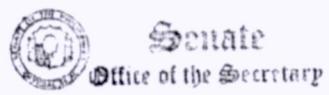


EIGHTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



19 AUG 28 P 6:25

SENATE
S.B. NO. 991

RECEIVED BY J

Introduced by Senator Maria Lourdes Nancy S. Binay

**AN ACT
TO PROMOTE THE DISCOVERY AND PRODUCTION OF INDIGENOUS
PETROLEUM AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Oil and gas have become increasingly important to the Philippine economy both as the driving engine behind the transportation sector and primary fuel for power generation. Except for 6,000 barrels per day (MB/d) produced by Galoc Production Company (Galoc), the Philippines imports almost 300,000 MB/d of its daily demand on the average. Of these imports, the transportation sector utilizes approximately 65%. On the other hand, the Philippines utilizes its own indigenous gas from the Malampaya reservoir located 80 kilometers offshore Palawan. The Malampaya Deep Water Gas-to-Power project integrates the upstream and downstream components to produce 2,700 megawatts (MW) of electricity, which accounts for approximately 40% of power consumption in the island of Luzon. The Malampaya reservoir boasts of 2.7 trillion cubic feet (tcf) of gas for a period of at least 20 years or until 2024. Pressure from the Malampaya reservoir however is expected to go down beginning 2015 further stressing the need to find more local gas deposits.

The Philippines has a diversity of geological basins that offer hydrocarbon resource potential. Of the 16 sedimentary basins however, not one can be considered as extensively explored. Since the shift from a concession framework

to a service contract system in 1972, a total of only 263 exploration wells have been drilled in the Philippines. Of these activities, 41 resulted in oil discoveries while 11 were gas finds. 101 of these wells were drilled in the Northwest Palawan basin that is considered as the most prospective in terms of oil and gas reserves 43 wells were drilled in the Visayan basin and 23 wells were in the Southwest Palawan basin. Notwithstanding the success of Galoc and Malampaya, this historical exploration work in the Philippines pales in comparison to the wells drilled in Indonesia, Malaysia, and Thailand.

Presidential Decree No. 87 (PD 87), otherwise known as "The Oil Exploration and Development Act of 1972", has established the over-arching statutory framework underlying the upstream oil and gas industry in the Philippines.

While it sets out one of the most attractive fiscal regimes within the Asian region, PD 87 needs to be amended to adapt to the modern requirements of the upstream petroleum industry. To compete with Indonesia, Thailand, and Malaysia where a great number of oil and gas deposits were already discovered, the Philippines needs to offer improved fiscal and contractual terms to investors to revitalize further interest and encourage more drilling activity in the country.

In view of the foregoing, the passage of this bill is earnestly recommended.



MARIA LOURDES NANCY S. BINAY
Senator

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PETROLEUM AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 Section 1. *Short Title.* – This Act shall be known and may be cited as "The
2 Petroleum Exploration and Development Act of 2019."

3

4 Sec. 2. *Declaration of Policy.* – All petroleum resources in public and
5 private lands within the territory and exclusive economic zone of the Republic of
6 the Philippines are owned by the State. It is hereby declared to be the policy of
7 the State (a) to ensure a continuous, adequate, and economic supply of energy
8 with the end in view of ultimately achieving self-reliance in the country's energy
9 requirements through the integrated and intensive exploration, production,
10 management, and development of the country's indigenous petroleum resources
11 ; (b) to hasten the discovery and production of indigenous petroleum through
12 the utilization of government and/or private resources, local and foreign under
13 the arrangements embodied in this Act which are calculated to yield the
14 maximum benefit to the Filipino people and to assure just returns to participating
15 private enterprises, particularly those that will provide the necessary financing,
16 technology and services and fully assume all explorations risks; (c) to attract
17 foreign capital and expertise by providing meaningful incentives that are
18 competitive with the fiscal and other terms offered by other countries in the Asia-

1 Pacific region; (d) to revitalize and encourage more exploration activities in the
2 Philippines; and (e) to rationalize and simplify the regulatory framework
3 governing exploration and production investment and activities in the Philippines.

4

5 Sec. 3. *Definition of Terms.* – As used in this Act, the following terms shall
6 have the following meanings:

- 7 (A) "Affiliate" means (i) a company in which a Contractor
8 holds directly or indirectly at least fifty percent (50%) of
9 its outstanding shares entitled to vote; (ii) a company
10 which holds directly or indirectly at least fifty percent
11 (50%) of the Contractor's outstanding shares entitled to
12 vote; or (iii) a company in which at least fifty percent
13 (50%) of its share outstanding and entitled to vote are
14 owned by a company which holds directly or indirectly at
15 least fifty percent of the shares outstanding and entitled
16 to vote of the Contractor;
- 17 (B) Contractor's outstanding shares entitled to vote; or (iii) a
18 company in which at least fifty percent (50%) of its
19 share outstanding and entitled to vote are owned by a
20 company which holds directly or indirectly at least fifty
21 percent of the shares outstanding and entitled to vote of
22 the Contractor;
- 23 (C) "Associated Gas" means all gaseous hydrocarbons
24 produced in association with Crude Oil from oil
25 reservoirs, including residue gas remaining after the
26 extraction of liquid hydrocarbons therefrom;
- 27 (D) "Barrel" means 42 U.S. gallons or 9702 cubic inches at a
28 temperature of sixty degrees Fahrenheit (60°F). Any
29 references in this Act to the value of any Crude Oil at the
30 Market Price shall be construed as a reference to the

- 1 amount obtained by multiplying the number of Barrels of
2 that Crude Oil by Market Price per Barrel applicable to
3 that Crude Oil;
- 4 (E) “Calendar Year” means a period of twelve (12)
5 consecutive months commencing with January 1 and
6 ending on the following December 31;
- 7 (F) “Casinghead Petroleum Spirit” means any hydrocarbons
8 including condensate, existing in liquid form at a
9 temperature of sixty degrees Fahrenheit (60°F) and at
10 an atmospheric pressure of 14.65 PSIA, which are
11 obtained from Natural Gas at the well head or by
12 separation or by any chemical or physical process or
13 ethane, propane, and butane produced by gas
14 processing;
- 15 (G) “Coal Bed Methane” means natural (hydrocarbon) gas
16 with methane gas as its main component naturally
17 brought about in the coalification process in trapped and
18 absorbed condition in coal and/or coal layers;
- 19 (H) “Coal Bed Methane Contract” means a Contract for the
20 exploration and development of a Coal Bed Methane
21 area under this Act;
- 22 (I) “Contract” or “Service Contract” refers to a contract
23 entered into by the Government and a Contractor in
24 accordance with this Act including any exhibits and
25 attachments;
- 26 (J) “Contract Area” or “Area” means, at any time, the area
27 within the sovereignty or jurisdiction of the Republic of
28 the Philippines which is the subject of a Service Contract;
- 29 (K) “Contractor” means the contractor in a Service Contract
30 whether acting alone or in consortium with others;

- (L) "Contractor Share" shall have the meaning set forth in Section 9(o);
 - (M) "Cross Recovery" means that the Operating Expenses incurred by a Deepwater Contractor or its Affiliate in two or more Areas under different Deepwater Contracts and the Operating Expenses it incurred in the drilling of Deepwater Wells may be recovered from the Gross income resulting from the sale of the Petroleum produced within any one or more of the Deepwater Contracts, as if they are covered by a single contract;
 - (N) "Crude Oil" or "Crude" means oil in its natural state before the same has been refined or otherwise treated. It does not include oil produced through destructive distillation of coal, bituminous shales or other stratified deposits, either in its natural state or after the extraction of water, and sand or other foreign substances therefrom;
 - (O) "Date of Commencement of Commercial Production" means the date of commencement of production of Crude Oil and/or Natural Gas from any Oil Field and Gas Field determined and announced by the Department and the Contractor in accordance with the provisions of the Contract on determination of commerciality, excluding production from an extended well test or drill stem test;
 - (P) "Department" means the Department of Energy created under Republic Act No. 7638;
 - (Q) "Department Secretary" means the Secretary of Energy;
 - (R) "Deepwater Contract" means a Contract that as of its effective date at least eighty five percent (85%) of the total contract area are in water depths greater than 200

meters, notwithstanding any subsequent reduction of the contract area in water depths greater than 200 meters arising from relinquishment or other reduction permitted under the Contract;

- (S) "Deepwater Contractor" means the Contractor in a Deepwater Contract, whether alone or in consortium with others;
 - (T) "Deepwater Well" refers to a well drilled on water depths greater than 200 meters;
 - (U) "Development Cost" means costs incurred by the Contractor for Development Operations;
 - (V) "Development Operations" means operations carried out for the realization of Petroleum production from the date of approval by the Department of the Overall Development Program for any Oil Field and/or Gas Field including design, construction, installation, drilling, and related research work as well as relevant activities carried out before the Date of Commencement of Commercial Production for the realization of Petroleum production;
 - (W) "Exploration Cost" means costs incurred by the Contractor for Exploration Operations;
 - (X) "Exploration Operations" means operations carried out for the purpose of discovering Petroleum-bearing traps by means of geological, geophysical, geochemical and other methods including exploratory well drilling; all the work undertaken to determine the commerciality of traps in which Petroleum has been discovered including appraisal well drilling and feasibility studies, formulation of the Overall Development Program; and activities

- related to all such operations, including any work done prior to approval of the Overall Development Program in an attempt to identify a market for Natural Gas;
- (Y) "Exploration Period" shall have the meaning set forth in Section 9(e);
- (Z) "Facilities" means all property of every kind, nature and description taken over, appropriated or otherwise acquired under or for the purpose of Petroleum Operations;
- (AA) "Filipino Participation Incentive Allowance (FPIA)" means the allowance which may be given a Contractor with Filipino participation as provided in Section 11 hereof;
- (BB) "Foreign Exchange" means any currency other than that of the Republic of the Philippines which is freely convertible into gold or currencies eligible to form part of the country's international reserves and is acceptable to the Department and the Contractor;
- (CC) "Gas Field" means an accumulation of gas within the Contract Area composed of one or several overlapping gas bearing zones, within one trap or within associated traps of the same independent geological structure, including gas caps, which may or may not be complicated by faulting, and which has commercial value determined in accordance with the procedures stipulated in the Contract;
- (DD) "Government" means the Government of the Republic of the Philippines;
- (EE) "Government Share" shall have the meaning set forth in Section 9(p) hereof;

- 1 (FF) "Gross Income" means the gross proceeds from the sale,
2 exchange or disposition of Petroleum produced under the
3 Contract and sold or exchanged during the Taxable Year
4 at Posted Price or Market Price, as the case may be, and
5 such other income which are incidental to and arising
6 from one or more of the Petroleum Operations of the
7 Contractor;
- 8 (GG) "Investment Promotion Period" means the period within
9 ten (10) years from the effective date of this Act, which
10 period may be extended by the President for an
11 additional period not exceeding five (5) years;
- 12 (HH) "LNG" means Liquefied Natural Gas;
- 13 (II) "Major Contract" means a Service Contract where the
14 Development Cost incurred by the Contractor is not less
15 than [Twenty Billion Pesos (P20,000,000,000.00)];
- 16 (JJ) "Market Price" means the price which is or would be
17 realized for Petroleum produced under a Contract if sold
18 in a transaction between independent persons dealing at
19 arm's length in a free market;
- 20 (KK) "Natural Gas" means Non-associated Gas and Associated
21 Gas in their natural state including gas obtained from
22 boreholes and wells and consisting primarily of
23 hydrocarbons;
- 24 (LL) "Net Proceeds" means the difference between (i) Gross
25 Income, and (ii) the sum of the Operating Expenses
26 recoverable and the FPIA, if any;
- 27 (MM) "Non-Associated Gas" means all gaseous hydrocarbons
28 produced from gas reservoirs, including wet gas, dry gas
29 and residue gas after the extraction of liquid
30 hydrocarbons from wet gas;

- 1 (NN) "Non-Philippine Contractor" means a Contractor that is
2 (a) not a Philippine Corporation; or (b) a consortium
3 wherein Philippine Corporations hold less than sixty
4 percent (60%) of the participating interest as defined in
5 the joint operating agreement governing the consortium;
- 6 (OO) "Oil Field" means an accumulation of Crude Oil within the
7 Contract Area composed of one or several overlapping
8 oil-bearing zones, within one trap or within associated
9 traps of the same independent geological structure,
10 which may or may not be complicated by faulting, and
11 which has commercial value determined in accordance
12 with the Contract;
- 13 (PP) "Oil Field and/or Gas Field Straddling a Boundary" means
14 any Oil Field and/or Gas Field extending beyond the
15 Contract Area;
- 16 (QQ) "Operating Cost" means the costs incurred by the
17 Contractor for Production Operations;
- 18 (RR) "Operating Expenses" means the total expenditures
19 incurred by Contractor within and outside the Philippines
20 in all Petroleum Operations performed in accordance
21 with or pursuant to the Contract. These expenses shall
22 include but are not necessary limited to, the cost of
23 seismic surveys, reprocessing and special processing of
24 seismic data, geological and geophysical studies, drilling,
25 equipping and completing wells, engineering studies,
26 construction of well platforms and tank batteries, flowline
27 systems and terminals, the cost of operating and
28 maintaining all such facilities including general and
29 administrative costs and expenses, and home office
30 overhead and service fees, in accordance with the

1 applicable accounting procedure of the Contract.
2 Operating Expenses shall also include, but are not
3 necessarily limited to, charges relating to lifting,
4 transportation, storage, handling, and sale of Petroleum,
5 whether for export or domestic consumption, and
6 interest and financing charges incurred to fund
7 Development Operations and Production Operations. In
8 the recovery of Operating Expenses, the first to be
9 recovered shall be the Operating Cost followed by the
10 Exploration Cost and then the Development Cost;

11 (SS) "Overall Development Program" means a plan prepared
12 by the Contractor for the development of an Oil Field
13 and/or Gas Field and approved by the Department and
14 such plans shall include, but shall not be limited to,
15 recoverable reserves, the development well pattern,
16 master design, production profile, economic analysis and
17 time schedule of the Development Operations,
18 abandonment and decommissioning;

19 (TT) "Petroleum" means any Crude Oil or mineral oil, Natural
20 Gas or hydrocarbon gas, Coal Bed Methane, condensate,
21 Casinghead Petroleum Spirit, bitumen, asphalt, mineral
22 gas, and all other similar or naturally associated
23 substances with the exception of coal, peat, bituminous
24 shale and/or stratified mineral fuel deposits;

25 (UU) "Petroleum In Commercial Quantity" means Petroleum in
26 such quantities which will permit its being economically
27 developed, either on its own or in combination with other
28 existing and/or future discoveries of Petroleum, as
29 determined by the Contractor and approved by the
30 Department after taking into consideration the location

1 of the Petroleum reserves, the depths and number of
2 wells required to be drilled, and the transport and
3 terminal facilities needed to utilize the Petroleum which
4 has been discovered;

5 (VV) "Petroleum Operations" means searching for and
6 obtaining Petroleum within the Philippines through
7 drilling and natural flow or suction or the like, and all
8 other operations incidental thereto. It includes the
9 treatment, processing, transportation (including
10 transportation by pipeline), storage, handling and sale
11 (whether for export or domestic consumption) of
12 Petroleum so obtained but does not include any: (i)
13 transportation of Petroleum outside the Philippines; (ii)
14 processing or refining of Crude Oil at a refinery; or (iii)
15 any transaction in the Crude Oil products so refined. It
16 includes transportation of Petroleum up to delivery point
17 to the buyer(s) thereof, and the facilities upstream of
18 said delivery point(s) for the extraction of such
19 Petroleum as described in the applicable Overall
20 Development Plan. Subject to the approval of the
21 Department and to terms as may be agreed between the
22 Government and the Contractor, such Contractor may
23 construct, install and operate facilities (whether offshore
24 and/or onshore) to process the Natural Gas from the
25 Contract Area into LNG, and to store, transport, dispose
26 and/or export such LNG, as part of Petroleum
27 Operations;

28 (WW) "Philippine Contractor" means a Contractor that is a
29 Philippine Corporation or a consortium wherein Philippine
30 Corporations hold at least sixty percent (60%) of the

participating interest as defined in the joint operating agreement governing the consortium;

(XX) "Philippine Corporation" means a corporation organized and existing under Philippine laws at least sixty percent (60%) of the capital of which is owned and held by Filipino citizens and/or other Philippine Corporations;

(YY) "Philippine Income Tax" means all taxes imposed by the National Internal Revenue Code of the Philippines or equivalent legislation, as may be amended from time to time, upon taxable corporate income, including withholding taxes on dividends and distribution or remittances or profit to Contractor's parent company or companies, or to Contractor's head office if the Contractor is a branch of a foreign company, or to Contractor's shareholders;

(ZZ) "Posted Price" means that Free on Board (FOB) price established by Contractor and the Department for each grade, specific gravity, and quality of Crude Oil offered for sale to buyers generally for export at the particular point of export, which price shall be based upon geographical location and the fair market export values for Crude Oil of comparable grade, specific gravity, quality and quantity;

(AAA) "President" means the President of the Philippines;

(BBB) "Production Area" means that portion or portions of the Contract Area where reservoirs containing Petroleum In Commercial Quantity are delineated by Contractor with the approval of the Department;

(CCC) "Production Operations" means operations and all activities related thereto carried out for producing

1 Petroleum from an Oil Field and/or Gas Field from the
2 Date of Commencement of Commercial Production
3 including but not limited to extraction, injection,
4 stimulation, treatment, storage, transportation, and
5 lifting;

6 (DDD) "Special Purpose Vessel" means a vessel that is used for
7 offshore Petroleum Operations including but not limited
8 to: drilling operations; seismic, geophysical, geochemical,
9 oceanographic and similar surveys; survey; supply,
10 anchor or hose handling, pipe or cable laying; offshore
11 construction, installation, commissioning and hook-up;
12 heavy lifting; dredging and rock placement; pipeline and
13 subsea facilities inspection and maintenance; floating
14 accommodation, floating storage; floating production
15 storage and offloading; fire-fighting, search and rescue;
16 and oil spill control and response;

17 (EEE) "Sub-Contractor" means an individual or entity that
18 directly or indirectly provides goods and services
19 required for Petroleum Operations including the related
20 subcontractors at whatever tier;

21 (FFF) "Taxable Net Income" shall have the meaning set forth in
22 Section 6 hereof; and

23 (GGG) "Taxable Year" means the calendar or fiscal year of the
24 Contractor;

25

26 *Sec. 4. Government May Undertake Petroleum exploration and production.*
27 – Subject to existing private rights, the Government may directly explore for and
28 produce indigenous Petroleum. It may also indirectly undertake the same under
29 Service Contracts as hereafter provided. These Contracts may cover onshore or
30 offshore areas or a combination of both provided that each Contract Area shall as

1 much as practicable be contiguous. In every case, the Contractor must be
2 technically competent and financially capable as determined by the Department
3 to undertake the Petroleum Operations required in the Contract. In the context
4 of Section 2, Article XII of the 1987 Constitution regarding the large-scale
5 exploration, development and utilization of petroleum resources, Non-Philippine
6 Contractors are qualified to enter into Service Contracts provided that the work
7 commitment for all of the phases comprising the Exploration Period, including
8 but not limited to the acquisition of seismic data and the drilling of exploratory
9 and/or appraisal well(s), shall not be less than One Billion Pesos
10 (P1,000,000,000.00).

11

12 Sec. 5. *Execution of the Contract authorized in this Act.* – A Contract
13 authorized in this Act shall be executed as follows:

- 14 (A) If the Contract is with a Non-Philippine Contractor, then the
15 Contract shall be entered into on behalf of the Government
16 by the President, upon the recommendation of the
17 Department;
- 18 (B) If the Contract is with a Philippine Contractor, the Contract
19 shall be entered into on behalf of the Government by (i) the
20 President, or (ii) by the Department Secretary, subject to
21 the approval of the President, Provided, That if there are
22 assignments of the participating interest that result in the
23 Contractor being deemed a non-Philippine Contractor then
24 such Contract shall be re-executed by the President upon
25 the recommendation of the Department;
- 26 (C) The President shall notify Congress of every Contract
27 entered into within thirty (30) days from the execution
28 thereof;
- 29 (D) A Contract under this Act shall be executed after due public
30 notice and pre-qualification and may be awarded through

1 public bidding or concluded through negotiations. In case
2 bids are requested and no bid is submitted, or the bids are
3 rejected by the Department for being disadvantageous to
4 the Government, the Contract may be concluded through
5 negotiations; and

- 6 (E) In opening Contract Areas and in selecting the best offers
7 and proposals for Petroleum Operations the Department
8 may use any of the following methods: (i) conduct a public
9 bidding for a specific area(s) on the basis of defined
10 criteria; or (ii) conduction negotiation for a specific area(s)
11 previously offered by the Department but for which there
12 has been insufficient interest to warrant a public bidding.
13 Any activities related to the implementation of Section 5(b)
14 of this Act shall be given the widest publicity in and outside
15 the Philippines. The Department shall publish model
16 contracts and announce at least three (3) months in
17 advance any intention to offer areas for bidding to include
18 the evaluation criteria to be applied and the respective
19 weights to be given for each criterion.

20

21 *Sec. 6. Nature of Service Contract.* – In a Service Contract:

- 22 (A) The Government grants the Contractor the exclusive right
23 to explore and develop any Petroleum within the Contract
24 Area;
- 25 (B) The Contractor provides the necessary financing,
26 technology and service to conduct Petroleum Operations
27 and assumes all exploration risk for which it shall be
28 entitled to recover Operating Expenses and to be paid a
29 service fee from the Petroleum produced under the
30 Contract; and

(C) The government receives a stipulated share of the Net Proceeds from the Petroleum produced under the Contract.

Sec. 7. Provisions of Service Contract. – The provisions of each Contract include but is not limited to the following: term, exclusion or relinquishment of areas, minimum work commitment and expenditure, obligations and rights of Contractor, work program and budget, declaration of commerciality, cost recovery and accounting, sale and disposal of Petroleum, pricing of Petroleum or disposed, income tax, payments, natural gas, submission of data and reports, assets and equipment, consultation and arbitration, incentives for Filipino participation, employment and training of Filipinos, preferential use of goods and services, books of account and audit, insurance, confidentiality, assignments, health environmental protection and safety, and termination.

Sec. 8. *Obligation of the Contractor.* – The Contractor shall undertake to manage and execute Petroleum Operations under the full control and supervision of the Government, through the Department. The Contract may authorize the Contractor to take and dispose of and market either domestically or for export all Petroleum produced under the Contract subject to supplying the domestic requirements of the Republic of the Philippines on a pro-rata basis. The Government shall oversee the management of the operations contemplated in the contract and in this connection shall require the Contractor to:

- (A) Provide the necessary services and technology;
 - (B) Provide the requisite financing;
 - (C) Perform the exploration work obligations and program prescribed in the Contract, which may be more but shall not be less than the obligations prescribed in this Act;
 - (D) Once Petroleum in Commercial Quality is discovered, operate the field on behalf of the Government in accordance with accepted good oil field practice using

1 modern and scientific methods to enable maximum
2 economic production of petroleum; avoiding hazards to life,
3 health and property; avoiding pollution of air, land and
4 waters; and pursuant to an efficient and economic program
5 of operation;

- 6 (E) Assume all exploration risks such that if no Petroleum in
7 Commercial Quantity is discovered and produced, it will not
8 be entitled to reimbursement from the Government, subject
9 to any applicable Cross Recovery;
- 10 (F) Furnish the Department promptly with geological and other
11 information, data and reports which it may require;
- 12 (G) Maintain detailed technical records and accounts of its
13 operations;
- 14 (H) Conform to regulations regarding, among others safety,
15 demarcation of Contract Areas, and non-interference with
16 the rights of other petroleum, mineral and natural resources
17 operators;
- 18 (I) Maintain all meters and measuring equipment in good order
19 and allow access to these as well as to the exploration and
20 production sites and operations to inspectors authorized by
21 the Department;
- 22 (J) Allow examiners of the Bureau of Internal Revenue and
23 other representatives authorized by the Department full
24 access to their accounts, books and records, for tax and
25 other fiscal purposes;
- 26 (K) Be subject to Philippine Income Tax;
- 27 (L) After commercial production of Petroleum commences in
28 the Contract Area, to supply from Contractor's and
29 Government's shares in such production, a portion of the
30 domestic requirements of the Philippines on a *pro-rata*

1 basis, which portion shall be offered for sale at Market
2 Price, and shall be determined as follows: in respect of each
3 year, by multiplying the total quantity of Petroleum
4 produced from the Contract Area to the entire Philippine
5 production of Petroleum, *Provided*, that the Contractor
6 subject to the approval of the Department, which shall not
7 be unreasonably withheld, shall be entitled to export such
8 Petroleum if domestic buyers are not willing or are
9 otherwise unable to timely purchase the Petroleum or to
10 timely pay the Market Price therefore.

11 On the other hand the Department shall:

- 12 (A) Reimburse the Contractor for all Operating Expenses not
13 exceeding the percentage of the Gross Income as provided
14 in Section 9 (l) hereof; *Provided*, That if in any year the
15 Operating Expenses exceeds the allowable percentage of
16 Gross Income then the unrecovered Operating Expenses
17 shall be recovered from the Gross Income of succeeding
18 years.
- 19 (B) Grant the Contractor a Filipino Participation Incentive
20 Allowance (FPIA) and Cross-Recovery, if applicable, and a
21 service fee as provided in Section 9 (n) hereof.

22 Reimbursement of Operating Expenses and payment of the FPIA, Cross-
23 Recovery and the service fee shall be in such form and manner as provided in
24 the Contract.

25

26 Sec. 9. *Minimum Terms and Conditions.* – In additions to those elsewhere
27 provided in this Act, every Contract executed in pursuance hereof shall contain
28 the following minimum terms and conditions:

- 29 (A) Every Contractor shall be obliged to spend in direct
30 prosecution of exploration work and in delineation and

development following the discovery of Petroleum in Commercial Quantity not less than the amounts provided for in the Contract between the Government and the Contractor and these amounts shall not be less than the total obtained by multiplying the number of hectares covered by the Contract by the following amounts per hectare:

<u>PERIOD</u>	<u>ONSHORE</u>	<u>OFFSHORE</u>
Year 1	P 15.00	P 15.00
Year 2	15.00	15.00
Year 3	15.00	30.00
Year 4	15.00	30.00
Year 5	15.00	30.00
Year 6	45.00	90.00
Year 7	45.00	90.00
Year 8	45.00	90.00
Year 9	45.00	90.00
Year 10	45.00	90.00

(B) *Provided*, That if during any Contract year the Contractor shall spend more than the amount of money required to be spent, the excess may be credited against the money required to be spent by the Contractor during the succeeding years; *Provided, further*, That in case the same Contractor holds two or more areas under different Contracts, the total amount of work obligations for exploration required for in the initial term of all such Contracts may be spent within any one or more of them as if they are covered by a single Contract; *Provided*, That should the Contractor fail to comply with the work obligations provided for in the Contract, it shall pay the

Government the amount it should have spent but did not in direct prosecution of its work obligations. In case the Contractor renounces or abandons wholly or partly the area covered by the Contract within two years from its effectiveness date, it should in respect of the abandoned area pay the Government the amount it should have spent, but did not, for exploration work during said two (2) years, for which payment, among other obligations, the performance guarantee posted by the contractor shall be answerable;

- (C) Every Contract shall provide for the compulsory relinquishment of at least twenty-five percent (25%) of the initial area at the end of five years from its effective date and in the event of an extension of the Contract from seven to ten years, an additional relinquishment of at least twenty-five percent (25%) of the initial area at the end of seven years from its effective date. Any portion of the Contract Area already delineated as a Production Area shall not be taken into account in ascertaining the extent of relinquishment required. Any area renounced or abandoned under Section 9(b) above shall be credited against the portion of the area subject to the Contract which is required to surrendered hereunder;
 - (D) The Contractor shall, after the discovery of Petroleum in Commercial Quantity, delineate the Production Area within the period agreed upon in the Contract;
 - (E) The Exploration Period under every Contract shall be seven (7) years which may consist of sub-phases as defined in the Contract, extendible for three (3) years if the Contractor has not been in default in its exploration work obligations and other obligations after which the Contract shall lapse,

unless Petroleum has been discovered by the end of tenth year and the Contractor request a further extension of one year to determine whether it is in commercial quantity in which event, another extension of one year for exploration may be granted. If Petroleum in Commercial Quantity has been discovered, the Contractor may retain after the Exploration Period and during the effectivity of the Contract twelve and one-half percent (12.5%) of the initial area in addition to the delineated Production Area: *Provided, however,* That the Contractor shall pay annual rentals on such retained area which shall not be less than fifty pesos (P50.00) per hectare or fraction thereof for onshore areas and not less than one hundred pesos (P100.00) as determined by the Department per hectare or fraction thereof for offshore areas; *Provided, further,* That such rentals can be offset against exploration expenditures actually spent on such area;

- (F) Where Petroleum in Commercial Quantity is discovered during the Exploration Period in any area covered by the Contract, the Contract with respect to said area shall remain in force for production purposes during the balance of the ten (10) year Exploration Period and for an additional period of twenty-five (25) years, thereafter renewable for a period not exceeding fifteen years (15) years under such terms and conditions as may be agreed upon by the Government and the Contractor at the time of renewal;
- (G) Other than assets leased from third parties, the Contractor shall own the materials equipment, plants and other installations purchased, installed and/or constructed for the Petroleum Operations, whether such assets are movable or

1 immovable in nature, and whether located within or outside
2 of the Contract Area. The Contractor shall transfer
3 possession and ownership of fully cost recovered assets, as
4 is, upon termination of the Contract or within the period
5 agreed by the Government and the Contractor; *Provided*,
6 That in case the Department does not elect to possess
7 certain assets which have been fully cost recovered, the
8 Contractor shall to the extent required under the Overall
9 Development Plan remove or dispose the relevant assets
10 within one year from the termination of the Contract, or
11 within the period agreed by the Government and the
12 Contractor; *Provided, further*, That the Contractor shall
13 have the right to continue to use the aforementioned assets
14 until it has concluded its use of them in accordance with
15 obligations under the Contract;

- 16 (H) The Contractor shall be responsible for the
17 decommissioning of the Facilities and as part of the Overall
18 Development Program the Contractor shall define a
19 decommissioning plan as well as a process to determine
20 provisions for future abandonment costs. In respect of
21 Facilities locate offshore the means and methods of
22 decommissioning shall be consistent with Article 60(3) of
23 the 1982 United Nations Convention on the Law of the Sea
24 and the "Guidelines and Standards for the Removal of
25 Offshore Installations and Structures on the Continental
26 Shelf and in the Exclusive Economic Zone" issued in 1989
27 by the International Maritime Organization. The
28 decommissioning plan shall incorporate the following
29 principles: (i) the decommissioning plan shall make
30 provision for the cost of decommissioning; (ii) the Contract

1 may provide for the creation of a decommissioning fund;

2 (iii) costs incurred by the Contractor for decommissioning

3 including payments to the decommissioning fund shall be

4 cost recoverable; (iv) the Contractor may be required to

5 provide security to ensure compliance with its

6 decommissioning obligations; and (v) the Department may

7 elect to take over the Facilities in which event the

8 decommissioning fund shall be transferred to the

9 Department and the Contractor shall be relieved of any

10 further liability for decommissioning the Facilities;

11 (I) The Contractor shall be subject to the provisions of laws of

12 general application relating to labor, health, safety and

13 ecology insofar as they are not in conflict with the

14 provisions otherwise contained in this Act. The Contractor

15 shall be responsible to take measures to manage the

16 health, safety and environmental risks arising from the

17 conduct of Petroleum Operations, and should have the

18 ability to prevent and respond to critical events;

19 (J) Every Contract executed in pursuance of this Act shall

20 contain provisions regarding the discovery, production, sale

21 and disposal of Natural Gas and Casinghead Petroleum

22 Spirit that shall be in line with the rules herein prescribed

23 for Crude Oil except that; (1) the Market Price shall be the

24 basis for tax and all other purposes; and (2) after meeting

25 any requirements in secondary recovery operations priority

26 shall be given to supplying proactive demand in the

27 Philippines;

28 (K) A Contractor shall be exempt from all national and local

29 taxes, except Philippine Income Tax;

- (L) In each Calendar Year, the Contractor shall recover from the Gross Income an amount equal to all unrecovered Operating Expenses; *Provided*, That the amount so recovered shall not exceed eighty percent (80%) of the Gross Income in any Calendar Year; Provided further, that if in any Calendar Year, the unrecovered Operating Expenses exceed eighty percent (80%) of the Gross Income, or there is no Gross Income, then the unrecovered Operating Expenses shall be recovered from the Gross Income in the succeeding Calendar Year(s); *Provided further*, That after the first three Calendar Years of commercial production the percentage of Operating Expenses that can be recovered from Gross Income shall be reduced to seventy percent (70%). Reimbursement of the Contractor's Operating Expenses includes amortization, depreciation and interest as provided hereunder. In the recovery of Operating Expenses, the first to be recovered shall be the Operating Cost followed by the Exploration cost then the Development Cost. Tangible Exploration Costs such as capital assets may, at the option of Contractor, be depreciated for a period of three (3) years under the straight line or double declining method. Intangible Exploration Costs may be recovered in full during the Calendar Year they are incurred;
 - (M) Cross-Recovery of Operating Expenses set forth in this section shall be allowed for Deepwater Contracts that become effective during the Investment Promotion Period. A Deepwater Contractor shall be entitled to Cross Recovery of the Operating Expenses (including but not limited to the drilling of Deepwater Wells) incurred in two or more Areas

under different Deepwater Contracts, as if they are covered by a single Contract. Operating Expenses incurred by a Deepwater Contractor before the Date of Commencement of Commercial Production shall be cross-recoverable starting on the said date. The following shall be cross-recoverable: (i) the entire amount of Operating Expenses incurred within ten (10) years before the Date of Commencement of Commercial Production; and (ii) Operating Expenses incurred more than ten (10) years before the Date of Commencement of Commercial Production shall be reduced by an amount equal to twenty percent (20%) for each year beyond ten (10) years before the Date of Commencement of Commercial Production. Operating Expenses of Deepwater Contracts under this Act may be cross-recovered from the gross income of a service contract executed under Presidential Decree No. 87 which meets the definition of a Deepwater Contract. If the Contractor is a consortium then Cross Recovery shall apply *mutatis mutandis* to a member of consortium holding an interest in two or more Areas under different Deepwater Contracts. The manner for claiming, computing, and paying *Cross Recovery* shall be stipulated in the Contract;

- (N) The Contractor's service fee shall be equal to forty percent (40%) of the Net Proceeds from Petroleum Operations during a Calendar Year ("Contractor Share"); *Provided*, That in the case of a Deepwater Contract or Major Contract that becomes effective during the Investment Promotion Period the Contractor's service fee shall be equal to fifty percent (50%) of the Net Proceeds. The Contractor shall have the right and privilege of receiving the Contractor's service fee

1 in kind as Contractor's share of the Petroleum produced,
2 saved and sold from the Contract Area. The Secretary may
3 authorize the Contractor to market the Government share
4 of Petroleum together with the Contractor's share which
5 sale shall be exempt from any law rules or regulations
6 requiring public bidding; *Provided*, That the selling price
7 shall not be less than the Market Price;

8 (O) The Government shall be entitled to receive sixty percent
9 (60%) of the Net Proceeds from Petroleum Operations
10 during a Calendar Year ("Government Share"), Provided,
11 that in case of a Deepwater Contract or Major Contract that
12 becomes effective during the Investment Promotion Period
13 the Government Share shall be equal to fifty percent (50%)
14 of the Net Proceeds.

15

16 Sec. 10. *Contract Areas.* - A Contractor or its Affiliate may enter into one
17 or more Contracts with the Government. Contracts for offshore areas may cover
18 any portion beneath the Philippine territorial waters or its continental shelf, or
19 portion of the continental slope, terrace or areas which are or may be subject to
20 Philippine jurisdiction; Provided, That for Deepwater Contracts, the Department
21 may provide for more liberal terms than provided for herein with respect to
22 contract area, exploration period and relinquishment. No individual Contract shall
23 cover less than fifty thousand (50,000) nor more than seven hundred and fifty
24 thousand (750,000) hectares for onshore areas, or less than eighty thousand
25 (80,000) nor more than one million five hundred thousand (1,500,000) hectares
26 for offshore areas.

27

28 Sec. 11. *Filipino Participation Incentive Allowance.* – If the Contractor is a
29 consortium in which Philippine Corporations have an aggregate participating
30 interest of at least fifteen percent (15%), the Government may grant the

1 Contractor an allowance commensurate with the scope of Filipino participation,
2 not exceeding seven and one half percent (7.5%) of the Gross Income.

3

4 *Sec. 12. Transfer and Assignment.* – The rights and obligations under a
5 Contract executed under this Act shall not be assigned or transferred without the
6 prior approval of the Department; Provided, That with respect to the transfer or
7 assignment of contractual rights and obligations under this Act to an Affiliate of
8 the transferor, the approval thereof by the Department shall be automatic, if the
9 transferee is as qualified as the transferor to enter into such contract with the
10 Government.

11

12 *Sec. 13. Privileges of Contractor.* – The provisions of any law to the
13 contrary notwithstanding, a Contract executed under this Act shall provide that
14 the Contractor shall have the following privileges:

- 15 (A) Exemption from all national and local taxes (including real
16 property tax), except Philippine Income Tax;
- 17 (B) Exemption from payment of all levies, tariffs, duties,
18 compensating tax and value added tax on the importation
19 into the Philippines of all machinery, equipment, spare parts
20 and all materials required for, and to be used exclusively by
21 the Contractor or its Sub-Contractor in Petroleum
22 Operations, subject to the following conditions: (i) that said
23 machinery, equipment, spare parts and materials of
24 comparable price, quality and quantity are not
25 manufactured domestically nor readily available to
26 Contractor or its Sub-Contractor(s) within the same or
27 better time frame; and (ii) said machinery, equipment,
28 spare parts and materials are directly and actually needed
29 and will be used exclusively by the Contractor or Sub-
30 Contractor for Petroleum Operations and are covered by

1 shipping documents in the name of the Contractor to whom
2 the shipment will be delivered directly by the customs
3 authorities; and (iii) the prior approval of the Department
4 was obtained by the Contractor before the importation of
5 such machinery, equipment, spare parts and materials
6 which approval shall not be unreasonably withheld;
7 *Provided, however,* if the Contractor or its Sub-
8 Contractor(s) sell, transfer or dispose of such machinery,
9 equipment, spare parts and materials in the Philippines
10 without the prior approval of the Department the
11 Contractor shall pay twice the amount of tax exemption
12 granted on the item sold, transferred or disposed; *Provided*
13 finally, That the Department shall allow and approve sale,
14 transfer, or disposition of the said items without tax if made
15 (1) to another Contractor; (2) for reasons of technical
16 obsolescence; or (3) for purposes of replacement to
17 improve and/or expand the Petroleum Operations of the
18 Contractor;

- 19 (C) Exemption from the posting of a performance or surety
20 bond during the period of Production Operations under the
21 Contract;
- 22 (D) Exemption upon approval by the Department from laws,
23 regulations and/or ordinances restricting (1) the
24 construction, installation and operation of power plants for
25 the exclusive use of the Contractor if no local enterprise can
26 supply within a reasonable period and at reasonable cost
27 the power needed by the Contractor in its petroleum
28 operations, and (2) the exportation of machinery,
29 equipment, spare parts and materials which were imported

1 solely for the Contractor's Petroleum Operations when no
2 longer needed therefore;

3 (E) Exemption from publication requirements under Republic
4 Act No. 5455 otherwise known as the "Foreign Business
5 Regulation Act";

6 (F) Exemption from the investment requirements of foreign
7 corporations under Section 126 in relation to Section 148 of
8 the Corporation Code of the Philippines;

9 (G) Exportation of Petroleum subject to the obligation to supply
10 a portion of domestic requirements as provided in Section
11 7(l);

12 (H) Entry, upon the sole approval of the Department which
13 shall not be unreasonably withheld, of foreign nationals for
14 technical and specialized positions (including their spouses
15 and unmarried children below twenty one (21) years of
16 age), who may exercise their professions solely for the
17 operations of the Contractor as prescribed in its Contract
18 with the Government under this Act; *Provided*, That if the
19 employment or connection of any such foreign national with
20 the Contractor or Sub-Contractor ceases, the applicable
21 laws and regulations on immigration shall apply to said
22 foreign national and the members of the family; *Provided,*
23 *further*, That Filipinos shall be given preference to positions
24 for which they have adequate training and experience; and
25 *Provided*, finally, That the Contractor shall adopt and
26 implement a program for providing technology transfer and
27 specialized technical training to Filipinos. Foreign nationals
28 within the purview of this provision, who are not excluded
29 by Section 29 of Commonwealth Act No. 613, as amended,
30 shall be permitted to enter and reside in the Philippines

during the period of employment of such foreign nationals. They shall be entitled to a multiple entry visa, valid for a period of three years (or if the employment is for a period less than three years, then for the duration of employment), and shall be allowed to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports. The validity of the multiple entry visa shall be extendible yearly. The said foreign nationals admitted under this provision, as well as their respective spouses and dependents shall be exempt from: (a) obtaining alien certificates of registration and immigration clearance certificates; and (b) securing the Alien Employment Permit (AEP) and all types of clearances, permits, licenses or their equivalents required by any government department or agency; and

(I) Rights and obligations in any Contract concluded pursuant to this Act shall be deemed as essential considerations for the Contract and shall not be unilaterally changed or impaired.

Sec. 14. Repatriation of capital and retention of profits abroad. – The

23 Contractor shall be entitled to: (1) repatriate over a reasonable period the capital
24 investment and all costs and expenses actually spent on or brought into the
25 country in Foreign Exchange or other assets and registered with the Bangko
26 Sentral ng Pilipinas; (2) retain abroad all Foreign Exchange representing
27 proceeds arising from exports accruing to the Contractor over and above (a) the
28 Foreign Exchange to be converted into Pesos in an amount sufficient to cover the
29 costs of the Petroleum Operations payable in Philippine currency; and (b)
30 revenues due the Government from such Petroleum Operations; *Provided,*

1 *however*, That the Government and the Contractor shall stipulate in the Contract
2 the currency in which the Government revenues arising under (b) above are to
3 be paid; (3) convert into Foreign Exchange and remit abroad at prevailing rates
4 no less favorable to Contractor than those available to any other purchaser of
5 Foreign Exchange, any excess balances of their Philippine currency earnings from
6 Petroleum production and sale over and above the current working balance they
7 require, and (4) convert Foreign Exchange into Philippine Currency for all
8 purposes in connection with its petroleum operations at prevailing rates no less
9 favorable to contractor than those available to any other purchaser of such
10 currency.

11

12 Sec. 15. *Arbitration*. – The Department may stipulate in a Contract that
13 disputes in the implementation thereof between the Government and the
14 Contractor may be settled in accordance with generally accepted international
15 arbitration practice.

16

17 Sec. 16. *Performance Guarantee*. – The Contract may require the posting
18 of a bond or other guarantee of sufficient amount in favor of the Government
19 and with surety or sureties satisfactory to the Department, conditioned upon the
20 faithful performance by the Contractor of any or all of the obligations under the
21 Contract.

22

23 Sec. 17. *Implementing Agency and Inter-Agency Committee*. – The
24 Department of Energy is designated as the implementing agency of this Act.

25 (A) Inter-agency committee on vessel, customs, immigration
26 and quarantine clearance – To ensure a unified and
27 coordinated effort among the Government agencies
28 involved in vessel, customs, immigration and quarantine
29 clearance in relation to the conduct of Petroleum
30 Operations, and to expedite the entry and/or exit of the

1 required vessels, machinery, equipment, materials and
2 spare parts, an inter-agency committee is hereby created
3 composed of the representatives of the Department (Chair),
4 the Department of Finance (Vice-Chair), the Bureau of
5 Customs, the Bureau of Immigration, the Philippine Coast
6 Guard, and the National Quarantine Office;

7 (B) Inter-agency committee on work permits and visas – To
8 ensure a unified and coordinated effort among the relevant
9 Government agencies, and to expedite the entry and/or exit
10 of foreign nationals required for the conduct of Petroleum
11 Operations, an inter-agency committee is hereby created
12 composed of the representatives of the Department (Chair),
13 the Department of Foreign Affairs (Vice-Chair), the Bureau
14 of Immigration, and the Department of Labor and
15 Employment;

16 (C) Additional inter-agency committees – The Department may
17 establish such other inter-agency committees as may be
18 required to facilitate the implementation of this Act and to
19 facilitate cooperation and the sharing of resources and
20 information among the relevant Government agencies; and

21 (D) The Department shall have the power to reorganize the
22 inter-agencies created pursuant to this section as may be
23 required from time to time.

24
25 Sec. 18. *Powers and Functions.* – In addition to the powers and functions
26 of the Department under Republic Act No. 7638, the Department shall:

27 (A) Promulgate and issue rules and regulations implementing
28 the provisions of the Act;

- (B) Prescribe appropriate forms, documentary requirements, and fees for the processing of applications or the provision of administrative services under the Act;
 - (C) Define areas that are available for Contracts and to give wide publicity to any notice or invitation to bid for such Contracts consistent with the best interest of the Government;
 - (D) Conduct investment promotion programs for domestic and international investors in coordination with the Department of Trade and Industry;
 - (E) Provide Contractors and potential investors with updated information and authoritative resources regarding the permits, approvals and other requirements for investments under this Act and for conducting Petroleum Operations;
 - (F) Establish a One Stop Shop Center for the purpose of facilitating the registration, licensing or issuing of permits to investors under this Act, in coordination with the appropriate Government agencies;
 - (G) Enter into Contracts, or recommend to the President to enter into Contracts, as the case may be, with such terms and conditions as may be appropriate under the circumstances;
 - (H) Provide for the manner and form of the payment of Philippine Income Tax, the reimbursement of Operating Expenses, Cross-Recovery, the payment of the Government Share and Contractor's service fee, and other payments pursuant to the applicable Contract;
 - (I) Act as the repository of the applications, notices, approvals, Contracts, reports, submissions and other pertinent

- 1 documents and information related to the implementation
2 of this Act;
- 3 (J) Provide the public with information on the award and status
4 of Contracts, the operational and financial performance of
5 Contractors, major projects approved by the Department,
6 and the revenues generated for the Government;
- 7 (K) Conduct programs to control marine pollution from offshore
8 Petroleum Operations and to establish and maintain
9 emergency response capabilities, in coordination with the
10 Philippine Coast Guard and the Department of Environment
11 and Natural Resources;
- 12 (L) Conduct development programs (directly or through a
13 Contractor or other party) benefit communities in areas, or
14 adjacent to areas, where Petroleum Operations are
15 conducted, in coordination with the relevant Contractors
16 and local government units;
- 17 (M) Conduct regular and special meetings with concerned
18 Government agencies (including local government units) as
19 may be required to achieve the objectives of the Act, to
20 reduce bureaucratic red tape, to simplify and standardize
21 permit requirements and procedures, to resolve any inter-
22 agency issues, and to facilitate the efficient conduct of
23 Petroleum Operations;
- 24 (N) Prescribe rules and regulations for: (i) the services that may
25 be rendered by Government personnel (including but not
26 limited to customs, immigration, quarantine and vessel
27 clearance in support of offshore Petroleum Operations)
28 involving special arrangements due to the remote location
29 or difficulty of access to the area where the presence of
30 Government personnel is required; (ii) the provision by the

1 Contractor or other party of any required training,
2 transportation, meals, accommodation, personal protective
3 equipment, or other assistance; and (iii) the payment by
4 the Department or the relevant Government agency of
5 reasonable allowances to the aforesaid Government
6 personnel in view of travel required, extended or irregular
7 working hours, or exposure to hazards, and the manner of
8 funding such allowances;

- 9 (O) Submit an annual report to the President and Congress on
10 the activities and the accomplishments of the Department
11 to implement the Act; and
12 (P) Perform such other functions and responsibilities as may be
13 directed by the President and to exercise all powers
14 necessary or incidental to attain the objectives of this Act.

15
16 Sec. 19. *Imposition of Tax.* – The Contractor shall be liable each Taxable
17 Year for the Philippine Income Tax under the provisions of the National Internal
18 Revenue Code and this Act. The Philippine Income tax shall be part of the
19 Government Share.

20
21 Sec. 20. *Taxable Net Income.* – The Taxable Net Income shall be
22 equivalent to the Contractor Share grossed-up for the amount of Philippine
23 Income Tax.

24
25 Sec. 21. *Tax Return.* – Each corporation comprising the Contractor shall
26 render to the Department a return for each Taxable Year in duplicate in such
27 form and manner as provided by Philippine laws setting forth its Taxable Net
28 Income. The Department shall file the returns with the Commissioner of Internal
29 Revenue or his deputies or other persons authorized to receive such return

1 within the period specified in the National Internal Revenue Code and the Rules
2 and Regulations promulgated thereunder.

3

4 Sec. 22. *Payment of Tax.* – The Department shall, on behalf of each
5 corporation comprising Contractor, pay from the Government Share of the Net
6 Proceeds and separately remit to the Bureau of Internal Revenue, all Philippine
7 Income Tax based on income or profit derived from Petroleum Operations under
8 the Contract. The Department shall separately remit such Philippine Income Tax
9 to, and obtain separate official receipts acknowledging payment of said taxes
10 from, the proper Government authority. The Department shall furnish to each of
11 the corporations comprising the Contractor their respective official receipts issued
12 in their names. The Contractor's liability for Philippine Income Tax in any Taxable
13 Year shall not exceed the Government Share, and the Contractor shall not be
14 liable for the payment of any Philippine Income Tax in excess of the Government
15 Share.

16

17 Sec. 23. *Final Income Tax on Sub-Contractors.* – Every Sub-Contractor,
18 whether domestic or foreign, entering into a contract with a Contractor engaged
19 in Petroleum Operations in the Philippines shall be liable to a final income tax
20 equivalent to eight percent (8%) of its gross income derived from such contract,
21 such tax to be in lieu of any and all taxes, whether national or local: *Provided,*
22 *however,* that any income received from all other sources within and without the
23 Philippines in the case of domestic Sub-Contractors and within the Philippines in
24 the case of foreign Sub-Contractors shall be subject to the regular income tax
25 imposed under the National Internal Revenue Code. The term "gross income"
26 means all income earned or received as a result of the contract entered into by
27 the subcontractor with a service contractor engaged in petroleum operations in
28 the Philippines under this Act.

29

1 Sec. 24. *Taxation of foreign nationals employed by Contractors and Sub-*
2 *Contractors.* – Foreign nationals who are permanent residents of a foreign
3 country but who are employed and assigned in the Philippines by Contractors or
4 by Sub-Contractors engaged in Petroleum Operations in the Philippines, shall be
5 liable to a final income tax equal to fifteen percent (15%) of the salaries, wages,
6 annuities, compensations, remunerations and emoluments received from such
7 contractors or subcontractors. Any income earned from all other sources within
8 the Philippines by the said alien employees shall be subject to the income tax
9 imposed under the National Internal Revenue Code.

10

11 Sec. 25. *Withholding of certain taxes.* – (a) Every Contractor shall deduct,
12 withhold, and pay the tax imposed under Section 23 from the amounts paid by
13 Contractor to the Sub-Contractor under the contract entered into by and
14 between them in the same manner and subject to the same conditions as
15 provided in Section 26 of the National Internal Revenue Code. (b) Every
16 Contractor shall also deduct, withhold and pay the tax imposed under Section 24
17 from the salaries, wages, annuities, compensations, remunerations and
18 emoluments paid to its foreign national employees and the foreign nationals
19 employed by its foreign Sub-Contractors in the same manner and under the
20 same conditions as provided in Section 26 of the National Internal Revenue
21 Code. (c) Every domestic Sub-Contractor shall deduct, withhold and pay the tax
22 imposed in Section 24 from the salaries, wages, annuities, compensations,
23 remunerations and emoluments paid to its foreign national employees in the
24 same manner and under the same conditions as provided in Section 26 of the
25 National Internal Revenue Code.

26

27 Sec. 26. *Registration of Sub-Contracts.* – All contracts entered into
28 between the Contractor and a Sub-Contract engaged in Petroleum Operations in
29 the Philippines shall be registered with the Department. The cost of Sub-
30 Contracts shall be considered as part of reimbursable operating expenses of the

1 Contractor under this Act only if it is shown that the contract has been properly
2 registered with the Department and the taxes due under this Act have been
3 withheld and paid in accordance with the provisions of Section 26 of the National
4 Internal Revenue Code.

5

6 *Sec. 27. Applicability of the provisions of the National Internal Revenue*
7 *Code.* – All provisions of the National Internal Revenue Code and the rules and
8 regulations promulgated in relation therewith that are not inconsistent with the
9 provisions of this Act shall be applicable to the Contractor.

10

11 *Sec. 28. Auxiliary Exploration and Development Rights.* – To facilitate the
12 efficient conduct of Petroleum Operations the Contractor shall have the following
13 rights:

14 (A) Water Rights. – The Contractor shall have water rights for
15 its Petroleum Operations upon approval of application with
16 the appropriate government agency in accordance with
17 existing water laws, rules and regulations promulgated
18 thereunder: *Provided*, That water rights already granted or
19 vested through long use, recognized and acknowledged by
20 local customs, laws, and decisions of courts shall not
21 thereby be impaired: *Provided, further*, That the
22 Government reserves the right to regulate water rights and
23 the reasonable and equitable distribution of water supply so
24 as to prevent the monopoly of the use thereof;

25 (B) Right to Possess Explosives. – The Contractor shall have the
26 right to possess and use explosives within his contract area
27 as may be necessary for his Petroleum Operations upon
28 approval of an application with the appropriate government
29 agency in accordance with existing laws, rules and
30 regulations promulgated thereunder: *Provided*, That the

- 1 Government reserves the right to regulate and control the
2 explosive accessories to ensure safe mining operations;
- 3 (C) Easement Rights. – When the Contract Area is so situated
4 that for purposes of more convenient Petroleum Operations
5 it is necessary to build, construct or install on the area or
6 lands owned, occupied or leased by other persons, such
7 infrastructure as roads, warehouses, staging or storage
8 areas and port facilities, tramways, runways, airports,
9 electric transmission, telephone or telegraph lines, sites for
10 water wells, ditches canals, pipelines, etc., the Contractor,
11 upon payment of just compensation shall be entitled to
12 enter and occupy said areas or lands; and
- 13 (D) Entry into Private Lands and Concession Areas. – Subject to
14 prior notification, the Contractor shall not be prevented
15 from entry into private lands and concession areas by
16 surface owners, occupants, or concessionaires when
17 conducting Petroleum Operations therein: *Provided*, That
18 any damage done to the property of the surface owner,
19 occupant, or concessionaire as a consequence of such
20 operations shall be properly compensated as may be
21 provided for in the implementing rules and regulations:
22 *Provided, further*, That to guarantee such compensation,
23 the Contractor authorized to conduct Petroleum Operations
24 shall, prior thereto, post a bond with the Department based
25 on the type of properties, the prevailing prices in and
26 around the area where the Petroleum Operations are to be
27 conducted, with surety or sureties satisfactory to the
28 Department;
- 29

1 Sec. 29. *Safety and Exclusion Zones.* – The President may establish and
2 reserve certain lands, waters, submerged lands, foreshore areas, and air space
3 as safety and exclusion zones in order: (a) to protect public health, safety and
4 the environment; (b) to secure vital infrastructure used in Petroleum Operations
5 from damage; and (c) to prevent disruptions in the availability of Petroleum. The
6 Department may prohibit certain activities in such safety and exclusion zones
7 without its prior authorization, including but not limited to: (a) trawl fishing or
8 other fishing methods which involve the use of weights, anchors or similar
9 devices on the seabed; (b) anchoring; (c) use of and/or dumping of explosives;
10 (d) drilling, construction or the installation of submarine pipelines or cable; and
11 (e) similar activities which may pose a potential risk to the Petroleum sand to
12 public health, safety and the environment.

13

14 Sec. 30. *Temporary restraining orders and injunctions.* – Republic Act No.
15 8975 (An act to ensure the expeditious implementation and completion of
16 Government infrastructure projects by prohibiting lower courts from issuing
17 temporary restraining orders, preliminary injunctions, or preliminary mandatory
18 injunctions, providing penalties for violations thereof, and for other purposes)
19 shall apply to projects pursuant to a Contract under this Act and such projects
20 shall be deemed as “national government projects” for the purpose of RA No.
21 8975.

22

23 Sec. 31. *Vessels used for Petroleum Operations.* – Foreign-owned or
24 foreign-registered Special Purpose Vessels used by Contractors for Petroleum
25 Operations shall not be deemed to be public or common carriers engaged in
26 domestic trade or coastwise trade and are exempt from the requirement to
27 obtain a certificate of Philippine registry under Presidential Decree No. 761 and
28 related laws and issuances subject to the following conditions: (a) the Special
29 Purpose Vessel is used exclusively for Petroleum Operations by one or more
30 Contractors and its use by the Contractor for a specified duration has been

1 approved by the Department; (b) vessels of similar specifications and capacity
2 are not locally available at competitive price; (c) the Special Purpose Vessel is not
3 used in the business of carrying passengers and general cargo from port to port
4 in the Philippines; (d) the Special Purpose vessel enters Philippine ports
5 principally for the purpose of transporting personnel and cargo required for
6 Petroleum Operations in an offshore location, resupply, refueling, repair or
7 maintenance, or if required, for the purpose of customs, immigration and
8 quarantine clearance. The Special Purpose Vessel may be manned or operated
9 by foreign and/or Filipino nationals. The Department and the Maritime Industry
10 Authority shall issue joint regulations prescribing a simplified procedure for the
11 issuance of permits for Special Purpose Vessels that will facilitate the efficient
12 and cost-effective conduct of Petroleum Operations.

13

14 Sec. 32. *Allocation of Government Share.* – The Government Share as
15 referred to in Section 9 shall be allocated in accordance with Sections 290 and
16 292 of Republic Act No. 7160 otherwise known as the Local Government Code of
17 1991. In case Petroleum Operations are undertaken by a government-owned or
18 controlled corporation, the sharing and allocation shall be in accordance with
19 Section 291 and 292 of the said Code.

20

21 Sec. 33. *Coal Bed Methane.* – The exploration and development of Coal
22 Bed Methane resources is subject to the provisions of this Act. In awarding
23 contracts for Coal Bed Methane areas, the Department may give preference to
24 the holder of an existing coal mining license or permit issued pursuant to
25 Republic Act No. 7942, that meets the requirements under this Act or the
26 applicable rules and regulations. The Department and the Department of
27 Environment and Natural Resources shall issue joint implementing rules and
28 regulations governing areas where a Coal Bed Methane Contract area overlaps
29 with a coal mining license or permit area, specifying the respective rights and

1 obligations of the relevant parties, including the obligation to coordinate their
2 respective operations to the extent practicable.

3

4 Sec. 34. *Preference to Local Labor.* – The Contractor shall give priority in
5 employment to qualified personnel in the municipality or municipalities or
6 province where the Petroleum Operations are conducted.

7

8 Sec. 35. *Foreign Assistance.* – Nothing in this Act or of any other law shall
9 preclude the Government of the Republic of the Philippines, through the
10 Department or any other proper office or agency, from negotiation or entering
11 into any agreement with any foreign country or government for assistance in
12 terms of equipment, technical know-how and financing for the exploration and
13 production of Petroleum.

14

15 Sec. 36. *Disputed Maritime Areas.* – Pending the resolution of disputes
16 with certain States in respect of maritime areas with known or potential
17 Petroleum reserves within the territory or exclusive economic zone of the
18 Philippines, the Government may consider, pursue and enter into provisional
19 arrangements consistent with Articles 74 and 83 of the 1982 United Nations
20 Conventions on the Law of the Sea. The President upon the recommendation of
21 the Secretary of Energy and the Secretary of Foreign Affairs may enter into
22 bilateral or multilateral agreements for the establishment of Joint Development
23 Zones (JDZ) wherein the State parties with conflicting claims may conduct joint
24 exploration, development and production of Petroleum ("JDZ Agreement"). Any
25 JDZ Agreement entered into by the President shall provide that the States party
26 thereto have entered into the agreement without prejudice to their respective
27 claims, and that the agreement does not nullify their respective claims. The
28 President may authorize the Department Secretary, the Secretary of Foreign
29 Affairs, and/or the President of the Philippine National Oil Company, to enter
30 into: (i) preliminary or preparatory agreements, or memoranda of understanding

1 with their respective counterparts to establish joint committees or similar bodies
2 for the purpose of initiating discussions and studies on the proposed
3 establishment of Joint Development Zones; and/or (ii) agreements to share
4 technical data and/or conduct joint exploration operations (including but not
5 limited to seismic surveys) to assist the parties in defining suitable areas to be
6 covered by the proposed JDZ (collectively, "Preparatory Agreements"). The JDZ
7 Agreement shall include among others a statement of the principles and purpose
8 of the agreement, the scope of the agreement, the definition of the area to be
9 covered by the JDZ, the rights and obligations of the parties, any reservations
10 made as to the rights of the parties, the program of work to be carried out, the
11 respective shares of the parties in the costs to be incurred and any production of
12 Petroleum that will be realized, the management of the JDZ, and the term and
13 termination of the agreement. In accordance with Section 21, Article VII of the
14 1987 Constitution the JDZ Agreement shall be deemed an international
15 agreement that requires the concurrence of at least two-thirds of all the
16 members of the Senate, *Provided, however,* That the Preparatory Agreements
17 shall not require such concurrence.

18

19 Sec. 37. *Funds.* – To carry out the purpose of this Act, there is hereby
20 appropriated, out of any funds in the National Treasury not otherwise
21 appropriated the sum of Fifty Million Pesos (P50,000,000) for the fiscal year Two
22 Thousand Seventeen. Hereafter the necessary appropriations shall be included in
23 subsequent General Appropriations Act.

24

25 Sec. 38. *Non-impairment of existing Service Contracts.* – All valid and
26 existing service contracts granted under Presidential Decree No 87 at the date of
27 the effectivity of this Act, shall remain valid, shall not be impaired, and shall be
28 recognized by the Government until the termination or expiration thereof,
29 including any extension allowed therein. *Provided,* That an existing service
30 contract may be converted into a Contract under this Act, upon the application of

1 the service contractor and subject to the approval of the President. *Provided,*
2 *further;* That any application for conversion shall be submitted to the Department
3 within eighteen (18) months from the effectivity of this Act.

4

5 Sec. 39. Separability Clause. If any provision of this Act shall be held
6 unconstitutional or invalid, the other provisions not otherwise affected shall
7 remain in full force and effect.

8

9 Sec. 40. Repealing Clause. Presidential Decree No. 87, as amended, shall
10 continue to subsist and govern all service contracts entered into in accordance
11 with its provisions prior to the effectivity of this act, until such time as all such
12 service contracts have expired or terminated in accordance with its terms. All
13 other laws, presidential decrees, executive orders and issuances, or any part
14 thereof, which are inconsistent herewith are hereby repealed, provided that no
15 existing rights shall be prejudiced thereby.

16

17 Sec. 41. Effectivity Clause. This Act shall take effect upon its publication in
18 the Official Gazette or in at least one news paper of general circulation.

Approved,