

ISLAMIC REPUBLIC OF AFGHANISTAN



Hydrocarbons Law

Unofficial English Translation
March 2014

Ministry of Mines and Petroleum
Legal Directorate

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Chapter One - General Provisions

Article 1: The Basis and Purpose of the Law

This Law has been enacted pursuant to Article 9 of the Constitution of Afghanistan to regulate the affairs related to determining State ownership and control over Hydrocarbons, the preservation, utilization, and granting of concession rights, the execution of Contracts, exploration activities, and the development and production of oil and gas.

Article 2: Definitions

For the purposes of this Law the following definitions apply herein:

1. "Hydrocarbons": Liquid Hydrocarbons and Natural Gas.
2. "Hydrocarbons Operations": Any operations related to prospecting, exploration, extraction, production, field separation, storage, transportation, or sale of Hydrocarbons. Oil and gas transportation activities, including the export of crude oil beyond the border of Afghanistan or deliveries to refineries, liquidation or processing plants, are not Hydrocarbons Operations.
3. "Liquid Hydrocarbons": Crude oil, asphalt and bitumen, regardless of gravity, which are produced at the wellhead in a liquid or solid state at ambient conditions (of temperature and atmospheric pressure), or which are extracted from Natural Gas by condensation.
4. "Natural Gas": Any Hydrocarbon which at specified atmospheric conditions of temperature and pressure, is found in a gaseous state and includes Dry Gas, including coal-based methane, Wet Gas and residue gas remaining after the extraction, processing or separation of Liquid Hydrocarbons from Wet Gas, as well as Non-Hydrocarbon Gas or gases produced in association with liquid or gaseous Hydrocarbons, and the residue gas remaining after the condensation of Liquid Hydrocarbons, excluding condensed or extracted Liquid Hydrocarbons.
5. "Register": The register of reports and records of Hydrocarbons Operations, established in accordance with Article 6 of this Law.
6. A Person is:
 - a) "Domestic Natural Person": A person having Afghan citizenship.
 - b) "Domestic Legal Entity": Any entity established in the form of a corporation, partnership, sole proprietorship, limited liability company, joint venture, association, private or public joint stock company, trust, or other for-profit entity established in accordance with the law.
 - c) "Foreign Natural Person": A person with a citizenship other than that of Afghanistan.
 - d) "Foreign Legal Entity": Any entity, the legal form of which is specified under foreign laws.
7. "Commercial Discovery": A discovery which, under the terms of a Contract and in accordance

with practices accepted for use in the international Hydrocarbons industry, can be commercially exploited.

8. "Contract": A written agreement concluded between the State and a Contractor for the conduct of Hydrocarbons Operations in accordance with this Law.
9. "Main Contractor/Contractor": Any Person with whom the State has entered into a Contract in accordance with this Law.
10. "Exploration Phase": The initial phase of an Exploration and Production Sharing Contract in accordance with this Law.
11. "Development and Production Phase": The second phase under an Exploration and Production Sharing Contract during which a Contractor shall be authorized to develop and exploit a Commercial Discovery or Discoveries.
12. "Development Program": A plan for the development and production of a Commercial Discovery as approved by the Ministry of Mines and Petroleum in accordance with this Law and as detailed by the Hydrocarbons Regulations.
13. "Contract Area": The area which includes all, a part, or parts of the originally designated area and is granted to the Contractor in accordance with a Contract.
14. "Exploration and Production Sharing Contract": A Contract which grants the Contractor the exclusive right to explore for, or the exclusive right to develop and produce Hydrocarbons in a designated area in accordance with the terms of the Contract.
15. "Exploration and Development Production Phase": The duration of the Exploration and Production Sharing Contract which is divided into an Exploration Phase and a Development and Production Phase.
16. "Production Development Area": The area which includes one or more blocks or other geographical units which specifies the area where production and development takes place.
17. "Hydrocarbons Data Bank": The authority which collects and maintains information related to the exploration, development and production of Hydrocarbons in accordance with this Law.
18. "License": A license granted for Hydrocarbons Operations in accordance with the provisions of this Law.
19. "Dry Gas": Hydrocarbons most commonly consisting of only methane.
20. "Wet Gas": Hydrocarbons which, apart from methane, contain heavier gases such as ethane, propane, and butane.
21. "Non-Hydrocarbon Gases": Non-hydrocarbon gases commonly found in the Hydrocarbons industry and found in small amounts in Hydrocarbons wells in association with Hydrocarbons, including carbon dioxide, hydrogen sulfide, radium, krypton, argon, helium and nitrogen.

22. "Inter-Ministerial Commission": A commission of ministers established for addressing Hydrocarbons Operations issues in accordance with the provisions of Article 4 of this Law.
23. "Contract Evaluation Team": A team of experts from the Ministry of Mines and Petroleum responsible for evaluating Hydrocarbons Operations Contracts.
24. "Proposal": The document containing a bidder's proposal for obtaining Hydrocarbons Operations.
25. "Subcontractor": A contractor who enters into contracts with the Main Contractor for Hydrocarbons Operations work or services.

Article 3: Ownership of Hydrocarbons

(1) All Hydrocarbons located on or under the territory of Afghanistan shall be the exclusive property of the State.

(2) Hydrocarbons Operations within the territory of Afghanistan shall be conducted with the permission of the State. A Person may carry out Hydrocarbons Operations pursuant to a License granted by the Ministry of Mines and Petroleum in accordance with the provision of this Law.

(3) In first and second type Contracts, the Contractor shall have the right of possession and control over his share of Hydrocarbons extracted according to the Contract and can take, sell and export it.

(4) The Ministry of Mines and Petroleum shall be the competent authority for granting a License for Hydrocarbons Operations provided for in this Law.

(5) In cases where Hydrocarbons are discovered on or under private land, the State shall acquire the land in accordance with the law of eminent domain unless the owner of the private land obtains a License in accordance with this Law.

Article 4: Inter-Ministerial Commission (IMC)

(1) An Inter-Ministerial Commission shall be established for the regulation of affairs related to the monitoring, supervision, granting and rejection of Hydrocarbons Operations Contracts and other relevant issues. The Inter-Ministerial Commission shall comprise of the following:

1. The Minister of Mines and Petroleum, as chairman.
2. The Minister of Finance, as vice-chairman.
3. The Minister of Foreign Affairs, as a member.
4. The Minister of Economy, as a member.
5. The Minister of Commerce, as a member.

6. The chairman of the National Environmental Protection Agency, as a member.

(2) The Government may include other members in the composition of the Inter-Ministerial Commission, whenever deemed necessary.

(3) The Inter-Ministerial Commission shall have the following responsibilities:

1. To monitor the bidding process and the award of Contracts.
2. To evaluate draft Contracts developed by the Ministry of Mines and Petroleum.
3. To make decisions on the signing of Contracts by the Minister of Mines and Petroleum in accordance with this Law.
4. To confirm other related issues that may require the approval of the Council of Ministers.

Chapter Two - Duties and Responsibilities of the Ministry of Mines and Petroleum

Article 5: Duties and Responsibilities

In order to implement the provisions of this Law, the Ministry of Mines and Petroleum shall have the following duties and responsibilities:

1. To formulate and implement policies relating to Hydrocarbons and their development, including policies for the promotion of private investment in the field of Hydrocarbons Operations.
2. To propose to the Inter-Ministerial Commission for its approval the classification, declassification or reclassification of areas as being either closed or prohibited to Hydrocarbons Operations.
3. To monitor any Hydrocarbons Operations conducted by State administrations or any other agencies and Contractors.
4. To organize Proposals for the participation of Persons in bidding rounds, in accordance with the provisions of this Law.
5. To conclude Contracts for Hydrocarbons Operations and propose them to the Inter-Ministerial Commission for approval.
6. To supervise the fulfillment of the terms and conditions of Contracts for Hydrocarbons Operations and to certify their implementation.
7. To stop Contractor activities and terminate Contracts for Hydrocarbons Operations, in accordance with the approval of the Inter-Ministerial Commission.
8. To stipulate surface rentals and ensure their collection.
9. To determine the initial royalty rate of Hydrocarbons for starting the bidding process for first and

second type Contracts and to ensure the collection of the royalties fixed as a result of the bidding.

10. To divide the territory of the country into blocks for Hydrocarbons Operations for the purpose of inviting bids.
11. To register Hydrocarbons Operations.
12. To award or cancel Hydrocarbons Operations Licenses and determine the rights and obligations attached thereto, in accordance with the provisions of this Law.
13. To propose regulations for a more effective implementation of this Law.
14. To publish integrated reports at least annually concerning State revenues and other direct or indirect economic benefits received from Hydrocarbons Operations in accordance with internationally accepted norms.
15. To require information from Contractors and State agencies on their annual financial production achievements including revenues and direct or indirect economic gains from operations related to Hydrocarbons.
16. To use the information referred to in sections 14 and 15 of this Article and to disclose and issue the information on behalf of the State, in accordance with internationally accepted norms.
17. To disclose and issue information other than that referred to in sections 14 and 15 of this Article in accordance with the law or with the written consent of the related Contractors.
18. To perform and exercise other duties and responsibilities in accordance with the provisions of this Law.
19. To make announcements and arrange bidding processes.
20. To issue Licenses following the approval of a Contract.
21. Once agreed with the Contractor, to send proposed amendments to Hydrocarbons Operations Contracts to the Inter-Ministerial Commission for their endorsement and the subsequent approval of the Council of Ministers.
22. To submit Hydrocarbons Operations Contracts for the approval of the Council of Ministers.
23. To propose the approval of transfers or assignments of Hydrocarbons Operations Contracts to the Council of Ministers.

Article 6: Hydrocarbons Register

An office shall be established at the Ministry of Mines and Petroleum to register Hydrocarbons Operations. This office shall have the following duties:

1. To produce a map of Afghanistan, in which the Blocks and Contract Areas are illustrated, and

include the following:

- a) The areas where Hydrocarbons Operations are being conducted by the Government.
 - b) The areas where Hydrocarbons Operations are conducted by the Contractor (with specifications of the Contractor).
 - c) The areas to be tendered in the future.
 - d) The areas where Hydrocarbons Operations are restricted.
2. To produce a list of all concluded Contracts, which shall contain the following information:
- a) Personal details of the Contractor, its office address, designated assignees or its legal representative.
 - b) A description of the areas that are under such Contracts, including the parts of the Contract Area that have been relinquished.
 - c) The validity term of such Contracts and of any phases set forth therein, including any extension, renewal and expiration thereof.
 - d) A description of any significant issues related to the information in the Contracts, Commercial Discoveries and other significant discoveries and decisions connected with the development of Commercial Discoveries or the commencement of production.
3. To maintain copies of all Contracts concerning Hydrocarbons Operations and Licenses as well as all other documents and instruments that concern the amendment, extension, renewal, termination or expiration of such Licenses and Contracts.
4. To provide lists of all pipelines and all relevant facilities such as pump stations, compression centers, intersection points, side-tracks and terminal points.
5. To provide such other information as required by the Ministry of Mines and Petroleum.

Article 7: Public Access to the Hydrocarbons Register

Subject to the prevailing laws of Afghanistan that prohibit the disclosure of State records (publicly registered documents), the Ministry of Mines and Petroleum, in compliance with the contractual conditions, may, upon request, authorize public access to the Hydrocarbons Register without any charge and may also authorize the provision of copies of information entered in the Hydrocarbons Register upon a request being issued and the payment of a prescribed fee.

Article 8: Hydrocarbons Data Bank

The Ministry of Mines and Petroleum shall be obliged to maintain, in compliance with international standards, a Hydrocarbons Data Bank containing the following information concerning exploration and production:

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

3. Production reports.

Article 9: Management and Utilization of the Hydrocarbons Data Bank

The conditions governing the disclosure, reassessment and use of data in the Hydrocarbons Data Bank, including fees payable and sharing of any proceeds, shall be determined by the Ministry of Mines and Petroleum in compliance with the terms of the relevant Contracts for Hydrocarbons Operations.

Article 10: Provision of Information to Provincial Offices

The Ministry of Mines and Petroleum shall send the details of Contracts for Hydrocarbons Operations and Licenses, and any amendment, transfer, approval, revocation or termination thereof, as may be entered in the Hydrocarbons Register, to the provincial offices of the Ministry of Mines and Petroleum in the provinces where the area covered by the Contracts for Hydrocarbons Operations or License is situated. The provincial office, thereafter, shall inform the governor of the relevant province of the information received.

Chapter Three - Areas of Operations and Surface Rights

Article 11: Occupation and Use of State-Owned Land

(1) If, in order to carry out Hydrocarbons Operations in the Contract Area, a Contractor must occupy or use land owned by the State or subject to State-held land rights, such land shall be at the disposal of the Contractor to conduct Hydrocarbons Operations for the duration of the Contract.

(2) The State shall guarantee a suitable right of way and other rights required for Hydrocarbons Operations.

Article 12: Occupation and Use of Privately Owned Land

Where a Contractor needs to occupy or use privately owned land covered by the Contract Area to carry out Hydrocarbons Operations, the State may, upon a request by the Contractor and a proposal by the Ministry of Mines and Petroleum, take action in accordance with related laws, to obtain the consent of the owner for the purchase or lease of the area in question for the duration of the Contract for Hydrocarbons Operations. Contractors shall pay market prices for the use or occupation of such land. Any Contractor who occupies land without prior permission may be charged with trespass and treated in accordance with the applicable law.

Article 13: Right of Way

(1) In the event that a Contractor requires a right of way over State or privately owned land to conduct Hydrocarbons Operations, the State may facilitate the granting of such rights to the Contractor. In such cases, any compensation for the owner or occupier shall be borne by the Contractor.

(2) After the termination of the Contract for Hydrocarbons Operations the right of way shall be cancelled.

Article 14: Compensation of Damages to the Aggrieved

(1) If due to surface or sub-surface Hydrocarbons Operations, damages are inflicted to properties or the legal rights of Persons, the Contractor shall, taking into consideration the damages done to the surface, agricultural crops, trees, buildings or animals, pay fair compensation for the damages incurred.

(2) The amount of compensation shall be determined by way of agreement between the parties. If any of the parties are not satisfied, the matter shall be investigated by the authorities of the Ministry of Mines and Petroleum and the amount of compensation shall thus be determined.

(3) If the parties do not agree with the amount decided upon by the Ministry of Mines and Petroleum, the dispute shall be settled by a dispute resolution board, which shall consist of representatives from the Ministries of Justice, Mines and Petroleum, Agriculture, Finance and National Environmental Protection Agency. If the parties do not agree with the decision of the dispute resolution board, the dispute shall be settled through the courts.

Article 15: Restricted Areas

Unless authorized by the Ministry of Mines and Petroleum, no Person shall conduct Hydrocarbons Operations within the following areas:

1. Any land containing archeological or cultural remains as specified by the applicable law.
2. Any land inside or located within one hundred meters of any State-owned building or water dams.
3. Any land forming part(s) of an airport or a cemetery.
4. Any land used or owned by the Ministry of National Defense.
5. Any land used for public roads, highways, railways, pipelines or other public utilities.
6. Any area declared a disputed area, as identified by the Ministry of Mines and Petroleum.
7. Any area designated as a prohibited or unauthorized area by State decree.

Article 16: Permission for Operations on Private Land

(1) A Person who carries out Hydrocarbons Operations on private land shall obtain the permission of the owner, legal occupier or his competent representative. Otherwise such Person shall be deemed an illegal occupier and shall be punished in accordance with the provision of the law.

(2) The action referred to in section (1) of this Article does not apply to areas already included in Hydrocarbons Operations Contracts, unless the Contractor agrees otherwise.

Article 17: Areas Closed to Hydrocarbons Operations

(1) The Ministry of Mines and Petroleum shall act as the national interest (public health and safety, national protection, public order, incompatibility of Hydrocarbons Operations with other existing or planned uses of soil, surface or sub-surface, environmental, historical and cultural heritage protection or other natural values, welfare of vulnerable indigenous communities) so requires. The Ministry of Mines and Petroleum may propose to the Inter-Ministerial Commission that certain area(s) be declared closed to some or all Hydrocarbons Operations.

(2) If the action referred to in section (1) of this Article is carried out in an unreasonable manner, a Contractor may submit a complaint to the Inter-Ministerial Commission in accordance with Article 4 of this Law. Subject to certain limitations, the Inter-Ministerial Commission has the authority to lease certain areas for the purposes of carrying out Hydrocarbons Operations.

Article 18: Granting Mineral Licenses in Hydrocarbons Operations Areas

In accordance with the terms and conditions of the Contract and the Minerals Law of Afghanistan, the State may grant Persons licenses to prospect and explore for mineral substances within the Hydrocarbons Contract Area, provided that such new operations in no way hinder Hydrocarbons Operations. In such a case, the Contractor shall afford proper passage for the mineral rights licensee to the relevant portion of the Contract Area.

Article 19: Discovery of Mineral Substances

If minerals of economic value and capable of being developed are discovered by a Contractor during the course of Hydrocarbon Operations, the Contractor shall report such discovery as well as submit a sample thereof to the Ministry of Mines and Petroleum.

Article 20: Discovery of Historical and Cultural Items

(1) Contractors of Hydrocarbons Operations shall immediately inform the department for the inspection of mines, and the department for preservation and repair of historical items, and the Ministry of Information, Culture and Tourism upon finding traces, evidence, or a discovery of any item of historical or cultural significance during Hydrocarbons Operations.

(2) Fossils and other items included in the list of items of historic and cultural significance are historical or cultural items.

(3) No Contractor of Hydrocarbons Operations shall remove the items mentioned under sections (1) and (2) of this Article. However, the Contractor may keep them in safe custody on behalf of the State until they are transported by the relevant State authorities.

(4) If the items mentioned in section (3) of this Article are not transported by the relevant State authorities within 60 days of the date of notice, the subsequent direct expenses of keeping and safeguarding them shall be borne by the relevant State authority.

Article 21: Main Principles for Hydrocarbons Operations

(1) Hydrocarbons Operations shall be conducted in accordance with the provisions of this Law and on the basis of a Contract for Hydrocarbons Operations.

(2) The terms and conditions of Contracts for Hydrocarbons Operations shall be developed in accordance with the provisions of this Law and the Hydrocarbons Regulations.

(3) Contracts for Hydrocarbons Operations shall be implemented subsequent to the approval of the Council of Ministers.

Article 22: Contract Evaluation Team

(1) The Contract Evaluation Team for Hydrocarbons Operations Contracts shall consist of representatives of the Ministry of Mines and Petroleum, elected as per the request of the Cadastre or a related department and selected by the Minister of Mines and Petroleum, and representatives from related ministries.

(2) The Contract Evaluation Team shall have the following responsibilities:

1. Opening of Proposals.
2. Evaluation and assessment of Proposals from the bidders.
3. Announcement of the preferred bidder.

Chapter Four - Types of Contracts for Hydrocarbons Operations

Article 23: Types of Contracts

Contracts for Hydrocarbons Operations shall be one of the following types:

1. Exploration and Production Sharing Contracts (first type Contract).
2. Service and Production Sharing Contracts (second type Contract).
3. Contracts for Geological/Geophysical/Geochemical Services (third type Contract).
4. Contracts for Pipeline Operations (fourth type Contract).

Article 24: Exploration and Production Sharing Contracts

Exploration and Production Sharing Contracts shall allow the Contractor to explore for Hydrocarbons in accordance with the terms and conditions of the Contract and, in the event of a Commercial Discovery, to develop and produce Hydrocarbons, in accordance with the provisions of this Law and the Contractor shall be entitled to the specified share from the Hydrocarbons produced.

Article 25: Service and Production Sharing Contracts

Under a Service and Production Sharing Contract, the Contractor shall be granted the exclusive operating right to upgrade and rehabilitate Hydrocarbons production facilities, including well servicing operations, the provision of services and the production of Hydrocarbons in accordance with the provisions of this Law, and shall be entitled to the specified share from production.

Article 26: Contracts for Geological, Geophysical and Geochemical Services

Third type Contracts grant the right to conduct geological, geophysical and geochemical services in an identified area in accordance with the provisions of this Law and the Contract; provided that the identified area is not within the Contract Area of a first or second type Contract.

Article 27: Contracts for Pipeline Operations

Contracts for Pipeline Operations grant the right to construct pipelines and associated facilities (*e.g.* pumping stations, storage tanks or valves) and to carry out Hydrocarbons storage and transportation operations. The terms and conditions related to the construction and operation of such pipelines and related facilities, including design, route selection and safety requirements, shall be set forth in the fourth type Contract and the Hydrocarbons Regulations.

Article 28: Obligations of Contractor

In accordance with the provisions of this Law, a Contractor shall acquire title to a share of extracted Hydrocarbons as set out in its respective Contract. The Contractor may take, sell or export its share of produced Hydrocarbons, in accordance with the Contract.

Article 29: Recruitment of Other Contractors

In order to carry out Hydrocarbons Operations efficiently, the Contractor, in accordance with the provisions of this Law, may take into service independent Subcontractors to perform special operations or provide services; provided that the Contractor shall provide copies of all such subcontracts to both the Ministry of Mines and Petroleum and the Ministry of Finance.

Article 30: Contract Bidding

(1) All Hydrocarbons Operations Contracts shall be awarded through public tenders.

(2) Bidding can be done for an exploration Contract covering either one or more blocks or part(s) of either one or more blocks, or the provision of services for a specific Hydrocarbons project.

(3) Bidding terms and fees payable by bidders for participation shall be determined by the Ministry of Mines and Petroleum.

(4) Whenever necessary, the Ministry of Mines and Petroleum may, with the consent of the Contractor, propose amendments to the competent authority.

(5) In the event that there is a tie between two bidders following the evaluation of their

equally qualified bids, the Hydrocarbons Operations Contract shall be granted to the bidder with an Afghan partner.

Article 31: Solicitation of Bidders

The solicitation of bids for exploration Contracts covering one or more blocks or for the provision of services for specific Hydrocarbons projects shall be conducted in accordance with the provisions of the Procurement Law, unless otherwise ordered by the Government.

Article 32: Required Documents

The Inter-Ministerial Commission may require any papers or documents, through the Ministry of Mines and Petroleum that establish the expertise and technical and economic capability of the Contractor.

Article 33: Eligibility of Contractors

A Contract may be entered into when the Contractor is of sound reputation, is in good legal and financial standing, and demonstrates a proven ability to contribute the necessary capital, machinery, equipment, tools and technical expertise for the most effective performance of the terms and conditions of the Contract.

Article 34: Eligibility for Hydrocarbon Operation Licenses

(1) The following Persons may obtain a License for Hydrocarbons Operations:

1. Any Person who has reached the age of eighteen and is a citizen of Afghanistan.
2. Any foreign Person who has reached the age of 18 and has the legal right to reside in Afghanistan.
3. A legal entity established in accordance with the provisions of the law or formed as a secondary legal entity.
4. A foreign legal entity established in accordance with foreign law or formed as a secondary legal entity or residing in Afghanistan in accordance with related laws and with the right to invest and do business in Afghanistan.

(2) The following Persons shall not have the right to obtain a Contract for Hydrocarbons Operations:

1. High ranking State officials mentioned in Article No. 151 of the Constitution, members of the National Assembly, as well as judges, prosecutors, officials of the Ministries of Mines and Petroleum, National Defense, Interior Affairs, Foreign Affairs, and the General Department of National Security that occupy a position with a ranking higher than three on the seniority-based scale.
2. Any Person with no legal capacity.

3. Any Person declared bankrupt.
4. Any Person convicted by a conclusive judgment of the authorized court for financial, economic or administrative crimes and punished with a period of more than two years imprisonment.
5. A Person whose operation License has been prematurely revoked, terminated or withdrawn.

(3) In order to obtain a License for Hydrocarbons Operations and to provide the related information to the competent authorities, any foreign nationals referred to in section (1) of this Article shall be obliged to establish and maintain a permanent representative office in Afghanistan or to appoint an authorized agent resident in Afghanistan.

Article 35: Division of Blocks

Pursuant to the provisions of this Law, the territory of Afghanistan or parts thereof shall be divided into blocks by the Ministry of Mines and Petroleum, using a grid system. The grid system shall be described in the Hydrocarbons Regulations.

Article 36: Area Designation

The Contract Area shall be designated and specified in terms of one or more blocks or parts thereof in the Contract, in accordance with the geographical coordinates of the area or region.

Article 37: Relinquishment of Exploration Contract Area

Exploration Contractors may, upon written notice, relinquish during the Exploration Phase a part or parts of the area included in the Contract, in accordance with the relevant procedures. Part or parts of the Contract Area where a Commercial Discovery has been made shall be exempt from this.

Article 38: Term of Contract

The term of an exploration Contract shall be divided into two phases: an exploration-production phase and a development-production phase:

1. The Exploration Phase shall not exceed 10 years unless there has been a discovery of Hydrocarbons in the Contract Area and additional time is considered necessary for the completion of the operation and assessment of the discovery. In this case, the term of the Contract may be extended.
2. Where no Commercial Discovery is made during the Exploration Phase, the Contract shall be terminated.
3. Wherever a Commercial Discovery is made, its relevant Development and Production Phase shall not exceed 25 years from the date that the discovery was made.
4. In the event that a Contractor has fulfilled all its obligations during the specified period, the Contractor may, taking into consideration the provisions of this Law, ask for an extension of the Development and Production Phase for another 10 years.

5. The term of a Service Contract shall not exceed 25 years.

Article 39: Contract Termination

The conditions for Contract termination (by the State or Contractor), the period therefor and the effects of such termination shall be stipulated in the text of the Contract. In case of termination, the Contractor shall be obliged to perform the Contractor obligations, which have not been fulfilled prior to termination.

Article 40: Undertaking Activities in the Contract Areas

(1) The Contractor may undertake the following activities in the Contract Area provided under an Exploration and Production Sharing Contract or a Service and Production Sharing Contract:

1. Construct temporary or permanent residential houses, install engineering plants, construct roads and conduct other activities in accordance with this Law to facilitate Hydrocarbon Operations.
2. Use water for daily consumption and for Hydrocarbons Operations, in accordance with this Law.
3. Construct, maintain and operate airports, roads, bridges, communication systems and conveniences, in accordance with the provisions of this Law.
4. Construct water pipes, make watercourses, ponds, dams and reservoirs, lay drains and sewers and construct sewage disposal plants, in accordance with this Law.
5. Subject to the approval of the Ministry of Mines and Petroleum, provide other necessary facilities outside the Contract Area to carry out Hydrocarbons Operations.

(2) The areas mentioned in Article 15 of this Law shall be exempt from the provisions contained in section (1) of this Article.

(3) Contractors shall be obliged to compensate any losses inflicted as a result of the operations referred to in section (1) of this Article that affects any privately owned or occupied land.

(4) Prior to the commencement of the activities mentioned in (1) 1. – 4. of this Article, the Ministry of Mines and Petroleum shall obtain the approval of the relevant authorities.

Article 41: Transfer and Storage

The Contractor may transport using transportation means owned either by the State or the private sector, the Contractor's share of the Hydrocarbons to the points of sale or points of export from the country, or store it within or outside the Contract Area.

Article 42: Employment of Experts

(1) When needed, the Contractor may directly or indirectly employ foreign and domestic personnel. Priority shall be given to the Afghan nationals with equivalent qualifications and experience.

(2) The related State administrations shall be obliged to provide necessary facilities for the foreign staff of Contractors and their foreign Subcontractors to obtain work permits.

Article 43: Obligations of Contractors

The Contractor shall fulfill the following obligations:

1. Carry out specific works in the Contract Area.
2. Prepare and present annually a complete work program and budget for Hydrocarbons Operations.
3. Prepare quarterly reports on accounting records, account statements, samples and data concerning Hydrocarbons Operations for the Ministry of Mines and Petroleum.
4. Keep and maintain documents and records of current accounting and the costs of Hydrocarbons Operations during the term of the Contract, in accordance with the standard accounting methods practiced in the Hydrocarbons industry.
5. Immediately report any discovery of Hydrocarbons, in accordance with the Contract, and supply a sample thereof to the Ministry of Mines and Petroleum.
6. In the event of a Commercial Discovery of Hydrocarbons, delimit the area involved and attempt to facilitate its development and production.
7. Produce Hydrocarbons at the appropriate rate of production compatible with the nature and extent of the Hydrocarbons reservoir discovered.
8. Conduct Hydrocarbons Operations expeditiously and efficiently in accordance with generally accepted best practices in the Hydrocarbons industry, and supply equipment, storage facilities and install them, in compliance with international standards.
9. Take all measures to observe the laws and regulations for health and safety in the workplace, human rights, use of water, environmental protection and the safeguarding of affected communities.
10. Investigate, review and evaluate issues related to the impacts of the contractual Hydrocarbons Operations on the environment and the socio-economic conditions of individuals.
11. Facilitate the inspection and control of operational affairs, records of accounts, reports and account statements available for inspection and control by a relevant State official.
12. The Contractor shall be obliged to provide technology, capital, equipment, machinery, and other necessary requirements in the Contract Area at its own expenses for Hydrocarbons Operations. In the absence of a Commercial Discovery, the expenses of the Contractor shall not be compensated by the Ministry of Mines and Petroleum.

13. The Contractor must accept all probable dangers arising from Hydrocarbons Operations, and provide compensation for any losses inflicted, in accordance with this Law.
14. Provide financial security to guarantee its compliance with the obligations to the State in accordance with the Contract for Hydrocarbons Operations.

Article 44: State Actions to Hear Complaints

The State may take necessary action in accordance with the law regarding any claims made by third parties (natural or legal persons) in respect of any injury, damage or loss caused by an act or omission of the Contractor, its Subcontractors, legal agents, employees or representatives in the course of conducting the Hydrocarbons Operations.

Article 45: Operating Conditions of Hydrocarbons Industries

The operations of the Hydrocarbons industries shall be conducted under the following conditions in accordance with the provisions of this Law and the Environmental Protection Law:

1. To avoid any pollution or damages to flora and fauna, and to endeavor to protect the environment in accordance with the standards of the Hydrocarbons industries.
2. To ensure that conducting Hydrocarbons Operations does not cause any harm to the health, welfare, and well-being of the Contractor's personnel and other people.
3. Hydrocarbons Operations shall be conducted expeditiously and efficiently in accordance with international best practices in the Hydrocarbons industry, and equipment and facilities shall be supplied and installed in compliance with international standards.
4. International norms relating to labor, social protection, and human rights shall be respected and no forced labor or child labor shall be used in connection with Hydrocarbons Operations.

Article 46: Area Clean Up

Upon the termination of the Contract, the Contractor shall remove any facility or equipment which has ceased to be used, and shall render the area safe.

Article 47: Employment of Labor

- (1) The Contractor shall employ and train Afghan nationals for the operations of his/her Hydrocarbons.
- (2) Employing foreign labor is allowed only on a temporary basis and in exceptional cases.

Article 48: Procurement of Domestic Goods and Services

If Afghan goods and services are similar and equivalent in quality, quantity, and price to imported foreign

goods and services, the Contractor shall be obliged to purchase and procure the Afghan goods and services.

Article 49: Appointing Agents or Representatives

Where the Contractor is not resident in Afghanistan or their head office is located abroad, the Contractor shall be obliged to appoint a resident legal agent or representative with a legal address.

Article 50: Provision of Hydrocarbons to the State

When the State needs Hydrocarbons to meet its internal consumption requirements, Contractors shall be obliged to provide and supply to the State such quantities as are required, in addition to the quantity which the State is entitled to as a proportion of the volume of the Contractor's production, for a fair market value that is mutually accepted.

Article 51: Assignments

Unless approved by the Council of Ministers and authorized by the Ministry of Mines and Petroleum, the Contractor shall not assign, transfer, or pledge the rights or any part thereof granted under the Contract to any other Person. This Article shall not apply to the subcontracts mentioned in Article 29 of this Law.

Article 52: Matters Enclosed in the Proposed Development Program

(1) In the event that a Commercial Discovery is made under an Exploration and Production Sharing Contract, or prior to the commencement of a Service and Production Sharing Contract, the Contractor shall submit to the Ministry of Mines and Petroleum a Development Program for approval.

(2) Development Programs from the Contractor shall contain the following:

1. Environmental protection and management plans in connection with the development plan of the Commercial Discovery.
2. Commencement and decommissioning work plan for Hydrocarbons Operations, environmental impact assessment including a description of the ecosystem before commencement of the development-production phase, including the indigenous flora, fauna, soil, air quality, surface and underground water, and landscape aesthetics.
3. The effect of Hydrocarbons Operations on local populations.
4. The environmental management plan including measures for environmental protection, mitigation or eradication of pollution and compensation of damages to affected people.
5. The decommissioning and abandonment plan to restore the environment affected by the Hydrocarbons Operations in order to rehabilitate it to its natural state.
6. A development budget.

7. A commencement and working plan, including a risk management plan, for Hydrocarbons Operations.
8. An environmental impact assessment including a description of the ecosystem, including the local flora, fauna, soil, air quality, surface and underground water, and landscape aesthetics, before commencement of the relevant Development and Production Phase and the effects that the proposed development plan might have on the ecosystem.

Article 53: Compliance with the Established Orders

Contractors shall prepare a risk management plan and comply with measures and directions established by the Ministry of Mines and Petroleum to prevent any damage and remove any hazards that the Hydrocarbons Operations may cause to affected communities, Contractor's personnel and the environment.

Article 54: Health and Safety Plan

Contractors shall develop, publish, and apply a health and safety plan including an emergency action plan.

Article 55: Reporting Accidents

(1) Contractors shall report any serious accident that occurs or any imminent hazard during the Hydrocarbons Operations as soon as possible to the Ministry of Mines and Petroleum and the relevant local State authorities.

(2) In the event of any disaster or imminent danger, the Ministry of Mines and Petroleum shall take appropriate measures to resolve and prevent them.

(3) In the event of disasters or imminent danger, the Contractor shall take every measure possible in accordance with Contractor's risk management plan to mitigate or avoid such danger or disaster.

Article 56: The Environmental Protection Department

The Environmental Protection Department of the Ministry of Mines and Petroleum, established pursuant to Article 10 of the Minerals Law, shall, in cooperation with the National Environmental Protection Agency, have the following duties and responsibilities:

1. To provide advice for the protection of the environment.
2. To carry out technical studies and evaluations of environmental protection, environmental management plans, decommissioning and the assignment of work.
3. To monitor the compliance of a Contractor regarding environmental protection matters, in accordance with the provisions of the relevant laws and regulations and the Contract.
4. To ensure compliance with the Hydrocarbons Regulations regarding environmental protection

during Hydrocarbons Operations.

Article 57: Unitization

Where an accumulation of Hydrocarbons extends into several Contract Areas, the relevant Contractors may decide to jointly conduct Hydrocarbons Operations over the extent of the field as a single unit. The agreement governing the joint operations shall be subject to the approval of the Ministry of Mines and Petroleum at its earliest convenience. If the parties fail to reach an agreement within a specified time limit, the Ministry of Mines and Petroleum shall decide upon the matter.

Article 58: Contracts for Geological/Geophysical/Geochemical Services (Third Type Contracts)

(1) The State may enter into Contracts for Geological/Geophysical/Geochemical Services to acquire information upon which to base its Hydrocarbons exploration policy.

(2) A third type Contract grants the right to conduct geological, geophysical and geochemical surveys, tests and studies in an identified area; provided that the identified area is not within a first or second type Contract Area.

(3) A Contractor under a third type Contract shall report to the Ministry of Mines and Petroleum on the progress of , and provide the Ministry of Mines and Petroleum with the results and data from, such surveys, tests, or studies in accordance with the Hydrocarbons Regulations.

Article 59: Ownership of Data

(1) All data obtained pursuant to any third type Contracts shall be the property of the State. The terms and conditions for the exercise of rights in respect of related data shall be established in the respective Contract and by the Hydrocarbons Regulations. The Contractor shall inform the Ministry of Mines and Petroleum whenever rights regarding geological, geophysical, geochemical data are exercised.

(2) The Contractor may freely transfer data collected during Hydrocarbons Operations, provided that, if necessary, an electronic copy or physical sample will be maintained at the Ministry of Mines and Petroleum; or in the case of rock, liquid or any other physical samples, a usable portion of the original physical substance will be maintained at the Ministry of Mines and Petroleum.

Chapter Five - Pipelines

Article 60: Conditions for the Construction and Operation of Pipelines

(1) The construction and operation of pipelines, pumping stations, storage tanks or valves, and transportation of Hydrocarbons shall take place on the basis of a Contract for Pipeline Operations, and issuance of a related License. The terms and conditions related to the construction and

operation of such pipelines and related facilities, including design, route selection and safety requirements, shall be set forth in the Contract for Pipeline Operations and the Hydrocarbons Regulations.

(2) A separate Contract for Pipeline Operations and License will not be required for the construction and operation of pipelines and related facilities by Contractors under the first and second type Contracts; provided that the terms and conditions for the construction and operation of such pipelines and related facilities, including design specifications, route selection, required rights of way, safety requirements, and all other relevant information, shall be specified in the Development Program and approved by the Ministry of Mines and Petroleum in accordance with provisions of this Law.

Article 61: Transportation Terms and Tariffs

(1) The transportation tariffs for the use of the pipeline shall be determined by the Ministry of Mines and Petroleum.

(2) Should the State or a Contractor need to transfer their additional Hydrocarbons through a pipeline owned by a Person according to the provisions of this Law and the relevant regulations, they shall request the consent of the pipeline owner. In the absence of an agreement with the owner, the Ministry of Mines and Petroleum, taking into consideration any contractual obligations of the pipeline owner, shall make an appropriate determination concerning the use of the pipeline.

Chapter Six - Income Tax on Hydrocarbons

Article 62: Accounts

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

Article 63: Payment of Taxes

(1) Contractors shall be required to pay their income taxes, levies and customs duties in accordance with the provisions of applicable laws.

(2) In order to protect Contractors, the Ministry of Mines and Petroleum may consider financial assurances on the stability of taxes, levies, and charges, in accordance with the provisions of enforced laws of Afghanistan and in coordination with the Ministry of Finance.

Article 64: Royalties

(1) Contractors shall be required to pay royalties upon the production of Liquid Hydrocarbons and Natural Gas in accordance with the Hydrocarbons Regulations and as set out in the applicable first and second type Contracts.

(2) The royalty rate for the quantities of Liquid Hydrocarbons and Natural Gas, after deducting the amounts consumed in the conduct of production operations, shall be determined by the Inter-Ministerial Commission as per the proposal of the Ministry of Mines and Petroleum.

Article 65: Surface Rental Fees

(1) Contractors shall pay surface rental fees for the land used by them to the owner or occupier of the Contract Area.

(2) The rental fee per hectare of land shall be specified by the Hydrocarbons Regulations.

(3) Fees, royalties and surface rental fees shall be collected by the Ministry of Mines and Petroleum and deposited to the single treasury account of the Government.

Article 66: Violations

(1) Where, at the time of inspection of a Contract that has been entered into, it is found that false or fraudulent information has been presented by the Contractor or information has been withheld by the Contractor, the Ministry of Mines and Petroleum may require the Contractor to provide any necessary information. If the Contractor fails to provide such information or the explanations presented are not satisfactory, and the incorrect information provided or an omission constitutes a material breach of the Contract, the Contract may be revoked by the authorities and the State shall be entitled to compensation for losses incurred as a result of the breach of Contract.

(2) The Ministry of Mines and Petroleum shall publish reasons justifying revocation of the Contract and shall send a copy thereof to the Contractor. In this case, the rights and privileges granted to the Contractor shall be suspended and the area concerned and securities provided shall be forfeited to the State.

(3) Cases for collection of fines and compensation of losses connected with violations of this Law shall be specified in the Hydrocarbons Regulations.

(4) Whenever the Contractor is not satisfied with the decision to revoke the Contract, pay damages or fines as referred to in this Law the matter shall be referred to commercial arbitration or to a competent court.

(5) Where a Contractor is in breach of Contract, and such a breach may have an impact on the environment or on the safety of employees or third parties, the Ministry of Mines and Petroleum may order the suspension of Hydrocarbon Operations for a period not exceeding 6 months.

(6) Breach of the Contract by either party shall entitle the other party to seek remedies for breach of Contract.

(7) Where the Contractor repeatedly or materially violates the Contract, the Contract may be revoked by the authorities and the State shall be entitled to compensation for losses incurred as a result of the breach of Contract.

(8) The Ministry of Mines and Petroleum shall be authorized to levy fines for violations of this Law, subject to conditions and levels set out in the Hydrocarbons Regulations.

(9) Penalties for infractions against the Environmental Law shall be determined pursuant to that law and related regulations.

Article 67: Transfer of Foreign Exchange

The Contractor shall comply with the banking legislation of the country. In the process of the payment of taxes, the fulfillment of financial obligations and of other related charges imposed by State, the Contractor may:

1. Import foreign currency to carry out Hydrocarbons Operations.
2. Transfer foreign currency outside the country for the payment of debts incurred to finance Hydrocarbons Operations and to make payments to suppliers of machinery, equipment and tools that are required for Hydrocarbons Operations.
3. Transfer foreign currency to shareholders abroad for the payment of dividends and other profits accruing from Hydrocarbons Operations.
4. Transfer foreign currency capital invested in the Hydrocarbons Operations.
5. Transfer foreign exchange, assets and proceeds of sale of Contractors' assets, or compensation of damages related to any foreign investment.
6. Freely purchase Afghan currency or foreign exchange at the open market exchange rate.
7. Have bank accounts in Afghani or foreign exchange or both in Afghanistan.
8. Have bank accounts in foreign currency outside Afghanistan in accordance with the laws and regulations of Da Afghanistan Bank (the central bank of Afghanistan).

Article 68: Expropriation

(1) The rights of a Contractor under a Contract for Hydrocarbons Operations, the assets of the Contractor and the share of Hydrocarbons to which it is entitled under the Contract may not be expropriated directly or indirectly except if authorized by a law and in the case of public necessity.

(2) In the event of expropriation, the State shall provide fair compensation in conformity with principles of international law and the payment of such compensation shall be made to the Contractor in freely convertible foreign currency.

Article 69: Prohibition of Bribing State Officials

Neither the Contractor nor any other Person shall offer or provide directly or indirectly any funds or substance of material and spiritual value as compensation, gratuity, gift or fees to any State officials of Afghanistan or any third party that are aimed at compelling such officials to award any Contract, permit, License, and other related facilities. Any breach of this provision shall result in the revocation of the Contract as well as the imposition of specific penalties.

Article 70: Dispute Resolution

- (1) If the Contractor is a Domestic Natural Person or a Domestic Legal Entity, then any dispute between the State and the Contractor shall be settled in the local courts of justice.
- (2) If the Contractor is a Foreign Natural Person or Foreign Legal Entity, then the following shall apply:
 1. Any dispute that arises between the State and the Contractor shall be settled in accordance with the contents of the Contract. If the dispute between the State and the Contractor cannot be resolved, the case shall be brought to the International Center for Settlement of Investment Disputes (ICSID) pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States as of March, 18, 1965.
- (3) If the ICSID is not applicable or the Contractor prefers settlement by the United Nations Commission on International Trade Law (UNCITRAL) or any other arbitration or procedure for dispute settlement agreed to by the Ministry of Mines and Petroleum and the Contractor, the State may agree to refer the dispute to (UNCITRAL) according to the provisions of the UNCITRAL Arbitration Rules (1976).
- (4) If more than 25% of the Contract is owned by a foreign investor, the Contractor shall be deemed a foreign citizen and disputes shall be resolved in accordance with section (1) of Article 25 of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States.
- (5) If more than 25% of the Contract is owned by the State, with the consent of the State, the dispute shall be submitted in accordance with section (3) of Article 25 of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States.
- (6) Where the State is a party to an arbitral proceeding under this Article, the Minister of Mines and Petroleum, the Minister of Justice and authorized representative of the Attorney General are empowered to represent the State, either as a claimant or as a defendant, both within Afghanistan and abroad.

Article 71: Effective Date

- (1) For a more effective implementation of this Law, the Ministry of Mines and Petroleum shall draft and promulgate regulations.
- (2) This Law shall enter into force as of the date of promulgation and shall be published in the official Gazette with enforcement of this Law. The hydrocarbons law which was published in the official Gazette No. (880) shall be void.