

# Petroleum Act

## PREAMBLE

According to international law, Timor-Leste has sovereign rights for the purpose of exploring, exploiting and managing its natural resources, including Petroleum resources. In its Territory, Timor-Leste has title to all Petroleum resources in the ground, whether on land or at sea.

The purpose of the Petroleum Act (the “Act”) is to provide maximum benefit to Timor-Leste and its people from its petroleum resources by creating a regulatory regime that allows petroleum companies to develop these petroleum resources.

The Act empowers the Ministry to authorise petroleum companies to explore for and develop petroleum resources. Other petroleum regimes were considered, with a view to creating a regime that is internationally competitive, and will promote investment in the development of the petroleum sector.

The petroleum resources that belong to Timor-Leste are a strategic component of the economy, have great potential value, and are expected to generate significant revenues for Timor-Leste. Besides aiming to generate maximum revenues to Timor-Leste from these resources, the Act also aims to contribute to Timor-Leste’s broader development goals. Revenues from, and development of, petroleum will allow Timor-Leste to address more fully its development needs and priorities, further strengthen its human resources, consolidate the gains achieved so far, accelerate and sustain economic growth, reduce poverty and improve the welfare of the people of Timor-Leste.

The Act aims to ensure stability and transparency in the regulation of petroleum development. In this regard, it is complemented by existing and future transparency requirements in Timor-Leste, including in relation to the publication and saving of petroleum revenues.

Pursuant to Section 95.1 and Article 139 of the Constitution of Timor-Leste, the National Parliament enacts the following that shall have the force of law:

## CHAPTER I – GENERAL PROVISIONS

### Article 1 Citation

This Act may be cited as the “Petroleum Act”.

## Article 2 Definitions

In this Act:

“Access Authorisation” means an authorisation granted pursuant to Article 11;

“Act” means this *Petroleum Act*, as amended or modified from time to time, and regulations made and directions given under it;

“Affiliate” means, in respect of an Authorised Person (or, if more than one Person, in respect of each such Person), a Person that Controls, is Controlled by, or is under common Control with, the Authorised Person or any such Person, as the case may be;

“Authorisation” means an Access Authorisation, a Petroleum Contract, a Prospecting Authorisation or a Seepage Use Authorisation or any agreement made in respect of such an Authorisation or Contract;

“Authorised Area” means the area from time to time the subject of an Authorisation;

“Authorised Person” means:

- (a) in respect of a Petroleum Contract, a Contractor; and
- (b) in respect of any other Authorisation, the Person to whom the Authorisation has been granted;

“Calendar Year” means a period of twelve months commencing on January 1 and ending on the following December 31, according to the Gregorian calendar;

“Code” means the *Petroleum Mining Code* adopted pursuant to Article 7, paragraph (a) of the Treaty, as amended, varied, modified or replaced from time to time, and regulations made and directions given under it;

“Contract Area” means the Authorised Area under a Petroleum Contract;

“Contractor” means a Person with whom the Ministry has made a Petroleum Contract;

“Control” means, in relation to a Person, the power of another Person to secure:

- (i) by means of the holding of shares or the possession of voting power, in or in relation to the first Person or any other Person; or
- (ii) by virtue of any power conferred by the articles of association of, or any other document regulating, the first Person or any other Person,

that the affairs of the first Person are conducted in accordance with the wishes or directions of that other Person;

“Crude Oil” means crude mineral oil and all liquid hydrocarbons in their natural state or obtained from Natural Gas by condensation or extraction;

“Decommission” means, in respect of the Authorised Area or a part of it, as the case may be, to abandon, decommission, transfer, remove and/or dispose of structures, facilities, installations, equipment and other property, and other works, used in Petroleum Operations in the Authorised Area, to clean up the Authorised Area and make it good and safe, and to protect the environment;

“Good Oil Field Practice” has the meaning in Section 23.1;

“Government” means the Government of the Democratic Republic of Timor-Leste;

“Inspector” has the meaning in Section 26.1;

“Ministry” means the ministry or other agency, from time to time, responsible for the administration of this Act;

“Natural Gas” means all gaseous hydrocarbons and inerts, including wet mineral gas, dry mineral gas, casing head gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas, but not Crude Oil;

“Operator” means an Authorised Person or other Person named in an Authorisation or unitisation agreement to organise and supervise Petroleum Operations;

“Parliament” means the National Parliament of Timor-Leste;

“Person” includes a corporation or other legal entity;

“Petroleum” means:

- (i) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (ii) any mixture of naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state; or
- (iii) any Petroleum (as defined above) that has been returned to a reservoir;

“Petroleum Contract” means a contract, licence, permit or other authorisation made or given pursuant to Article 10;

“Petroleum Operations” means activities for the purposes of:

- (i) prospecting for Petroleum;
- (ii) exploration for, development, exploitation, sale or export of Petroleum; or
- (iii) construction, installation or operation of any structures, facilities or installations for the development, exploitation and export of Petroleum, or decommissioning or removal of any such structure, facility or installation;

“Prospecting Authorisation” means an authorisation granted pursuant to Article 9;

“Public Officer” means a civil servant or equivalent individual, members of Parliament or of Government, Judges or Public Prosecutors;

“Reservoir” means a porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) that is confined by impermeable rock and/or water barriers and is characterized by a single natural pressure system;

“Seep” means, in respect of Petroleum, Petroleum which is seeping to the surface, naturally, through natural conduits;

“Seepage Use Authorisation” means an authorisation granted pursuant to Article 12;

“State-Owned Contractor” means the Contractor incorporated under the laws of Timor-Leste which is controlled, directly or indirectly, by Timor-Leste;

“Territory of Timor-Leste” consists of the territory of Timor-Leste, including its territorial sea, together with its exclusive economic zone and continental shelf where, by international law, Timor-Leste has sovereign rights for the purposes of exploring for and exploiting its natural resources;

“Timor-Leste” means the Democratic Republic of Timor-Leste;

“Treaty” means the Timor Sea Treaty between the Government of Timor-Leste and the Government of Australia signed on 20th May 2002;

“Well” means a perforation in the earth’s surface dug or bored for the purpose of producing Petroleum; and

“Wellhead” means the point where Petroleum exits the confines of the Well and associated systems.

### **Article 3 Territorial Scope of Act**

1. This Act applies to the Territory of Timor-Leste.
2. Except as otherwise provided, this Act does not apply to any area that is subject to a provisional arrangement within the meaning of Section 83(3) of the United Nations Convention on the Law of the Sea, done at Montego Bay December 10, 1982.

### **Article 4 Material Scope of Act**

1. This Act applies to Petroleum Operations.
2. The existence of an Authorisation in force in a given area does not prevent authorisation of the exploration and exploitation of mineral substances other than Petroleum, provided

that such other activity does not hinder the proper performance of the Petroleum Operations.

### **Article 5 Title to Petroleum**

1. Title to, and control over, Petroleum in the Territory of Timor-Leste are vested in Timor-Leste.
2. A Person may acquire title to Petroleum only after it has been lawfully recovered.

### **Article 6 Exercise by the Ministry of its Powers and Functions**

1. The Ministry shall exercise its powers and discharge its functions under this Act, including under Authorisations made hereunder, in such a manner as:
  - (a) to ensure sound resource management;
  - (b) to ensure that Petroleum is developed in a way that minimises damage to the natural environment, is economically sustainable, promotes further investment and contributes to the long-term development of Timor-Leste;
  - (c) is reasonable; and
  - (d) is consistent with Good Oil Field Practice.
2. Before exercising any such power or discharging any such function, the Ministry may give opportunity to Persons likely to be affected to make representations to it, and shall give consideration to the relevant representations received by it.

### **Article 7 Restrictions to Rights of Public Officers**

1. A Public Officer shall not acquire, attempt to acquire or hold:
  - (a) an Authorisation or an interest, whether direct or indirect, in an Authorisation; or
  - (b) a share in a corporation (or an Affiliate of it) that holds an Authorisation.
2. Any instrument that grants or purports to grant, to a Public Officer, an interest, whether direct or indirect, in an Authorisation shall, to the extent of the grant, be void.
3. The acquisition or holding of an Authorisation, interest or share by the minor children or spouse of a Public Officer shall be deemed to be an acquisition or holding by the Public Officer.

## **Article 8 Graticulation**

For the purposes of this Act, the Territory of Timor-Leste, or parts thereof, shall be divided into blocks according to a grid system.

# **CHAPTER II – AUTHORISATION OF PETROLEUM OPERATIONS**

## **Article 9 Prospecting Authorisations**

1. The Ministry may grant a Prospecting Authorisation, in respect of a specified area, to a Person or a group of Persons.
2.
  - (a) A Prospecting Authorisation grants a right to perform geological, geophysical, geochemical and geotechnical surveys in the Authorised Area.
  - (b) The Prospecting Authorisation shall require the Authorised Person to report on the progress and results of such prospecting, and to maintain confidentiality with respect thereto.
  - (c) Nothing in a Prospecting Authorisation authorises the holder to drill a Well or to have any preference or right to make a Petroleum Contract.
3. Prior to granting a Prospecting Authorisation in respect of an area that is the subject of an existing Authorisation, the Ministry shall give written notice to the holder of the existing Authorisation.
4.
  - (a) The holder of a Prospecting Authorisation may surrender it at any time by written notice to the Ministry, provided that the Authorised Person has fulfilled all its obligations thereunder.
  - (b) If the holder has not complied with a condition to which the Prospecting Authorisation is subject, the Ministry may terminate it by written notice to the holder.

## **Article 10 Petroleum Contracts**

1. The Ministry may conclude a Petroleum Contract, in respect of a specified area, with a Person or a group of Persons provided that if a group, such group has entered into a joint operating agreement approved by the Ministry under Section 18.1.
2. In order to be eligible to enter into a Petroleum Contract, a Person must:

- (a) have, or have access to, the financial capability, and the technical knowledge and technical ability, to carry out the Petroleum Operations in the Contract Area;
  - (b) not have a record of non-compliance with principles of good corporate citizenship; and
  - (c) be a limited liability corporation or entity with limited liability.
3.
  - (a) Without prejudice to Articles 11 and 12, a Petroleum Contract grants to the Contractor the exclusive right to conduct Petroleum Operations in the Contract Area.
  - (b) The Petroleum Contract may be limited to Crude Oil, Natural Gas or other constituents of Petroleum.
4.
  - (a) A Contractor shall give written notice to the Ministry within twenty four (24) hours whenever any Petroleum is discovered in its Authorised Area.
  - (b) The Contractor shall provide such information relating to the discovery requested by the Ministry.
5. A Petroleum Contract shall oblige the Contractor to carry on Petroleum Operations only in accordance with work programmes, plans and budgets approved by the Ministry.

### **Article 11 Access Authorisations**

1.
  - (a) The Ministry may grant an Access Authorisation, in respect of a specified area, to a Person or a group of Persons.
  - (b) The Ministry may not grant an Access Authorisation in respect of an area that is the subject of a Petroleum Contract, a Prospecting Authorisation or a Seepage Use Authorisation until it has taken into account any submissions made by the holders of such Authorisations in such a way that there is no undue interference with the rights of that other Authorised Person.
2.
  - (a) An Access Authorisation, while it remains in force, authorises the holder to do one or more of the following:
    - (i) construct, install and operate structures, facilities and installations; and
    - (ii) carry out other works;as specified in the Authorisation in the Authorised Area.
  - (b) Nothing in an Access Authorisation authorises the holder to drill a Well.
3.
  - (a) An Access Authorisation:

- (i) may be surrendered by the holder by written notice to the Ministry, provided that the Authorised Person has fulfilled all its obligations thereunder; and
  - (ii) may be terminated by the Ministry at any time by written notice to the holder, if the holder has not complied with a condition to which the Authorisation is subject.
- (b) The Ministry shall provide written notice of the surrender or termination to any Authorised Person in whose Authorised Area operations were authorised to be carried on by the Access Authorisation concerned.
4. The Ministry may give a direction to the holders of Access Authorisations and to other Authorised Persons regarding the coordination of their respective Petroleum Operations.

### **Article 12 Seepage Use Authorisations**

- 1.
  - a) The Ministry may grant a Seepage Use Authorisation in respect of a specified area.
  - b) The Ministry may grant a Seepage Use Authorisation to a Person who is acting for this purpose on behalf of a class of Persons specified in the Authorisation.
- 2.
  - (a) A Seepage Use Authorisation grants an exclusive right to exploit a Seep in a specified area.
  - (b) A Seepage Use Authorisation shall require the Authorised Person to report on the progress and results of such exploitation.
  - (c) A Seepage Use Authorisation shall specify the maximum depth to which the Authorised Person may drill a Well.
- 3.
  - (a) Notwithstanding paragraph 10.3(a), a Seepage Use Authorisation may be granted in respect of an area that is already the subject of an Authorisation other than a Seepage Use Authorisation, and the Seepage Use Authorisation prevails if there is conflict.
  - (b) Prior to granting a Seepage Use Authorisation in respect of an area that is the subject of an existing Authorisation, the Ministry shall give written notice to the holder of the existing Authorisation.
  - (c) Any Authorisation granted subsequent to the Seepage Use Authorisation shall be subject to the rights of holders of Seepage Use Authorisations.
- 4.
  - (a) A Seepage Use Authorisation:



- (i) may be surrendered by the holder by written notice to the Ministry, provided that the Authorised Person has fulfilled all its obligations thereunder; and
  - (ii) may be terminated by the Ministry at any time by written notice to the holder, if the holder has not complied with a condition to which the Seepage Use Authorisation is subject.
- (b) The Ministry shall provide written notice of the surrender or termination to any Authorised Person in whose Authorised Area operations were authorised to be carried on by the Seepage Use Authorisation concerned.

### **Article 13 Invitation to Apply**

1.
  - (a) The Ministry shall invite, by public notice, applications for Authorisations.
  - (b) Notwithstanding paragraph 13.1(a), the Ministry may elect to award Authorisations through direct negotiation without issuing such invitations:
    - (i) in the case of Access Authorisations; or
    - (ii) in the case of all other Authorisations, where it is in the public interest to do so.
  - (c) If the Ministry grants an Authorisation without inviting applications, it shall provide reasons for its so doing.
  - (d) The application shall be submitted in one of the official languages of Timor-Leste or, in the event that they are written in any other language, be accompanied by an official translation into one of the official languages of Timor-Leste, and shall be submitted in a closed envelope.
2.
  - (a) An invitation shall specify the area concerned, the proposed activities, the criteria upon which applications will be assessed, the applicable fees (if any) to be paid with the application, and the time by which, and the manner in which, applications may be made.
  - (b) Unless the invitation otherwise states, the Ministry may choose not to award an Authorisation to any of the applicants.
3.
  - (a) An application for an Authorisation shall include proposals for:
    - (i) securing the health, safety and welfare of persons involved in or affected by the Petroleum Operations;
    - (ii) protecting the environment, preventing, minimising and remedying pollution, and other environmental harm from the Petroleum Operations;

- (iii) training of, and giving preference in employment in the Petroleum Operations to, nationals of Timor-Leste; and
  - (iv) the acquisition of goods and services from Persons based in Timor-Leste.
- (b) An Authorisation awarded to an applicant obliges it to comply with its proposals as mentioned in paragraph 13.3(a).
4. The Ministry shall not grant an Authorisation in respect of an area until it has given due consideration to all applications made in response to, and in compliance with, an invitation.

#### **Article 14 Succession of Petroleum Operations Under the Treaty**

Once the Treaty is no longer in force, the Ministry shall grant an Authorisation or conclude a Petroleum Contract with those Persons who were engaged in Petroleum Operations under the terms of the Treaty under conditions equivalent to those that were in place under the Treaty, with the addition of incorporation of the terms included in Article 22.

#### **Article 15 Petroleum Operations Generally**

1. Every Petroleum Contract, Access Authorisation and Seepage Use Authorisation shall require that third party access be granted on reasonable terms and conditions.
2.
  - (a) If there is more than one Authorised Person in respect of a particular Authorisation, the obligations and liabilities of the Authorised Person under an Authorisation are the obligations and liabilities of them all, jointly and severally.
  - (b) With respect to a Petroleum Contract, the State-Owned Contractor may be exempted by the Ministry of the requirement set out in paragraph 15.2(a).
3. An Authorisation is void *ab initio*, if obtained in violation of the laws of Timor-Leste, including laws concerning corruption.

#### **Article 16 Restitution and Reparation**

1. Without prejudice to any criminal liability of that Person, a Person who engages in Petroleum Operations other than pursuant to an Authorisation shall:
  - (a) make restitution to Timor-Leste of an amount equal to the market value of Petroleum developed, exploited or exported, together with late payment interest thereon at a rate not to exceed the legal rate of interest to be determined by the Ministry;

- (b) either forfeit all infrastructure and equipment used in engaging in those Petroleum Operations, or remove such infrastructure and equipment or be liable for the payment of the costs of such removal; and
  - (c) clean-up pollution resulting from those Petroleum Operations, or reimburse the costs of clean-up to Timor-Leste.
2. The liabilities under Section 16.1 shall apply cumulatively, or not, as is determined to be appropriate by the Ministry, with a view to place Timor-Leste in the position in which it would have been were it not for the Petroleum Operations engaged in other than pursuant to an Authorisation.
3. The liabilities under Section 16.1 of Persons who, together, are engaged in, or have engaged in, Petroleum Operations are the liabilities of them all, jointly and severally.

### **Article 17    Restrictions on Exercise of Rights**

1. (a) An Authorised Person shall not exercise any of the rights granted under an Authorisation or under this Act:
- (i) on any public immovable property without the consent of the responsible authority;
  - (ii) on any private immovable property of the State without the consent of the responsible authority; or
  - (iii) on any private immovable property without payment of fair and reasonable compensation to the owner.
- (b) The owner of any immovable property in an Authorised Area retains rights to the use of its land except in so far as the use interferes with Petroleum Operations.
- (c) An Authorisation may limit or otherwise control the use by an Authorised Person of public infrastructure, and the consumption of other natural resources, including trees, sand, gravel, rock and water.
- (d) An Authorisation does not constitute a waiver of the obligation to seek the written consent of responsible authorities.
2. An Authorised Person shall not exercise any of the rights under an Authorisation or under this Act in a way that interferes with fishing, navigation or any other lawful offshore operation without the written consent of the responsible authority.
3. (a) The Authorised Person is liable to pay fair and reasonable compensation if, in the course of Petroleum Operations, it:

- (i) disturbs the rights of the owner of any immovable property, or causes any damage thereon; or
    - (ii) demonstrably interferes with fishing, navigation or any other lawful offshore activities.
  - (b) Where the value of any rights have been enhanced by the Petroleum Operations, compensation payable in respect of such rights shall not exceed any amount which would be payable if the value had not been so enhanced.
4. What constitutes fair and reasonable compensation under this Article 17 shall be decided by the Ministry, after having considered representations by interested parties.

### **Article 18 Approvals by Ministry**

1. A joint operating agreement, a lifting arrangement and any agreement related to the Petroleum Operations, as well as any changes to such agreements, shall be subject to prior approval by the Ministry.
2.
  - (a) All changes in Control of an Authorised Person shall be subject to prior approval by the Ministry.
  - (b) Where a change in Control occurs without the prior approval of the Ministry, the Ministry may terminate the applicable Authorisation.
  - (c) Paragraph 18.2(a) does not apply if the change in Control is the direct result of an acquisition of shares or other securities listed on a recognised stock exchange.
  - (d) For the purposes of paragraph 18.2(a), change in Control includes a Person ceasing to be in Control (whether or not another Person becomes in Control), and a Person obtaining Control (whether or not another Person was in Control).
3. Except with the prior written consent of the Ministry, or as explicitly provided in the terms of the Authorisation, no assignment, transfer, conveyance, novation, merger, encumbrance or other similar dealing in respect of an Authorisation shall be of any force or effect.

### **Article 19 Unitisation Contract**

1.
  - (a) Where a Reservoir is partly within a Contract Area, and partly in another Contract Area:
    - (i) the Ministry may require by written notice the Contractors to enter into a unitisation agreement with each other for the purpose of securing the more effective and optimised production of Petroleum from the Reservoir; and

- (ii) if no agreement has been reached within a period of eighteen (18) months from receipt of written notice as required in sub-paragraph 19.1(a)(i), the Ministry shall decide on the unitisation agreement.
  - (b) Where a Reservoir is partly within a Contract Area and partly in an area that is not the subject of a Petroleum Contract:
    - (i) the Ministry may require by written notice the Contractor to enter into a unitisation agreement with the Ministry for the purpose of securing the more effective and optimised production of Petroleum from the Reservoir; and
    - (ii) if no agreement has been reached within a period of eighteen (18) months from receipt of written notice as required in sub-paragraph 19.1(b)(i), the Ministry shall decide on the unitisation agreement, unless otherwise provided in the Petroleum Contract.
2. Without limiting the matters to be dealt with, the unitisation agreement shall define the amount of Petroleum in each area covered by the unitisation agreement, and shall appoint the Operator responsible for production of the Petroleum covered by the unitisation agreement.
  3. The Ministry may approve the development or exploitation of the Reservoir only after it has approved or decided the unitisation agreement.
  4. Any changes to the unitisation agreement shall be subject to prior approval by the Ministry.

## **Article 20 Resolution of Disputes**

1. (a) The Ministry may inquire into and decide all disputes involving Persons engaged in Petroleum Operations, either:
  - (i) among themselves, where agreements between them do not specify a dispute resolution mechanism; or
  - (ii) in relation to third parties (other than the Government) not so engaged, as long as these third parties accept the jurisdiction of the Ministry for the resolution of the dispute.
- (b) The Ministry may refuse to decide any dispute referred to it and, if it does so, it shall notify the parties to the dispute in writing.
- (c) The Ministry may, taking into account all relevant circumstances, give any direction which may be necessary for the purpose of giving effect to its decision in proceedings pursuant to this Article 20, including ordering the payment, by any

party to a dispute, to any other party to the dispute of such compensation as may be fair and reasonable.

2. (a) If a dispute arises relating to the interpretation and/or application of the terms of an Authorisation between an Authorised Person and the Ministry, the parties shall attempt to resolve that dispute by means of negotiation.
- (b) If the dispute cannot be resolved by negotiation, either party may submit the dispute to arbitration or to the competent judicial authority.

### **Article 21 Exemption from or Variation of Conditions**

The Ministry may exempt an Authorised Person from complying with the conditions of its Authorisation, and may also agree to vary or suspend those conditions, either with or without conditions and either temporarily or permanently

## **CHAPTER III – STATE PARTICIPATION**

### **Article 22 State Participation in Petroleum Operations**

1. The decision by Timor-Leste to participate in Petroleum Operations shall be made by the Council of Ministers, which can delegate such competence to the Prime Minister.
2. This Act shall apply to the State-Owned Contractor in the same terms as is applicable to any other Contractor, with the required adaptations
3. Each Authorisation shall stipulate the right of Timor-Leste to participate in Petroleum Operations, up to a maximum equity of 20%.
4. The participation of Timor-Leste may occur during any phase of Petroleum Operations in accordance with the terms and conditions to be established by contract.

## **CHAPTER IV – CONDUCT OF PETROLEUM ACTIVITIES**

### **Article 23 Work Practices**

1. Petroleum Operations shall be conducted in accordance with Good Oil Field Practice, that is, in accordance with such practices and procedures employed in the petroleum industry worldwide by prudent and diligent operators under conditions and circumstances

similar to those experienced in connection with the relevant aspect or aspects of the Petroleum Operations, principally aimed at guaranteeing:

- (i) conservation of Petroleum resources, which implies the utilization of adequate methods and processes to maximize the recovery of hydrocarbons in a technically and economically sustainable manner, with a corresponding control of reserves decline, and to minimize losses at the surface;
  - (ii) operational safety, which entails the use of methods and processes that promote occupational security and the prevention of accidents;
  - (iii) environmental protection, that calls for the adoption of methods and processes which minimize the impact of Petroleum Operations on the environment;
2. Production of Petroleum shall take place:
- (a) in such a manner that as much as possible of the Petroleum in place in each individual Petroleum deposit, or in several deposits in combination, will be produced;
  - (b) in accordance with Good Oil Field Practice and sound economic principles; and
  - (c) in such a manner that waste of Petroleum or reservoir energy is avoided.
3. Contractors shall carry out continuous evaluation of production strategy and technical solutions, shall take the necessary measures in order to achieve this, and shall inform the Ministry of any relevant changes, in accordance with Good Oil Field Practice.

## **Article 24 Decommissioning**

1. An Authorised Person shall Decommission on the earlier of:
- (a) termination of the Authorisation; and
  - (b) when no longer required for Petroleum Operations;
- and, in either case:
- (c) except with the consent in writing of the Ministry and in accordance with the conditions of the consent; or
  - (d) unless the Authorisation otherwise provides.

## CHAPTER V – INFORMATION AND INVESTIGATION

### Article 25 Data and Information

1. Timor-Leste shall have title to all data and information, whether raw, derived, processed, interpreted or analysed, obtained pursuant to any Authorisation.
2. Data and information acquired during the course of Petroleum Operations may be freely exported by Authorised Persons provided that the Ministry may require that an original, or in the case of a core, rock, fluid or other physical sample, a usable portion of the original, of all data and information, both physical and electronic, be kept in Timor-Leste.

### Article 26 Audit and Inspection

1. (a) The Ministry may appoint a person to be an inspector for the purposes of this Act (an “Inspector”).  
(b) The Inspector will have the powers and rights provided to it in the regulations.
2. On request, an Authorised Person shall make its books and accounts available to the Ministry for auditing.

### Article 27 Termination of Authorisations

1. (a) Termination of an Authorisation for any reason is without prejudice to rights and obligations expressed in this Act or the Authorisation to survive termination, or to rights and obligations accrued thereunder prior to termination, and all provisions of an Authorisation reasonably necessary for the full enjoyment and enforcement of those rights and obligations survive termination for the period so necessary.  
(b) The Ministry shall have the power to terminate an Authorisation as set out in the Authorisation.
2. (a) If there is more than one Authorised Person in respect of a particular Authorisation and circumstances arise in which the Ministry may terminate an Authorisation, the Ministry may elect to terminate an Authorisation only in respect of those Authorised Persons whose acts or omissions (or in relation to whom acts, omissions or events have occurred which) have led to such circumstances, and shall so notify the remaining Authorised Persons.  
(b) Should the Ministry terminate an authorisation under paragraph 27.2(a), it shall give the remaining Authorised Persons right of preference in the acquisition of the



terminated share, in proportion to their respective shares. Any share not acquired by the remaining Authorised Persons shall revert to Timor-Leste.

### **Article 28 Indemnification of the Government and Ministry**

1. An Authorised Person shall:
  - (a) defend, indemnify and hold harmless the Government and Ministry from all claims by third parties resulting, directly or indirectly, from Petroleum Operations, and pay all compensations relating to any civil liability claims, pretensions or demands; and
  - (b) unless the Ministry is satisfied, after consultation with the Authorised Person, that the potential liability under Article 28, paragraph (a) can be covered by other means, maintain insurance in respect thereof on a strict liability basis for such amount as the Ministry requires from time to time.

## **CHAPTER VI – PUBLIC INFORMATION**

### **Article 29 Publication by Ministry**

1. The Ministry shall publish, in the *Jornal da República*:
  - (a) notice of the grant of Authorisations, and a summary of the terms of such Authorisations;
  - (b) invitations for applications for Authorisations under Section 13.1(a); and
  - (c) notice of the termination of Authorisations.
2. The Ministry shall publish invitations for applications for Authorisations under Section 13.1 (a) in the media, in such manner as is required by regulation.

### **Article 30 Public Information**

1. (a) The Ministry shall make available to the public:
  - (i) copies of all Authorisations and amendments thereto, whether or not terminated;

- (ii) details of exemptions from, or variations or suspensions of, the conditions of an Authorization under Article 21; and
    - (iii) copies of all unitisation agreements.
  - (b) The Ministry shall make available to the public, within a reasonable period of time of a request having been made therefor, summary details of:
    - (i) the Authorisations (and amendments thereto, whether or not terminated) and unitisation agreements contemplated in paragraph 30.1(a);
    - (ii) an approved Development Plan;
    - (iii) all assignments and other dealings consented to in respect of Authorisations, subject to commercial confidence as to the commercial terms; and
    - (iv) all Authorisations (and amendments thereto, whether or not terminated) and unitisation agreements in compliance with the Code.
  - (c) The Ministry shall make available to the public, within a reasonable period of time of a request having been made therefor, the summary details pertaining to Petroleum Operations in the area covered by the Treaty, provided in compliance with the Code.
- 2. Within ten (10) business days of a request having been made, the Ministry shall publish brief reasons for:
  - (a) granting an Authorisation subsequent to an invitation, as contemplated at paragraph 13.1(a);
  - (b) granting an Authorisation without inviting applications, as contemplated at paragraph 13.1(b);
  - (c) approving a Development Plan under a Petroleum Contract;
  - (d) granting an exemption from, or agreeing to a variation or suspension of, the conditions of an Authorization under Article 21; and
  - (e) making any decision or granting any approval that, under an Authorisation, requires publication.
- 3.
  - (a) Companies shall report on their compliance with requirements under the Act and Authorisations in such manner and detail as required by their Authorisation and as provided by regulation.
  - (b) The Ministry shall make available such reports to the public.

4. The Ministry shall make available to the public such reports by Authorised Persons on payments relating to Petroleum Operations made to the Government of Timor-Leste as are required by law.
5. The information contemplated in this Article 30 shall be available to any Person on payment of the fee therefor, to be provided by regulation.
6. The information contemplated in paragraphs 30.1(b) and 30.1(c) shall be available in at least one official language of Timor-Leste.

## **CHAPTER VII – REGULATIONS AND DIRECTIONS**

### **Article 31 Regulations**

1. The Government may make regulations under this Act relating to the following:
  - (a) graticulation of the Territory of Timor-Leste;
  - (b) the exploration for and the production of Petroleum;
  - (c) the use and disclosure of data, information, records and reports;
  - (d) the measurement and sale or disposal of Petroleum;
  - (e) health and safety;
  - (f) protection and restoration of the environment;
  - (g) resource management;
  - (h) structures, facilities and installations;
  - (i) the clean-up or other remedying of the effects of the escape of Petroleum;
  - (j) abandonment and decommissioning;
  - (k) the control of movement into, within and out of Timor-Leste of persons, vessels, aircraft, vehicles and any other man-made platforms and structures;
  - (l) work programmes and budgets;
  - (m) the control of tariffs charged for third party access;
  - (n) the auditing of an Authorised Person and of its accounts and records;

- (o) reporting by Authorised Persons on compliance with obligations set out in the Act and Authorisations, including in relation to:
    - (i) the training and employment of Timor-Leste nationals,
    - (ii) procurement of Timor-Leste goods and services,
    - (iii) occupational health and safety, and
    - (iv) environmental protection.
  - (p) fees to be paid, including by applicants for Authorisations, Authorised Persons, and Persons wishing to inspect the public register; and
  - (q) any other matters relating to this Act.
2. The Ministry shall publish regulations in the *Jornal da República*.

### **Article 32 Directions**

In addition to its power to give directions under paragraph 11.4(a) and paragraph 20.1(c), the Ministry may give a direction to an Authorised Person:

- (a) relating to any matter set out in Section 31.1; or
- (b) otherwise requiring compliance with this Act or its Authorisation.

## **CHAPTER VIII – PENALTY PROVISIONS**

### **Article 33 Territorial and Material Scope of this Chapter**

- 1. Articles 34, 35, 37, 39, 40, 41 and 43 are, with the required adaptations, applicable to the areas that are subject to the Treaty.
- 2. The provisions of this Chapter are without prejudice to criminal and civil liability under the general law.

### **Article 34 Unauthorised Activities**

- 1. Whoever engages in Petroleum Operations other than pursuant to an Authorisation shall be punished by imprisonment from three (3) months up to five (5) years or fine of no less than one hundred (100) days.

2. If the damaged caused to the State is of an amount of fifty thousand United States Dollars (USD \$50,000.00) or greater, the penalty shall be imprisonment from one (1) up to eight (8) years or fine of no less than one hundred and fifty (150) days.

### **Article 35    Danger to People, Property and Environment**

1. Whoever, by conduct that contravenes the provisions of this Act or the Code, endangers the life or physical integrity of a person, endangers property of high value, or gravely endangers the environment, shall be punished by:
  - (a) Imprisonment from one (1) up to eight (8) years or fine of no less than two hundred (200) days, if the conduct and the creation of the danger are malicious;
  - (b) Imprisonment up to five (5) years or fine of no less than one hundred (100) days, if the conduct is malicious and the creation of the danger is negligent.

### **Article 36    Hindering the Exercise of Powers by the Inspector**

1. Whoever, directly or indirectly, in any measure or by any means, hinders, or leads someone else to hinder, the exercise of powers and rights by the Inspector, shall be punished by imprisonment from three (3) months up to four (4) years or fine of no less than one hundred (100) days.
2. An attempt is punishable.

### **Article 37    Misleading Information**

1. Whoever,
  - (a) in, or in connection with, any application under this Act or the Code, knowingly or recklessly gives information that is materially false or misleading; or
  - (b) in any report, return or affidavit submitted under any provision of this Act or the Code or an Authorisation thereunder, knowingly or recklessly includes or permits to be included, any information which is materially false or misleading;shall be punished by imprisonment up to three (3) years or fine of no less than seventy five (75) days.
2. An attempt is punishable.

### **Article 38 Non-compliance with Regulations or Directions**

1. Where a Person fails or neglects to comply with a regulation to which Article 31 refers, and/or with a direction to which Article 32 refers, the Ministry may cause to be done all or any of the things required by the regulation or direction to be done at the cost and expense of that Person.
2. Costs and expenses incurred by the Ministry under the previous paragraph, together with interest thereon at a rate to be determined by the Ministry, shall be a debt due to the Government.

### **Article 39 Accessory Penalties**

1. In relation to the crimes provided for in the Act, the following accessory penalties may be applied:
  - (a) Temporary deprivation of the right to participate in public tenders concerning Petroleum Operations, in particular those regarding Authorisations and the procurement of goods and services;
  - (b) Embargo of any construction works, in such cases as they may result in irreversible damage to relevant public interests;
  - (c) Disability, up to a maximum of two (2) years, of the exercise of activities, if the Person has, within the period of one (1) year starting from the date of the first contravention, contravened this Act, or regulations or directions issued thereunder;
  - (d) Termination of Authorisations;
  - (e) Good conduct bond;
  - (f) Disability of rights to subsidies awarded by public entities or services;
  - (g) Publication of the sentence; and/or
  - (h) Other writs of prevention which are adequate taking into account the circumstances of the case in question.

### **Article 40 Liability of Legal Persons, Corporations and Other Legal Entities**

1. Legal persons, corporations or any other legal entities, including those without juridical personality, are liable for contraventions provided for in this Chapter when committed by its organs or representatives in its name and in the collective interest.

2. The liability is excluded where the agent has acted against express orders or instructions properly issued.
3. The liability of the entities mentioned in Section 40.1 does not exclude the individual liability of the respective agents.
4. The entities mentioned in Section 40.1 are jointly and severally liable, as provided for in civil law, for the payment of any fines or compensations, or for the fulfillment of any obligations, derived from the facts or with incidence on matters covered by the scope of this Act.

#### **Article 41 Fines to Legal Persons, Corporations and Other Legal Entities**

1. In the case of legal persons, corporations or any other legal entities, including those without juridical personality, the daily rate for fines corresponds to an amount between five United States Dollars (USD \$5.00) and ten thousand United States Dollars (USD \$10,000.00), as determined by the court, taking into account the economic and financial situation and burdens of the legal person, corporation or other legal entity.
2. If the fine is applied to an entity without juridical personality, its payment will be guaranteed by the entity's assets and, in the event of non-existence of such assets or under-capitalisation, jointly and severally, the assets of each of the associates.

#### **Article 42 Inspection**

It is the competence of the Ministry and the Inspector, as well as any other organs of the Public Administration to whom such competence is delegated, in accordance with law and regulations, to ensure the inspection of compliance with the provisions of this Act, without prejudice of competences which the law confers upon other public entities.

#### **Article 43 Extrajudicial Writ of Execution**

For purposes of coercive collection under general law, a certification issued by the Ministry in relation to a debt constituted, or amount due, as a result of the application of the provisions of this Act, which is not paid within a reasonable period to be determined by the Ministry, and which shall be notified in writing to the debtor, constitutes an extrajudicial writ of execution.

#### **Article 44 Subsidiary Legislation**

General criminal law, as well as relevant administrative and civil legislation, are applicable in a subsidiary manner, with the required adaptations, to give effect to the provisions of this Chapter.

## **CHAPTER IX – OTHER AND FINAL PROVISIONS**

### **Article 45 Transitional Provision**

1. Article 16 applies, with the required adaptations, to all Petroleum Operations engaged in other than pursuant to an Authorisation from 28 November 1975.
2. At its discretion, the Ministry may issue regulations setting out the administrative procedure to be followed, as well as obligations to be undertaken, by Persons who have engaged in or are engaging in Petroleum Operations other than pursuant to an Authorisation as of the date of entry into force of this Act in order for past and/or ongoing such Petroleum Operations to be deemed, for purposes of this Act, to be engaged in pursuant to an Authorisation.

### **Article 46 Non-Transfer**

An Authorisation granted to an individual cannot be transferred by inheritance, without prejudice to the ability of the value of that Authorisation to be transferred by inheritance.

### **Article 47 Entry into Force**

This Act shall enter into force on the day after its publication in the *Jornal da República*.

Approved on 29th July 2005

The President of the National Parliament

Francisco Guterres “Lu-Ólo”