrels per day. chan robes virtual law library

ARTICLE 82. *Renunciation of Refining Concession.* Any Refining Concession may be renounced at any time, except when the undertaking to build a refinery is imposed upon an Exploitation Concessionaire under the provisions of articles nineteen and eighty-one of this Act, in which case, the renunciation shall be subject to the prior written approval of the Secretary of Agriculture and Natural Resources.

Renunciation extinguishes all rights granted by the concession, but does not relieve the concessionaire from making any payments due to the Government.

CHAPTER VII

Pipe Line Concession

ARTICLE 83. *Application for Pipe Line Concession.* Application for Pipe Line Concession shall be filed with the Director of Mines in accordance with article twenty-eight of this Act.

When the granting of a Pipe Line Concession is obligatory upon the Government by reason of the provisions of article eleven, and provided, that all the requirements of this Act and of the Regulations have been complied with, an application filed shall operate to confer upon the concessionaire all the rights and obligations which are conferred by this Act through such a concession, pending the execution of the contract of concession.

Pipe Line Concession may also be granted to any person legally qualified under this Act, who is not a holder of an Exploitation or Refining Concession, upon his filing with the Director of Mines an application therefore.

ARTICLE 84. *Pipe Line application fee.* When an application for a Pipe Line Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration, as determined by the Regulations.

ARTICLE 85. *Rights conveyed under Pipe Line Concession.* A pipe line concessionaire acquires the non-exclusive right to transport petroleum, by means of, and through, a pipe line or system of pipe lines, between the sources of production and/or refining and the places defined in the Pipe Line Concession, in accordance with the provisions of this Act and the Regulations. chan robles virtual law library

This concession right includes the construction and operation of pipe lines, pumping or compressing stations, storage tanks, gas tanks, power plants, shops, storehouses and other buildings, water supply and communication systems, roads, and such other equipment or facilities as may be needed for the purpose of the concession.

All such auxiliary works and operations and the products thereof shall be for the exclusive use of the concessionaire in the operation of his concession: *Provided*, however, That all roads and bridges constructed by the concessionaire, except as may otherwise be agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire, shall be available for public use.

ARTICLE 86. *Pipe line concessionaire as common carrier.* A pipe line concessionaire shall have the preferential right to utilize his installations for the transportation of petroleum owned by him, but is obligated to utilize any remaining transportation capacity *pro rata* for the transportation of such other petroleum as may be offered by others for transport, and to charge without discrimination such rates as may have been approved by the Secretary of Agriculture and Natural Resources.

When the pipe line concessionaire is also an exploitation concessionaire, the Secretary of Agriculture and Natural Resources may require that the royalty in kind of the Government received from the same concessionaire, be transported, *pro rata*, with that owned by the concessionaire from the same concession; and in all cases the petroleum of the Government shall have priority over all other petroleum in the utilization of the excess capacity of the pipe line over that required to transport petroleum owned by the pipe line concessionaire.

Procedure for the determination of pipe line transportation rates and the conditions governing the transportation of petroleum other than that owned by the concessionaire shall conform to the Regulations.

ARTICLE 87. *Term of Pipe Line Concession.* The term of a Pipe Line Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years, upon application of the concessionaire filed prior to the expiration of the original term.

ARTICLE 88. *Renunciation of Pipe Line Concession.* Any Pipe Line Concession may be renounced at any time, except when the undertaking to build a pipe line is imposed upon an Exploitation Concessionaire under the provisions of article nineteen of this Act, in which case, the renunciation shall be subject to the prior written approval of the Secretary of Agriculture and Natural Resources.

Renunciation extinguishes all rights granted by the concession, but does not relieve the concessionaire from making any payments due to the Government.

CHAPTER VIII

Penalties And Extinction Of Rights

ARTICLE 89. *Cancellation of concession for falsehood or omission in application.* The statements made in the application or made in support thereof, shall be considered as conditions and essential parts of the concession that may be granted by virtue of such application, and any falsehood in those statements or omission of facts which may alter, change, or affect, substantially the facts set forth in said statements may cause the cancellation of the lease granted. chan robles virtual law library

ARTICLE 90. *Other causes for cancellation of concession.* (a) Exploration Concessions may be canceled under any of the following causes:

- 1. For failure of the concessionaire to perform the work obligations required by article forty-seven of this Act for two consecutive years; and**
- 2. For failure to pay for two consecutive years the exploration tax due thereon, as required by article forty-nine of this Act.**

(b) Exploitation Concessions may be canceled under any of the following causes:

- 1. For failure of the concessionaire to perform the exploitation work obligations as required under the provisions of articles sixty and sixty-one of this Act, for two consecutive years;**
- 2. For suspending production operations for more than six months without prior written approval of the Secretary of Agriculture and Natural Resources as provided for in article sixty-two of this Act;**
- 3. For failure to pay for two consecutive years the annual exploitation tax due thereon, as required by article sixty-four of this Act;**

4. For failure to deliver or pay to the Government its royalty within one year from the date such royalty becomes due.

(c) Refining and Pipe Line Concessions may be canceled for failure of the concessionaire to begin the construction of a refinery and pipe line, as the case may be, within one year from the date of the issuance of such concessions.

ARTICLE 91. *Procedure for cancellation.* Before any concession is canceled for cause or caused mentioned in this Act, the concessionaire shall first be notified in writing of such cause or causes, and shall be given an opportunity to be heard, and to show cause why the concession shall not be canceled. If upon investigation, the Secretary of Agriculture and Natural Resources shall find the concessionaire to be in default, the latter shall be given an opportunity to correct such default. If the concessionaire shall continue to be so in default for a period of ninety days from the date of the decision finding him in default, the concession may be canceled in an order to that effect, copy of which shall be furnished to the concessionaire, and which order shall become final forty-five days from receipt thereof, unless the concessionaire decides to take advantage of the provisions of article one hundred seven of this Act, in which case the concession shall continue to be in force until, and if, a competent court decides otherwise.

ARTICLE 92. *Extinction of rights.* Rights acquired by virtue of a concession granted under this Act shall become extinguished upon the expiration of its term including the extensions or renewals thereof, if any, or upon the cancellation or renunciation of such concession.

In the event of such extinction of rights, any sum payable to the Government by the concessionaire and then unpaid shall become due and payable forthwith, the property of the concessionaire shall be disposed of in accordance with the provisions of article ninety-three of this Act, and the concession contract shall be surrendered to the Secretary of Agriculture and Natural Resources.

ARTICLE 93. *Title to areas, property, and equipment after renunciation, cancellation, or expiration of a concession.* (a) Upon the renunciation, cancellation, or expiration of an Exploration or Exploitation Concession, the area covered thereby shall automatically become part of the National Reserve. chan robles virtual law library

(b) Upon the renunciation, cancellation, or expiration of an Exploration Concession, or of an Exploitation Concession within the first term of twenty-five years or within the first fifteen years of its renewal, if any, as provided for in this Act, the title rights to all apparatus, materials, equipment, supplies and other personal properties, all works, buildings and other facilities and structures which the concessionaire places on the land under the terms of the concession, including but not limited to drilling pipe, warehouse stocks, automotive, aviation and marine equipment, shall remain vested in the concessionaire, and the concessionaire shall have the right to remove and export the same at any time within one year counted from the date the concessionaire shall cease to retain the right to use the lands subject to the concession on which the said property is located: *Provided, however,* That the Government shall acquire title to all properties not so revoked at the end of the said one-year period: *Provided, further,* That the Government shall have the exclusive right of option, but not the obligation, to buy from the concessionaire any or all of the properties which the concessionaire has the right to

remove under this paragraph within ninety days from the date the concession is renounced, canceled or terminated: And *Provided, finally*, That the concessionaire shall maintain said properties, pending decision of the Government to purchase the same, in as good condition as the condition of said properties on the date of the said renunciation, cancellation or termination of the concession, ordinary wear and tear and damage caused by circumstances beyond the control of the concessionaire excepted. The price of the said properties shall be fixed by agreement between the parties but in case of any disagreement as to the price, the same shall be submitted to a board of appraisal of three members to be appointed, one, by the Secretary of Agriculture and Natural Resources, another by the concessionaire and the third, by the two appraisers appointed by the two parties, which board shall determine the price to be paid by the Government for the said properties. Roads, bridges, airports, wharves, and casings in the ground shall become the property of the Government without any permanent.

(c) In case of renunciation, cancellation or termination of the Exploitation Concession after the fifteenth year from the date of the renewal, if any, of the concession, all the property mentioned in the preceding paragraph shall become the property of the Government without payment or indemnification to the concessionaire.

(d) The above provisions do not apply to any refinery built by the concessionaire as said refinery shall continue to be the exclusive property of the owner thereof even after the termination of the concession: *Provided*, That roads and bridges constructed by the concessionaire shall become the property of the Government.

CHAPTER IX

Officials In Charge And Duties

ARTICLE 94. *The Secretary of Agriculture and Natural Resources as executive officer.* The Secretary of Agriculture and Natural Resources shall be the executive officer charged with carrying out the provisions of this Act, through the Director of Mines who shall act under his immediate supervision and control. As such executive officer, the Secretary of Agriculture and Natural Resources shall be vested with the authority to prescribe rules and regulations and issue orders which he may find necessary to effectuate the provisions and purposes of this Act.

ARTICLE 95. *Authority of Secretary of Agriculture and Natural Resources to create necessary offices.* The Secretary of Agriculture and Natural Resources is authorized to create an Administration Unit and a Technical Board, both under the Director of Mines.

The Administration Unit shall be under the supervision and control of the Director of Mines and shall be charged with the administration of petroleum lands, the preparation of forms and regulations, the settlement of disputes, and the enforcement of the provisions of this Act with the advice of the Technical Board.

The Technical Board shall consist of at least one petroleum engineer and one petroleum geologist, with the Director of Mines ex-officio chairman thereof. The said Board shall have, among others, the following functions:

- (a) To act in an advisory or consultative capacity on different technological matters relative to the administration and disposition of petroleum lands under this Act, and on petroleum operation and industry;**
- (b) To look into the qualifications of applicants for concessions under this Act;**
- (c) To recommend whether or not lands within the National Reserve Areas shall be offered for concession and in case it is so offered, to study all applications for concessions within said areas with a view to determining the relative merits thereof and to submit to the Secretary of Agriculture and Natural Resources its findings and recommendations thereon;**
- (d) To determine the relative merits of the conflicting applications for concessions covering lands within Free Areas;**
- (e) To check on the performances of concessionaires and to determine whether the obligations imposed by this Act and the Regulations promulgated thereunder are being complied with;**
- (f) To determine the maximum efficient rate of withdrawal from each well or oil field;** chan robes virtual law library
- (g) To supervise production operations to insure conservation of reservoir energy and the optimum recovery from the petroleum deposits in the different oil fields;**
- (h) In general, to study ways and means to insure the efficient administration of petroleum lands and the effective enforcement of the provisions of this Act and the Regulations;**
- (i) To keep and maintain a complete record as possible on all phases of exploration, development and production of petroleum in the Philippines, including but not limited to geological and geophysical data, well and production records, petroleum engineering studies, computation of petroleum reserve and to prepare therefrom such reports, articles, and bulletins as may be deemed necessary for the proper information of the Government and/or the public.**

ARTICLE 96. *Funds for salaries and expenses.* For the expenses, including salaries and wages of the personnel, of the Administration Unit and of the Technical Board authorized to be created in accordance with article ninety-five of this Act, a sum of two hundred thousand pesos is hereby appropriated from the funds of the National Treasury not otherwise appropriated. Hereafter the same shall be included in the General Appropriation Act.

CHAPTER X

Final Provisions

ARTICLE 97. *Bond for performance.* Prior to the issuance of a concession, except the Non-Exclusive Exploration Permit, the concessionaire shall post a bond in favor of the Government in the sum to be fixed by the Regulations and with surety or sureties satisfactory to the Secretary of Agriculture and Natural Resources, conditioned upon

the faithful performance by the concessionaire of any or all of his obligations under the concession.

ARTICLE 98. *Share of private landowners.* In case an Exploration or Exploitation Concession covers, in whole or in part, private lands title to which has been finally adjudicated by a court of competent jurisdiction, the exploration or exploitation tax due to the Government for the area of such private lands, shall be reduced by ten per cent of the same, which reduction shall be the landowner's share. In the case of lands title to which has not been finally adjudicated all the exploration and exploitation tax for said areas due to the Government shall be paid to the Collector of Internal Revenue or his duly authorized deputy, subject to the rule and regulations of the Bureau of Internal Revenue. In any case, the right of private owner to recover ten percent share when and if his title shall have been finally adjudicated in his favor shall be respected and for such purpose the Government shall hold the same until such title has been so finally adjudicated. chan robes virtual law library

ARTICLE 99. *National emergency measures.* Concessions granted under this Act shall be subject to the rights of the Government, in case of and during the period of war or national emergency, to pass such lawful measures, as it may consider necessary, requisitioning for its use and/or restricting the sale or disposal of all products produced under the terms of the concessions and/or interfering with the free movement thereof, upon just compensation paid to the concessionaires.

ARTICLE 100. *Disposition of substances other than petroleum.* In the event that substances other than petroleum, as defined in article two, should occur naturally and be produced with petroleum, the exploitation concessionaire may separate such other substances at his own expense; *Provided*, That in the event that any such other substances be sold, the value thereof shall be taken into account in fixing the value of petroleum for the purpose of liquidating royalty in cash as provided in article sixty-eight: *And Provided, further*, That if the Secretary of Agriculture and Natural Resources elects to receive such other substances in kind the concessionaire shall, upon request of the Secretary of Agriculture and Natural Resources, separate and deliver to the Government such substances through the facilities of the concessionaire and at the expense of the Government. chan robes virtual law library

ARTICLE 101. *Helium rights reserved.* The Government reserves the right to take all helium from any gas produced by the concessionaire and the right to erect, maintain, and operate on lands covered by the concession, all reduction works and other equipment necessary for the extraction of helium. The Secretary of Agriculture and Natural Resources shall prescribe the necessary rules and regulations governing the delivery to the Government of gas containing helium for the extraction thereof.

ARTICLE 102. *Work obligations, taxes, royalties not to be changed.* Work obligations, special taxes and royalties which are fixed by the provisions of this Act or by the concession for any of the kinds of concessions to which this Act relates, are considered as inherent on such concessions after they are granted, and shall not be increased or decreased during the life of the concession to which they apply; nor shall any other special taxes or levies be applied to such concessions, nor shall concessionaires under this Act be subject to any provincial, municipal, or other local taxes or levies; nor shall any sales tax be charged on any petroleum produced from the concession or portion

thereof, manufactured by the concessionaire and used in the working of his concession. All such concessionaires, however, shall be subject to such taxes as are of general application, in addition to taxes and other levies specifically provided in this Act.

ARTICLE 103. *Customs duties.* During the first five years following the granting of any concession, the concessionaire may import free of customs duty, all equipment, machinery, material, instruments, supplies and accessories.

No exemption shall be allowed on goods imported by the concessionaire for his personal use or that of any others; nor for sale or for re-export; and if any goods on which exemption has been allowed be thus used or disposed of, the concessionaire is obliged to make a report to the Secretary of Agriculture and Natural Resources to that effect and to pay such import duty as is due.

ARTICLE 104. *No export tax to be imposed.* No export tax shall be levied upon petroleum produced from concessions granted under this Act.

ARTICLE 105. *Compulsory collection.* In the event of failure by a concessionaire to pay any tax or royalty due under the provisions of this Act within six months of the date upon which they are due, the Government may resort to compulsory collection under the provisions of applicable laws.

ARTICLE 106. *Inspection of operations and examination of books and accounts.* The Secretary of Agriculture and Natural Resources and the Director of Mines shall have authority to send their delegates or representatives to inspect any operations of the concessionaire at all reasonable times and to examine all the books and accounts pertaining to operations or conditions related to payment of taxes and royalties under this Act, and to carry out any other inspections authorized by law.

The concessionaire shall furnish to such delegates or representatives all technical and accounting data specified in the Regulations, and shall give them ample facilities and assistance to discharge their duties as such representatives and inspectors.

For the purpose of enabling proper examination as provided for in this article, each concessionaire shall be obligated to retain within the country all original records or original carbon copies thereof which are essential for the purpose of determining the amount of taxes and royalties due to the Government, except as may be agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 107. *Settlement of disputes by agreement.* For the purpose of settling or terminating any controversy arising out of the provisions of this Act, other than those arising out of conflict of applications, the Secretary of Agriculture and Natural Resources is authorized, to enter into agreement with any petroleum concessionaire, and in case of their failure to come to such an agreement, the Secretary of Agriculture and Natural Resources shall render his decision thereon, from which decision the concessionaire adversely affected thereby, may bring the matter to the court of competent jurisdiction within forty-five days from the date of his receipt of a copy of said decision. Failure to take such action within the said period, shall make such decision final and binding upon the concessionaire.

Such agreement between the Secretary of Agriculture and Natural Resources and a concessionaire may be reached either with or without the intervention of arbitrators selected by the parties to the controversy. chan robes virtual law library

ARTICLE 108. *Definition of "waste."* The term "*waste*" shall specifically include among other things the following:

- (a) The operation of any petroleum well or wells with an inefficient gas-oil ratio.
- (b) The drowning with water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities.
- (c) Permitting any natural gas well to burn wastefully.
- (d) Physical waste or loss incident to, or resulting from, so drilling, equipping, locating, spacing, or operating well or wells as to reduce or tend to reduce the total ultimate recovery of crude petroleum oil or natural gas from any pool.
- (e) Waste or loss incident to, or resulting from, the unnecessary, inefficient, excessive or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool.
- (f) Surface waste or surface loss, including the storage either permanent or temporary of crude petroleum or the placing of any product thereof, in open pits or earthen storage, and all other forms of surface waste or surface loss, including unnecessary or excessive surface losses, or destruction without beneficial use, either of crude petroleum or of natural gas.
- (g) The production of crude petroleum or natural gas in excess of transportation or market facilities or reasonable market demand.

ARTICLE 109. *Prevention of waste.* All concessionaires, operators, contractors, or drillers, pipe line companies, petroleum refining companies, or gas distributing companies, drilling for or producing petroleum or petroleum products, or piping petroleum for any purpose, shall use every possible precaution in accordance with the most improved methods to stop and prevent waste of petroleum or natural gas in drilling and producing operations, storage or in piping or distributing, and shall not wastefully utilize petroleum or natural gas or allow same to leak or escape from natural reservoirs, wells, tanks, containers, or pipes. chan robes virtual law library

ARTICLE 110. *Rules and regulations regarding conservation of petroleum.* Rules and regulations may be issued which shall require concessionaires to utilize in their exploration and exploitation operations the latest and most improved methods and devices to prevent waste in petroleum as well as to prevent oil, oil-field brine or other oil-field contamination from causing pollution or otherwise damaging streams, surface or underground water supply, and valuable mineral deposits. The Secretary of Agriculture and Natural Resources may also issue orders which shall control the rate of production from any well in the interest of conservation of the petroleum resources.

ARTICLE 111. *Applications filed prior to approval of this Act.* Applications for geological exploration, petroleum drilling lease, concession, or contract of service, presented prior to the promulgation of this Act to the Philippine Oil Commission, the Secretary of Agriculture and Natural Resources, or the Director of Mines, which applications have not been granted, or if granted, had already expired, or are no longer in effect at the time this Act becomes effective, shall remain without effect.

ARTICLE 112. *Transfer and assignment.* Holder of concessions under this Act shall not, without previous written approval of the Secretary of Agriculture and Natural Resources, transfer or assign in whole or in part, their rights on their concessions: *Provided*, That no such transfer or assignment shall be made to a person who is not qualified to acquire or hold concession under this Act, or who shall hold a total area under exploration or exploitation concessions, including that being transferred or assigned to him, of more than the maximum areas allowed under this Act.

ARTICLE 113. *Partial invalidity.* If any clause, sentence, provision or article of this Act should for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect. chan robles virtual law library

ARTICLE 114. *Repeal of laws, rules and regulations.* All acts, laws, rules and regulations inconsistent with any of the provisions of this Act are hereby repealed.

ARTICLE 115. *Effective date.* This Act shall take effect upon its approval.

Approved: June 18, 1949