



Islamic Republic of Afghanistan

Ministry of Justice

OFFICIAL GAZETTE

Extraordinary Issue

Hydrocarbons Law

Chapter One

General Provisions

Article 1: The Basis

This Law has been enacted pursuant to Article 9 of the Constitution of Afghanistan.

Article 2: Objectives

This Law shall have the following objectives:

1. To facilitate the administration and control over oil and gas reservoirs.
2. To regulate the affairs related to oil and gas operations.
3. To preserve the oil and gas reservoirs and effective exploitation of them.
4. To facilitate investment of private entrepreneurs (businesses) in Oil and Gas sector and to attract investors.

Article 3: Definitions

For the purposes of this Law the following terms have the meanings as set forth below:

1. **Oil and Gas (Hydrocarbons):** Liquid Hydrocarbons and Natural Gas.
2. **Hydrocarbons Operations:** Upstream Hydrocarbons Operation, Midstream Hydrocarbons Operations and Downstream Hydrocarbons Operations.
3. **Upstream Hydrocarbons Operations:** Any activities related to reconnaissance, exploration, extraction, production, or field separation of Hydrocarbons.
4. **Midstream Hydrocarbons Operations:** Any activities related to construction, operation and maintenance of infrastructure (pipelines) and associated facilities, including pumping stations, storage tanks or valves, and associated storage of transmission of Hydrocarbons and includes processing and distribution of Natural Gas, including construction, operation and maintenance of any plant, equipment, machines, tanks, depots, terminals, pumps, compressors, stations and all other ancillary physical assets for that purpose.
5. **Downstream Hydrocarbons Operations:** Any activities related to refining, processing, transmission, storage, importing, loading, unloading, and distribution of Hydrocarbons or Petroleum Products, including construction, operation and maintenance of any plant, equipment, machines, tanks, depots, terminals, pumps, compressors, stations and all other ancillary physical assets.
6. **Liquid Hydrocarbons:** Crude oil regardless of gravity, which is produced at the wellhead in a liquid or solid form at ambient conditions (of temperature and atmospheric pressure), or which is extracted from Natural Gas by Condensation process.

7. **Natural Gas:** Any Hydrocarbon which at specified atmospheric conditions of temperature and pressure, is found in a gaseous form and includes dry gas, coal-based methane, wet gas and non-hydrocarbon gases. Residue gas remaining after the extraction, processing and separation of liquid hydrocarbons from wet gas, and remaining after the condensation of liquid hydrocarbons. Extracted and condensed liquid hydrocarbons are not covered by this definition.
8. **Petroleum Products:** Includes organic compounds, pure or mixed, which are derived from the refining and processing of crude oil including, but not limited to, the following:
- Asphalts, bitumen, petroleum coke and other residual products.
 - Fuel and heavy residual oils for combustion engines or industrial heat processes, such as burners for boilers or heating furnaces.
 - Industrial gases such as methane, ethane, propane, butane and other similar petroleum gases or mixtures of these gases, whether in gaseous or liquefied form.
 - Gasoil, industrial or marine diesels.
 - Petrol or naphtha products.
 - Kerosene or other similar oils for illumination or combustion applications.
 - Lubricating oils, base oils or refined and blended oils.
 - Turbo fuels for jet propulsion engines.
 - Other products or by-products of crude oil having a flash point lower than 120 degrees Celsius, as determined in a Pensky- Martens closed test apparatus.
9. **Register:** The register of reports, licenses and records of Hydrocarbons Operations.
10. **A Person is:**
- **Local Natural Person”:** A person having Afghan citizenship.
 - **Local Legal Person”:** Any entity established in the form of a corporation, partnership, sole proprietorship, limited liability company, joint venture, association, private or public joint stock company, trust, or other for-profit entity established in accordance with the provisions of law.
 - **Foreign Natural Person:** A person with a citizenship other than that of Afghanistan.
 - **Foreign Legal Person:** Any entity, the legal form of which is specified under foreign laws.
11. **Commercial Discovery:** A discovery which, under the terms of a Contract and in accordance with practices accepted for use in the international hydrocarbons industry, can be commercially exploited.
12. **Contract:** A written agreement concluded between the State and a Contractor for the conduct of Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations, as applicable, in accordance with the provisions of law.
13. **Main Contractor:** Any Person with whom Contract is entered in accordance with the

provisions of law.

14. **Exploration Phase:** The initial phase of an Exploration and Production Sharing Contract in accordance with the provisions of this law.
15. **Development and Production Phase:** The second phase under an Exploration and Production Sharing Contract during which a contractor shall be authorized to develop commercial discovery or discoveries and initiate extraction.
16. **Development Program:** A plan for the development and production of a Commercial Discovery as approved by the Afghanistan Oil and Gas Authority in accordance with this Law and as detailed by the Hydrocarbons Regulations.
17. **Contract Area:** The area which includes all, a part, or parts of the originally designated area and is granted to the Contractor in accordance with a Contract.
18. **Exploration and Production Sharing Contract:** A Contract which grants the Contractor the exclusive right to explore for, or the exclusive right to develop and produce Hydrocarbons in a designated area in accordance with the terms of the Contract.
19. **Exploration and Development Production Phase:** The duration of the Exploration and Production Sharing Contract which is divided into an Exploration Phase and a Development and Production Phase.
20. **Production Development Area:** The area which includes one or more blocks or other geographical units which specifies the area where production and development takes place.
21. **Hydrocarbons Data Bank:** The authority which collects and maintains information related to the exploration, development and production of Hydrocarbons in accordance with this Law.
22. **License:** A license granted for Hydrocarbons Operations in accordance with the provisions of this Law.
23. **Licensee:** Any Person whom the Afghanistan Oil and Gas Authority has granted a License in accordance with this Law.
24. **Import License:** A license granted for Downstream Hydrocarbons Operations involving the importation of Hydrocarbons or Petroleum Products into the territory of Afghanistan in accordance with the provisions of this Law and also includes, prior to the bidding process for Import Licences in accordance with this Law, any licences in relation to the importation of Hydrocarbons or Petroleum Products into the territory of Afghanistan granted under any other law and registered by the Authority in accordance with this Law.

25. **Dry Gas:** Hydrocarbons most commonly consisting of only methane.
26. **Wet Gas:** Hydrocarbons which, apart from methane, contain heavier gases such as ethane, propane, and butane.
27. **Non-Hydrocarbon Gases:** Non-hydrocarbon gases commonly found in the Hydrocarbons industry and found in small amounts in Hydrocarbons wells in association with Hydrocarbons, including carbon dioxide, hydrogen sulphide, radium, krypton, argon, helium and nitrogen.
28. **Proposals Evaluation Team:** A team of experts from the Afghanistan Oil and Gas Authority responsible for evaluating Proposals for Upstream and midstream Hydrocarbons Operations.
29. **Proposal (offer):** The document containing a bidder's proposal for obtaining license.
30. **Subcontractor:** A contractor who enters into contract with the Main Contractor for Upstream Hydrocarbons Operations work or services.

Article 4: Implementing Body

- (1) The implementing body for this law shall be the Afghanistan Oil and Gas Regulatory Authority.
- (2) The Afghanistan Oil and Gas Regulatory Authority will be referred to as Authority in this Law.

Article 5: Ownership of Hydrocarbons

- (1) All Hydrocarbons located on or under the territory of Afghanistan shall be the exclusive property of the State.
- (2) Hydrocarbons Operations within the territory of Afghanistan shall be conducted with the permission of the State. A Person may carry out Hydrocarbons Operations pursuant to a License granted in accordance with the provision of this Law.
- (3) In Exploration and Production Sharing Contract (first type contract) and Service and Production Sharing Contract (second type Contract), the Contractor shall have the right of possession and control over his share of Hydrocarbons extracted according to the Contract and can possess, sell and export it.
- (4) In cases where Hydrocarbons are discovered on or under private land, the State shall expropriate the land in accordance with the law.

Chapter Two

Powers and Responsibilities

Article 6: Functions and powers of the Cabinet of the Islamic Republic of Afghanistan

- (1) The Cabinet of the Islamic Republic of Afghanistan shall have the following powers for implementation of this Law:
1. To approve the classification, declassification or reclassification of areas as being either closed or prohibited to Hydrocarbons Operations.
 2. To approve model form Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 3. To approve the preferred bidder for all Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 4. To approve the signing of all Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 5. To approve proposed amendments to Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 6. To approve the termination of Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 7. To approve all Licences for Downstream Hydrocarbons Operations.
 8. To assess quarterly and annual reports prepared by the Authority.
 9. To approve guidelines to specify preferred bidders for Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 10. To ratify Licences for Downstream Hydrocarbons Operations
 11. To ratify regulations concerning Downstream Hydrocarbons Operations.
 12. To have other such powers as decided by the Cabinet.
 13. The Cabinet shall consult with the High Economic Council in relation to any proposed exercise of its powers or performance of its responsibilities in relation to Hydrocarbons Operations.
- (2) The Cabinet may ratify guidelines for the signing of Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations and the Ministry of Mines and Petroleum shall act on those matters within limits set out in those guidelines.

Article 7: Functions of the Ministry of Mines and Petroleum

- (1) The Ministry of Mines and Petroleum shall have the following powers and responsibilities under this Law:
1. To formulate and implement policies relating to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 2. To propose to the Cabinet for its approval the classification, declassification or reclassification of areas as being either closed or prohibited to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
 3. To divide the territory of Afghanistan into blocks for Upstream Hydrocarbons Operations for the purpose of inviting bids.
 4. To prepare model form Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations and propose them to the Cabinet for approval.

5. To specify the amount of surface rent.
 6. To draft and ratify regulations in relation to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations for a more effective implementation of this Law.
 7. To exercise such other powers and perform such other duties, responsibilities or functions as may be conferred by the Cabinet.
- (2) The Ministry of Mines and Petroleum seeks the advice of the Authority in relation to performance of its responsibilities mentioned in paragraph (1) of this Article.
- (3) The Ministry of Mines and Petroleum shall not exercise any of its powers or to perform any of its responsibilities in relation to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations without first having obtained approval of the Cabinet.
- (4) The Minister of Mines and Petroleum signs Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations on behalf of the State following approval of the Contract by the Cabinet.

Article 8: Functions of the Ministry of Commerce and Industries

- (1) The Ministry of Commerce and Industries shall have the following responsibilities:
1. To formulate and implement policies in relation to Downstream Hydrocarbons Operations.
 2. To seek the advice of the Authority in relation to any proposed exercise of its powers or performance of its responsibilities in relation to Downstream Hydrocarbons Operations.
- (2) The Ministry of Commerce and Industries shall not exercise any of its powers or to perform any of its responsibilities in relation to Downstream Hydrocarbons Operations without first having obtained approval of the Cabinet.

Chapter Three **The Structure, Powers and Responsibilities of the Authority**

Article 9: Establishment of the Authority

- (1) The Authority shall be formed as an independent budgetary unit.
- (2) The Authority is formed of:
1. Director General
 2. High Board of Hydrocarbons.
 3. Employees.

Article 10: Functions and Powers of the Authority

- (1) The Authority shall have the following powers and responsibilities:
1. To promote private investment in the field of Hydrocarbons Operations.
 2. To announce and arrange bidding processes for Contracts.
 3. To organize and evaluate public international open tenders for bidding for Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations and

- recommend a preferred bidder to the Cabinet, in accordance with the provisions of this Law.
4. To negotiate and conclude Contracts and propose them to the Cabinet for approval in accordance with the provisions of this Law.
 5. To implement and supervise the fulfilment of the terms and conditions of Contracts for Upstream Hydrocarbons Operations and Contracts for Midstream Hydrocarbons Operations, including any responsibilities of the Ministry of Mines and Petroleum in any Contracts for Upstream Hydrocarbons Operations and Contracts for Midstream Hydrocarbons Operations entered into prior to the establishment of the Authority, and to certify their implementation.
 6. To issue Licenses for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations following the approval of the Contract.
 7. Once agreed with the Contractor, to send proposed amendments to Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations to the Cabinet.
 8. To propose the approval of transfers or assignments of Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations to the Cabinet.
 9. To issue Licenses for Downstream Hydrocarbons Operations in accordance with the provisions of this Law and regulations.
 10. To monitor and inspect Hydrocarbons Operations.
 11. To stop Contractor activities and terminate Contracts for Upstream Hydrocarbons Operations or Contracts for Midstream Hydrocarbons Operations, after approval of the Cabinet.
 12. To collect surface rent, royalties, bonuses, fees and other payments.
 13. To register Hydrocarbons Operations.
 14. To receive applications for, evaluate and make recommendations to the Cabinet in relation to the grant of Licenses for Downstream Hydrocarbons Operations in accordance with the provisions of this Law.
 15. To require information from Contractors and State agencies on monthly Hydrocarbons production.
 16. To publish monthly and annual reports concerning Hydrocarbons production by Contractors and State agencies.
 17. To use the received information mentioned in section 15 of this Article and to publish it on behalf of the State.
 18. To publish information other than that mentioned in section 15 of this Article in accordance with the law or with the written consent of the related Contractors.
 19. To develop and implement through internal resources or contractors an annual plan, including a budget and timeline, to conduct aero-magnetic and seismic surveys in potential Hydrocarbons areas in order to increase commercial interests in Hydrocarbons areas.
 20. To prepare quarterly and annual reports and submit them to the Cabinet. The quarterly and annual reports shall include financial and operational review of all Contracts and Licences.
 21. To prepare an annual public report on the status of Hydrocarbons industry in the territory of Afghanistan.
 22. To perform testing of Hydrocarbons, including Petroleum Products, at borders crossings and throughout the territory of Afghanistan in accordance with standards developed and set by the Afghan National Standards Authority.
 23. To propose regulations to the Ministry of Mines and Petroleum in relation to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.

24. To draft and ratify regulations in relation to Downstream Hydrocarbons Operations.
25. To provide a copy of the Hydrocarbons Operations Contracts to the Ministry of Finance.
26. To exercise such other powers and perform such other duties, responsibilities or functions as may be conferred by this Law, the Hydrocarbons Regulations, and other laws.

(2) Except for the powers and responsibilities of the Cabinet, the Ministry of Commerce and Industries, and of the Ministry of Mines and Petroleum under this law, the Authority is the only agency authorized to regulate all affairs of the Hydrocarbons Operations.

Article 11: Director General

(1) The Authority shall be managed by a Director General, appointed by the President

(2) A person must have the following attributes to be eligible for appointment as Director General:

1. Citizenship of Afghanistan;
2. Higher education qualifications, at the minimum a Master's degree in one of the fields of Hydrocarbons, Economics or Business Administration;
3. Seven (7) years of relevant work experience in the Hydrocarbons industries;
4. Good reputation;
5. Not be less than thirty (30) years of age; and
6. No convictions by a court for crimes against humanity, felony, or deprivation of civil rights.

(3) The Director General shall report to the High Board of Hydrocarbons.

(4) The Director General may not delegate any of his authority to the employees of the Authority, unless authorized by the High Board.

(5) The Director General is appointed for a duration of five years. A person may not be appointed for the second term as the Director General of the Authority.

Article 12: High Board of Hydrocarbons

(1) The High Board of Hydrocarbons is formed to coordinate the activities of the Authority and shall consist of:

1. One (1) person with legal expertise.
2. One (1) person with financial expertise.
3. One (1) person with information technology expertise.
4. One (1) person with Natural Gas expertise.
5. One (1) person with Hydrocarbon exploration expertise.
6. One (1) person with Hydrocarbon refining expertise.
7. One (1) person with Downstream Hydrocarbons Operations expertise (other than refining).

(2) The members of the High Board of Hydrocarbons are appointed by the President of the Islamic Republic of Afghanistan.

(3) A person must have the following attributes to be eligible for appointment as a member of the

High Board of Hydrocarbons:

1. Citizenship of Afghanistan (except where a citizen of Afghanistan with the required expertise cannot be identified, in which case citizens of other countries may be appointed). The maximum number of foreign citizens at the High Board of Hydrocarbons cannot exceed three members;
2. Higher education qualifications, at the minimum a Bachelor's degree in the relevant field;
3. Ten (10) years of relevant work experience in the Hydrocarbons industries;
4. Good reputation;
5. Not be less than thirty (30) years of age; and
6. No convictions by a court for crimes against humanity, felony or deprivation of civil rights.

(4) For the first term, the members of the High Board of Hydrocarbons shall be appointed in the following order:

1. Three (3) members shall be appointed for a term of two (2) years.
2. Two (2) members shall be appointed for a term of three (3) years.
3. Two (2) members shall be appointed for a term of four (4) years.

(5) The members of the High Board of Hydrocarbons shall be appointed for four years in the subsequent terms. Re-appointment of the members is not allowed.

(6) The President of the Islamic Republic of Afghanistan appoints one member of the High Board to act as Chairperson for a period of two (2) years.

(7) The meetings and other affairs related to the function of the High Board of Hydrocarbons shall be regulated by a separate procedure.

(8) The High Board of Hydrocarbons will be referred to as Board in this Law.

Article 13: Power and Responsibilities of the Board

(1) The Board shall have the following powers and responsibilities:

1. Monitor the tendering and evaluation processes for any Contracts or Licences and shall provide an evaluation report to the Cabinet.
2. Monitor the performance of the Director General.
3. To propose removal of the Director General to the President and provide reasons for doing so.
4. In case of removal of the Director General, appoint a member of the senior management team as acting Director General until the appointment of a new Director General.

(2) The members of the Board shall not interfere in the management activities of the Authority.

(3) The members of the Board shall be paid a salary for attending board meetings, at a rate determined by the Cabinet. The Board positions shall be part-time positions.

Article 14: Hydrocarbons Register

The Authority shall have the following duties to register Hydrocarbons Operations:

1. To prepare a map of Afghanistan, in which the Blocks and Contract Areas are illustrated, and include the following:
 - The areas where Upstream Hydrocarbons Operations are being conducted by the Government;
 - The areas where Upstream Hydrocarbons Operations are conducted by the Contractor (with specifications of the Contractor);
 - The areas to be tendered in the future; and
 - The areas where Hydrocarbons Operations are restricted.
2. To prepare a list of all concluded Contracts, which shall contain the following information:
 - Personal details of the Contractor, its office address, agent or its legal representative;
 - A description of the areas that are under such Contracts, including the parts of the Contract Area that have been relinquished;
 - The validity term of such Contracts and of any phases set forth therein, including any extension, renewal and expiration thereof; and
 - A description of any significant issues related to the information about Contracts, Commercial Discoveries and other significant discoveries and decisions connected with the development of Commercial Discoveries or the commencement of production.
3. To maintain copies of all Contracts and Licenses, documents connected to them, and other required documents that concern the extension, renewal, termination or expiration of such Licenses and Contracts.
4. To provide lists of all pipelines and all relevant facilities such as pump stations, compression centres, intersection points, side-tracks and terminal points.
5. To record all applications, grants, amendments, suspensions and revocations of Licences.
6. To establish and maintain an information center that includes all Downstream Hydrocarbons Operations, statistics on plants, equipment, machines, tanks, depots, terminals, pumps, compressors, stations and all other ancillary physical assets and activities related to the distribution (wholesale and retail) of Hydrocarbons, including Petroleum Products, as well as the import, sale and handling of Hydrocarbons, including Petroleum Products, and other information that the Ministry of Mines and Petroleum deems necessary.

Article 15: Public Access to the Hydrocarbons Register

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

Article 16: Hydrocarbons Data Bank

The Authority shall be obliged to maintain, a Hydrocarbons Data Bank in compliance with international standards, containing information about the following exploration and production:

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

Article 17: Utilization of the Hydrocarbons Data Bank

The conditions governing the publishing, reassessment and type of use of data in the Hydrocarbons Data Bank, including fees payable, shall be determined by the Authority in compliance with the terms of the Contract for Upstream Hydrocarbons Operations.

Article 18: Provision of Information to Provincial Offices

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

**Chapter Four
Areas of Operations and Surface Rights**

Article 19: Possession and Use of State-Owned Land

- (1) Where a Contractor needs to possess or use lands in the contract area, if the lands are owned by the State or in its authority, such land shall be at the disposal of the Contractor in accordance with the provisions of this law, to conduct Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations for the duration of the Contract.
- (2) The State shall guarantee a suitable right of way and other rights required for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.

Article 20: Possession and Use of Private Land

Where a Contractor needs to occupy or use Private Land Located in the Contract Area, the State may, upon a request by the Contractor and a proposal by the Authority, take action in accordance with related laws, to obtain the consent of the owner for the expropriation or lease of the area in question for the duration of the Contract for Upstream Hydrocarbons Operations or Contract for Midstream Hydrocarbons Operations. Contractors shall pay market prices for the use or possession of such land. Any Contractor who occupies land without prior permission may be charged with trespass and treated in accordance with the applicable law.

Article 21: Right of Way

- (1) In the event that a Contractor requires a right of way over State or Private Land to conduct Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations, the State may facilitate the granting of such rights to the Contractor. In such cases, any compensation for the owner or occupier shall be borne by the Contractor.
- (2) After the termination of the Contract for Upstream Hydrocarbons Operations or Midstream

Hydrocarbons Operations the right of way shall be cancelled.

Article 22: Compensation for Affected Persons

- (1) If due to surface or sub-surface Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations, damages are inflicted to properties or the legal rights of Persons, the Contractor shall, taking into consideration the damages done to the surface, agricultural crops, trees, buildings or animals, pay fair compensation for the damages incurred.
- (2) The amount of compensation shall be determined by way of agreement between the parties. If any of the parties are not satisfied, the matter shall be investigated by the Authority and the amount of compensation shall thus be determined.
- (3) If the parties do not consent on the amount specified by the Authority, the dispute shall be settled by a dispute resolution board, which shall consist of representatives from the Authority and the Ministries of Justice, Agriculture, Finance and National Environmental Protection Agency. If the parties do not agree with the decision of the dispute resolution board, the dispute shall be settled through the courts.

Article 23: Restricted Areas

Unless authorized by the Authority, no Person shall conduct Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations in the following areas:

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

Article 24: Obtaining Permission for Operations on Private Land

- (1) A Person who carries out Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations on private lands shall obtain the permission of the owner, legal occupier or his competent representative. Otherwise, such person shall pay compensation to the affected person.
- (2) The action referred to in section (1) of this Article does not apply to areas already included in Contracts for Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations, unless the Contractor agrees otherwise.

Article 25: Areas Closed to Hydrocarbons Operations

The Ministry of Mines and Petroleum may propose area(s) as closed for some or all Hydrocarbons Operations for approval to the Cabinet to protect national interests (Health and protection of residents, national protection, public order, incompatibility of Hydrocarbons Operations with other

existing or planned uses of soil, surface of land, underground resources, environmental protection, historical and cultural heritage protection or other natural values or vulnerable social welfare), upon obtaining of written recommendation from the Authority.

Article 26: Granting Mineral Licenses in Upstream Hydrocarbons Operations Areas

In accordance with the terms and conditions of the Contract and the Minerals Law, the State may grant Exploration and Exploitation Mining Licenses for mineral substances within the Hydrocarbons Contract Area, provided that such new operations in no way hinder Upstream Hydrocarbons Operations. In such a case, the Contractor shall specify proper passage for the mineral rights licensee to the relevant area.

Article 27: Discovery of Mineral Substances

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

Article 28: Discovery of Historical and Cultural Items

- (1) Contractors of Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations shall immediately inform the department for the inspection of mines, and the department for preservation and repair of historical items of the Ministry of Information and Culture upon finding traces, evidence, or a discovery of any item of historical or cultural significance during operations.
- (2) Fossils and other items included in the list of items of historic and cultural significance are historical or cultural items.
- (3) No Contractor of Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations shall remove the items mentioned under sections (1) and (2) of this Article. In this case, the Contractor shall keep these items in safe custody until they are transported by the relevant State authorities.
- (4) If the items mentioned in section (3) of this Article are not transported by the relevant State authorities within 60 days of the date of notice, the subsequent direct expenses of keeping and safeguarding them shall be borne by the relevant State authority.

Article 29: Main Principles for Hydrocarbons Operations

- (1) Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations shall be conducted in accordance with the provisions of this Law and on the basis of a Contract for Upstream Hydrocarbons Operations or Contract for Midstream Hydrocarbons Operations.
- (2) The terms and conditions of Contracts for Upstream Hydrocarbons Operations or Contracts for Midstream Hydrocarbons Operations shall be regulated in the model form contracts in accordance with the provisions of this Law and the Hydrocarbons Regulations.
- (3) Contracts for Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations shall be

implemented subsequent to the approval of the Cabinet.

Article 30: Bids Evaluation

- (1) The Bids Evaluation committee for Contracts for Upstream Hydrocarbons Operations shall consist of representatives of the Authority, selected by the Director General, and one representative from each of the Ministry of Finance and the Ministry of Mines and Petroleum.
- (2) The Bids Evaluation committee shall have the following responsibilities:
 1. Bidders Pre-qualification;
 2. Opening of bids;
 3. Evaluation and assessment of bidders' proposals; and
 4. Selection of the preferred bidder.

**Chapter Five
Contract of Upstream Hydrocarbons Operations**

Article 31: Types of Contracts for Upstream Hydrocarbons Operations

- (1) Contracts for Upstream Hydrocarbons Operations shall be one of the following types:
 1. Exploration and Production Sharing Contracts (first type Contract).
 2. Service and Production Sharing Contracts (second type Contract).
 3. Contracts for Geological, Geophysical, and Geochemical Services (third type Contract).
- (2) The Ministry of Mines and Petroleum shall prepare Model Forms Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations for the approval of the Cabinet, upon obtaining the advice written consultation of the Authority. The model form contracts of Exploration and Production Sharing Contracts (first type contract) and Service and Production Sharing Contracts (second type Contract) shall include a minimum royalty rate, minimum profit from the sale of oil and minimum R Factor, each of which may be differentiated, including on the basis of Hydrocarbons type and field type.

Article 32: Exploration and Production Sharing Contracts (first type contract)

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

Article 33: Service and Production Sharing Contracts (second type contract)

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

Article 34: Contracts for Geological, Geophysical and Geochemical Services (third type contract)

The Geological, Geophysical and Geochemical Services Contract (third type Contract) allows the

Contractor to conduct geological, geophysical and geochemical services in an identified area in accordance with the provisions of this Law and the Contract. This Contract is only applicable in areas not including the first and second type contracts.

Article 35: Rights of Contractor

The Contractor may possess, sell or export his own share from the extracted Hydrocarbons, considering the terms mentioned in the Contract and in accordance with the provisions of this law.

Article 36: Recruitment of Sub-Contractors

In order to conduct the Hydrocarbons Operations efficiently, the Contractor may recruit Sub-contractors to provide services or perform special operations in accordance with the provisions of this Law. The Contractor shall provide copies of any such sub-contracts to the Authority and Ministry of Finance.

Article 37: Contract Bidding

- (1) All Contracts for Upstream Hydrocarbons Operations shall be awarded through public and international open tenders.
- (2) The Authority shall hold pre-qualification proceedings to identify bidders that are qualified to submit bids. A bidder shall prove that it possesses the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in Upstream Hydrocarbons Operations, business reputation and personnel necessary to perform the contract to be able to participate in the international open tender.
- (3) Bidding can be done for an exploration Contract covering either one or more blocks, provided that each block is subject to a separate Contract, or the provision of services for a specific Hydrocarbons project.
- (4) Bidding terms and fees payable by bidders for participation shall be determined by the Authority.
- (5) The Authority shall provide its recommendation about the preferred bidder to the Cabinet for approval.
- (6) In the event that there is a tie between two bidders following the evaluation of their equally qualified bids, the Contract for Upstream Hydrocarbons Operations shall be granted to the bidder with an Afghan partner.

Article 38: Solicitation of Bidders

The solicitation of bids for Contracts covering one or more blocks or for the provision of services for specific Hydrocarbons projects shall be conducted in a manner consistent with the provisions of the Procurement Law, including in relation to the publication of announcements, distribution of terms letters, announcement of open bids, announcement of Contract awarding, unless

otherwise decided by the Government.

Article 39: Provision of Documents

The Authority shall provide, all documents that establish the expertise and technical and economic capability of the preferred bidder, including bid evaluation documents for the approval to the Cabinet.

Article 40: Award of Contracts

- (1) A Contract may be entered into when the Contractor is of sound reputation, is in good legal and financial standing, and demonstrates a proven ability to contribute the necessary capital, machinery, equipment, tools and technical expertise for the most effective performance of the terms and conditions of the Contract.
- (2) The Authority may, with the consent of the Contractor, propose amendments to the Contract, and submit it to the Cabinet for approval.

Article 41: Eligibility Conditions for Obtaining Upstream Hydrocarbons Operations Licenses

- (1) The following Persons may obtain a License for Upstream Hydrocarbons Operations:
 1. Any Person who has reached the age of eighteen and is a citizen of Afghanistan.
 2. Any foreign Person who has reached the age of 18 and has the legal right to reside in Afghanistan.
 3. A legal entity established in accordance with the provisions of the law or formed as its secondary legal entity.
 4. A foreign legal entity established in accordance with foreign law or has its subordinate secondary legal entity and residing in Afghanistan in accordance with related laws and with the right to invest and do business in Afghanistan.
- (2) The following Persons shall not have the right to obtain a Contract for Upstream Hydrocarbons Operations:
 1. High ranking State officials mentioned in Article No. 151 of the Constitution, members of the National Assembly, as well as judges, prosecutors, members of the High Board and employees of the Authority, officials of the Ministries of Mines and Petroleum, National Defence, Interior Affairs, Foreign Affairs, and the National Directorate of Security.
 2. Any Person with no legal capacity.
 3. Any Person declared bankrupt.
 4. Any Person convicted by a final verdict of the authorized court for financial, economic or administrative crimes and sentenced for a period of more than two years imprisonment.
 5. A Person whose License for Upstream Hydrocarbons Operations has been prematurely revoked, terminated or withdrawn.
- (3) In order to obtain a License for Upstream Hydrocarbons Operations and to provide the related information to the competent authorities, any foreign nationals referred to in section (1) of this Article shall be obliged to establish and maintain a permanent representative office in Afghanistan or to appoint an authorized agent resident in Afghanistan.

Article 42: Division of Blocks

Pursuant to the provisions of this Law, the territory of Afghanistan or parts thereof shall be divided into blocks by the Ministry of Mines and Petroleum, using a grid system, acting on the advice of and subject to a prior written recommendation from the Authority. The grid system shall be specified in the Hydrocarbons Regulations.

Article 43: Area Designation

The Contract Area shall be designated and specified in terms of no more than one blocks in the Contract, in accordance with the geographical coordinates of the area or region.

Article 44: Relinquishment of Exploration Contract Area

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

Article 45: Duration of Contract

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

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

Article 46: Contract Termination

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

Article 47: Undertaking Activities in the Contract Areas

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

1. Construct temporary or permanent residential houses, install engineering plants, construct roads and conduct other activities in accordance with this Law to facilitate Upstream Hydrocarbon Operations.
2. Use water for daily consumption and for Upstream Hydrocarbons Operations, in accordance

with this Law.

3. Construct, maintain and operate airports, roads, bridges, communication systems and conveniences, in accordance with the provisions of this Law.
4. Construct water pipes, make watercourses, ponds, dams and reservoirs, lay drains and sewers and construct sewage disposal plants, in accordance the provisions of this Law.
5. Subject to the approval of the Authority, provide other necessary facilities outside the Contract Area to carry out Upstream Hydrocarbons Operations.

(2) The areas mentioned in Article 23 of this Law shall be exempt from the provisions contained in section (1) of this Article.

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

(4) Prior to the commencement of the activities mentioned in sub-sections 1, 2, 3, and 4 of Section (1) of this Article, the Authority shall obtain the approval of the relevant authorities.

Article 48: Transfer and Storage

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

Article 49: Employment of Experts

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

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

Article 50: Obligations of Contractors

The Contractor shall fulfill the following obligations:

1. Carry out specific works in the Contract Area.
2. Prepare and present annually a complete work program and budget for Hydrocarbons Operations.
3. Prepare quarterly reports on accounting records, account statements, samples and data concerning Upstream Hydrocarbons Operations for the Authority.
4. Keep and maintain documents and records of current accounting and the costs of Upstream Hydrocarbons Operations during the term of the Contract, in accordance with the standard accounting methods practiced in the Hydrocarbons industry.
5. Immediately report any discovery of Hydrocarbons, in accordance with the Contract, and supply a sample thereof to the Authority.
6. In the event of a Commercial Discovery of Hydrocarbons, delimit the area involved and

attempt to facilitate its development and production.

7. Produce Hydrocarbons at the appropriate rate of production compatible with the nature and extent of the Hydrocarbons reservoir discovered.
8. Conduct Upstream Hydrocarbons Operations expeditiously and efficiently in accordance with generally accepted best practices in the Hydrocarbons industry, and supply equipment, storage facilities and install them, in compliance with international standards.
9. Take all measures to observe the laws and regulations for health and safety in the workplace, human rights, use of water, environmental protection and the safeguarding of affected communities.
10. Investigate, review and evaluate issues related to the impacts of the contractual Hydrocarbons Operations on the environment and the socio-economic conditions of individuals.
11. Facilitate the inspection and control of operational affairs, records of accounts, reports and account statements available for inspection and control by a relevant State official.
12. To provide financial security to guarantee its compliance with the obligations to the State in accordance with the Contract for Upstream Hydrocarbons Operations.

(1) The Contractor shall be obliged to provide technology, capital, equipment, machinery, and other necessary requirements in the Contract Area at its own expenses for Upstream Hydrocarbons Operations. In the absence of a Commercial Discovery, the expenses of the Contractor shall not be compensated.

(2) The Contractor shall accept all probable dangers arising from Upstream Hydrocarbons Operations, and provide compensation for any losses inflicted, in accordance with this Law.

Article 51: State Actions to Hear Complaints

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

Article 52: Operating Conditions of Hydrocarbons Industries

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

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

Article 53: Area Clean Up

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

Article 54: Employment of Labour

- (1) The Contractor shall employ and train Afghan nationals for the operations of his/her Hydrocarbons.
- (2) The Contractor and its sub-contractors shall guarantee employment opportunities for qualified Afghan nationals in the Hydrocarbons Operations and shall prepare and implement training programs for this purpose as stipulated in the Contract.
- (3) Training Programs shall include plans to train Afghan nationals in the full range of managerial and technical activities involved in the performance by the Contractor of its obligations under the Contract, including engineering design, information technology, petroleum geology technology, production facility operations and maintenance, contract negotiation and contract management.
- (4) Employing foreign labour for unskilled positions is allowed only on a temporary basis and in exceptional cases.

Article 55: Procurement of Domestic Goods and Services

If Afghan goods and services are similar and equivalent in quality, quantity, and price to imported foreign goods and services, the Contractor shall be obliged to purchase and procure the Afghan goods and services.

Article 56: Appointing Agents or Representatives

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

Article 57: Provision of Hydrocarbons to the State

- (1) If the State needs Hydrocarbons to meet its internal consumption requirements, Contractors shall be obliged to provide and supply to the State such quantities as are required, in addition to the quantity which the State is entitled to as a proportion of the volume of the Contractor's production, for a fair market value.
- (2) The State's internal consumption requirements shall be set out in regulations in terms of sector, volumes and duration, and shall be eventually phased out to be replaced by open and free negotiations between suppliers and consumers in the domestic market.
- (3) The State shall retain the right to allocate internal consumption requirement volumes for internal use, ensuring their most economically and socially efficient uses. The Cabinet shall determine the optimal economically and socially efficient allocation of internal consumption requirement volumes.

Article 58: Transfer of Contract Rights

Unless approved by the Cabinet and authorized by the Authority, the Contractor shall not assign, transfer, or pledge the rights or any part thereof granted under the Contract to any other Person. This Article shall not apply to the subcontracts mentioned in Article 36 of this Law.

Article 59: Matters Enclosed in the Proposed Development Program

- (1) In the event that a Commercial Discovery is made under an Exploration and Production Sharing Contract, or prior to the commencement of a Service and Production Sharing Contract, the Contractor shall submit to the Authority a Development Program for approval.
- (2) Development Programs from the Contractor shall contain the following:
 1. Environmental protection and management plans in connection with the development plan of the Commercial Discovery.
 2. Commencement and decommissioning work plan for Upstream Hydrocarbons Operations, environmental impact assessment, a description of the ecosystem before commencement of the development-production phase, including the indigenous flora, fauna, soil, air quality, surface and underground water, and landscape aesthetics.
 3. The effect of Upstream Hydrocarbons Operations on local populations.
 4. The environmental management plan including measures for environmental protection, mitigation or eradication of pollution and compensation of damages to affected people.
 5. The decommissioning and abandonment plan to restore the environment affected by the Upstream Hydrocarbons Operations in order to rehabilitate it to its natural state.
 6. A development budget.
 7. A commencement and working plan, including a risk management plan, for Upstream Hydrocarbons Operations.
 8. An environmental impact assessment including a description of the ecosystem, including the local flora, fauna, soil, air quality, surface and underground water, and landscape aesthetics, before commencement of the relevant Development and Production Phase and the effects that the proposed development plan might have on the ecosystem.

Article 60: Compliance with the Established Orders

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

Article 61: Health and Safety Plan

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

Article 62: Reporting Accidents

- (1) Contractors shall report any serious accident that occurs or any imminent hazard during the Upstream Hydrocarbons Operations as soon as possible to the Authority and the relevant local

State authorities.

- (2) In the event of any disaster or imminent danger, the Authority shall take appropriate measures to resolve and prevent them.
- (3) In the event of disasters or imminent danger, the Contractor shall take every measure possible in accordance with Contractor's risk management plan to mitigate or avoid such danger or disaster.

Article 63: The Environmental Protection Department

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

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

Article 64: Unitization

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

Article 65: Contracts for Geological, Geophysical, and Geochemical Services (Third Type Contracts)

- (1) The State may enter into Contracts for Geological, Geophysical, and Geochemical Services to acquire information upon which to base its Hydrocarbons exploration policy.
- (2) A contract for Geological, Geophysical, and Geochemical Services (third type Contract) grants the right to conduct geological, geophysical and geochemical surveys, tests and studies in an identified area; provided that the identified area is not within a first or second type Contract Area.
- (3) A Contractor under a third type Contract shall report to the Authority on the progress of, and provide the Authority with the results and data from, such surveys, tests, or studies in accordance with the Hydrocarbons Regulations.

Article 66: Ownership of Data

- (1) All data obtained pursuant to any Geological, Geophysical, and Geochemical Services (third type Contracts) shall be the property of the State. The terms and conditions for the exercise of rights in respect of related data shall be stipulated in the respective Contract and by the Hydrocarbons Regulations. The Contractor shall inform the Authority whenever rights regarding geological, geophysical, geochemical data are exercised.
- (2) A Contractor shall maintain the original samples and data related to first and second type Contracts in its custody and shall provide access to the Authority to such samples and data when required. If such samples and data are stored outside the territory of Afghanistan, the cost of access shall be for the account of the Contractor.
- (3) Upon expiration or in the event of surrender or termination of a Contract, the Contractor shall provide to the Authority all such original samples and data related to Hydrocarbons Operations, to the extent not already provided to the Authority, at the cost of the Contractor.
- (4) A Contractor shall keep confidential the data acquired and any existing data released by the Authority to the Contractor, and shall not disclose such data to a third party without the written consent of the Authority, except as may be provided in the relevant Contract.

Chapter Six Midstream Hydrocarbons Operations

Article 67: Contracts for Midstream Hydrocarbons Operations

- (1) Contracts for Midstream Hydrocarbons Operations grant the right to construct pipelines and associated facilities (*e.g.* pumping stations, storage tanks or valves) and to carry out Hydrocarbons storage and transportation operations. The terms and conditions related to the construction and operation of such pipelines and related facilities, including design, route selection and safety requirements, shall be set forth in the Contract and the Hydrocarbons Regulations.
- (2) The Ministry of Mines and Petroleum shall draft and announce Midstream Hydrocarbons Operations regulations, acting on the advice of and subject to a prior written recommendation from the Authority, which shall include the followings, but not limited to:
 1. Specifying any provisions of this Law relating to only Upstream Hydrocarbons Operations shall be applied to Midstream Hydrocarbons Operations.
 2. Provisions to encourage competition and allow for negotiations for infrastructure access in connection with Midstream Hydrocarbons Operations.

Article 68: Conditions for the Construction and Operation of Pipelines

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

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

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

Article 69: Transportation Terms and Tariff

- (1) The transportation tariffs for the use of the pipeline shall be determined by the Authority.
- (2) Should the State or a Contractor need to transfer their additional Hydrocarbons through a pipeline owned by a Person according to the provisions of this Law and the relevant regulations, they shall request the consent of the pipeline owner. In the absence of an agreement with the owner, the Authority, taking into consideration any contractual obligations of the pipeline owner, shall make an appropriate determination concerning the use of the pipeline.
- (3) Any tariffs set by the Authority or other requirements of the Authority under this Article must be exercised subject to, and in accordance with, any international agreements relating to tariffs imposed on transportation over or conditions relating to use of pipelines.

Chapter Seven

Downstream Hydrocarbons Operations

Article 70: Licensing of Downstream Hydrocarbons Operations

- (1) No Person shall carry out Downstream Hydrocarbons Operations without holding a valid Licence.
- (2) Other matters related to Licences for Downstream Hydrocarbons Operations, including the application, evaluation, grant or rejection of and monitoring of compliance with Licences for Downstream Hydrocarbons Operations including Import Licences will be regulated through a separate regulation consistent with Article 66. , which shall include but are not limited to:
 1. The types and duration of Licences for Downstream Hydrocarbons Operations, which shall include but are not limited to Import Licences, Licences for refineries and Licences for petrol stations.
 2. The qualifications that need to be met by bidders for Import Licences, including legal capacity, absence of bankruptcy, absence of conflicts of interest, no convictions for misconduct relating to business, necessary professional and technical qualifications and competence, financial resources, equipment and other physical assets and compliance with specified health, safety and environmental standards.

3. The process for submitting applications to the Authority for, evaluation of and grant or rejection by the Authority of, Licences.
4. Any general obligations of Licensees and any operating conditions that shall be imposed on Licences, including any conditions requiring clean up, environmental management plans, health and safety plans, accident reporting and compliance reporting to the Authority.
5. Any application, renewal or other fees payable to the Authority in respect of Licences
6. Any requirement for the approval of the Cabinet in order to assign or transfer Licences.
7. The circumstances in which the Authority may suspend, revoke or terminate Licences.
8. Provisions in relation to the registration or revocation by the Authority of any licences in relation to Downstream Hydrocarbons Operations granted under any other law before this Law entering into force.
9. Provisions to encourage competition and allow for negotiations for infrastructure access in connection with Downstream Hydrocarbons Operations.

Article 71: Import Licences

- (1) No person shall import Hydrocarbons, including Petroleum Products, into the territory of Afghanistan without an Import Licence.
- (2) The Authority shall issue Import Licences in accordance with provisions of this law and the relevant regulations. All licences and contracts in relation to the importation of Hydrocarbons or Petroleum Products into the territory of Afghanistan granted under any other law before this Law entering into force must be registered with the Authority within three (3) months of the establishment of the Authority.
- (3) The Authority grants Import License through an open and transparent bidding process. Within three (3) months of the establishment of the Authority, the Authority shall draft and process regulations for the bidding process, which shall include but are not limited to:
 1. The types of Import Licences including, if applicable, with respect to specified classes of Hydrocarbons or Petroleum Products, which must not include any exemptions.
 2. The number of, and duration of, each type of Import Licence.
 3. The qualifications that need to be met by bidders for Import Licences, including legal capacity, absence of bankruptcy, absence of conflicts of interest, no convictions for misconduct relating to business, necessary professional and technical qualifications and competence, financial resources, equipment and other physical assets and compliance with specified health, safety and environmental standards,
 4. Any minimum application or other fees payable to the Authority in respect of Import Licences
 5. The process for submitting bids to the Authority for, evaluation of or rejection of bids by the Authority.
- (4) The Authority shall call for bids on each type of Import Licence in accordance with the regulations within six (6) months of the establishment of the Authority.
- (5) Provided that bidders meet the required qualifications and comply with the bidding process set

out in the Hydrocarbons Regulations and otherwise comply with this Law, the Authority shall award Import Licences based on the highest price bid for each type of Import Licence.

- (6) All licences in relation to the importation of Hydrocarbons or Petroleum Products into the territory of Afghanistan granted under any other law before this Law entering into force will expire nine (9) months of the establishment of the Authority.
- (7) The authority grants the right of hydrocarbon imports to the Fuel and Liquid Gas Enterprise or the replacing authority based on the accepted inter-governmental agreements, the restrictions stated in the paragraph 1 to 6 of this law are not included in the said enterprise or the replacing authority.

Chapter Eight Taxation of Hydrocarbons Operations

Part One – Financial and Accounting Affairs of Upstream and Midstream Hydrocarbons Operations

Article 72: Accounts

Contractors shall maintain their related accounts in accordance with the International Financial Reporting Standards (IFRS) published by the International Accounting Standards Board.

Article 73: Payment of Taxes

- (1) Contractors shall be required to pay their taxes and customs duties in accordance with the provisions of applicable laws.
- (2) In order to protect Contractors, the Ministry of Mines and Petroleum may, on the advice of and subject to a prior written recommendation from the Authority, consider the inclusion in model form Contracts for Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations financial assurances on the stability of taxes, levies, and charges, in accordance with the provisions of enforced laws of Afghanistan and in coordination with the Ministry of Finance.

Article 74: Royalties

- (1) Contractors shall be required to pay royalties upon the production of Liquid Hydrocarbons and Natural Gas in accordance with the Hydrocarbons Regulations and as set out in the applicable first and second type Contracts.
- (2) The royalty rate for the quantities of Liquid Hydrocarbons and Natural Gas, after deducting the amounts consumed in the conduct of production operations, shall be determined by the Cabinet and recorded in model form Contracts for Upstream Hydrocarbons Operations as per the proposal of the Ministry of Mines and Petroleum, and subject to a prior written recommendation from the Authority.

Article 75: Surface Rental Fees

- (1) Contractors shall pay surface rental fees for the land used by them to the owner or occupier of the Contract Area.
- (2) The rental fee per hectare of land shall be specified by the Hydrocarbons Regulations.

Article 76: Violations

- (1) Where, at the time of inspection of a Contract that has been entered into, it is found that false or fraudulent information has been presented by the Contractor or information has been withheld by the Contractor, the Authority may require the Contractor to provide any necessary information. If the Contractor fails to provide such information or the explanations presented are not satisfactory, and the incorrect information provided or an omission constitutes a material breach of the Contract, the Contract may be revoked by the Authority with the approval of the Cabinet and the State shall be entitled to compensation for losses incurred as a result of the breach of Contract.
- (2) The Authority shall publish reasons justifying revocation of the Contract and shall send a copy thereof to the Contractor. In this case, the rights and privileges granted to the Contractor shall be suspended and the area concerned and securities provided shall be forfeited to the State.
- (3) Cases for collection of fines and compensation of losses connected with violations of this Law shall be specified in the Hydrocarbons Regulations.
- (4) Whenever the Contractor is not satisfied with the decision to revoke the Contract, pay damages or fines as referred to in this Law the matter shall be referred to commercial arbitration or to a competent court.
- (5) Where a Contractor is in breach of Contract, and such a breach may have an impact on the environment or on the safety of employees or third parties, the Authority may order the suspension of Upstream Hydrocarbon Operations or Midstream Hydrocarbons Operations for a period not exceeding 6 months.
- (6) Breach of the Contract by either party shall entitle the other party to seek remedies for breach of Contract.
- (7) Where the Contractor repeatedly or materially violates the Contract, the Contract may be revoked by the authorities and the State shall be entitled to compensation for losses incurred as a result of the breach of Contract.
- (8) Penalties for infractions against the Environmental Law shall be determined pursuant to that law and related regulations.

Article 77: Transfer of Foreign Exchange

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

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

Article 78: Expropriation

- (1) The rights of a Contractor under a Contract for Upstream Hydrocarbons Operations or Midstream Hydrocarbons Operations, the assets of the Contractor and the share of Hydrocarbons to which it is entitled under the Contract may not be expropriated directly or indirectly except if authorized by a law and in the case of public necessity.
- (2) In the event of expropriation, the State shall provide fair compensation in conformity with principles of international law and the payment of such compensation shall be made to the Contractor in freely convertible foreign currency.

Part Two - Price monitoring, Intervention and Financial and Accounting Affairs of Downstream Hydrocarbons Operations

Article 79: Price Monitoring and Intervention

- (1) The Authority shall establish adequate procedures for monitoring of prices of the principal Hydrocarbons, including the principal Petroleum Products.
- (2) In an emergency situation declared according to the applicable legislation on grounds or for reasons of accidents, political disturbances, natural disasters or other interruptions or distortions of Hydrocarbons supply by force majeure, or by negligence or wilful misconduct of any Person, the Authority, after consultation with the Cabinet, may temporarily intervene in the supply chain of Downstream Hydrocarbons Operations by way of implementing measures or restrictions provided for in the emergency Hydrocarbons supply plan prepared by the Authority, confirmed by the Cabinet. Such intervention may include temporary price controls according to paragraph (3) below in cases of disruption of regular supplies due to manipulations by operators or other

emergencies.

- (3) If the Authority detects that holders of Licenses for Downstream Hydrocarbons Operations frequently exceed published maximum parity prices over periods of time, the Authority, after consultation with the Cabinet, shall have the authority to order the temporary imposition of mandatory maximum retail prices for the respective Hydrocarbons for defined periods of time in all or specified markets of the country.

Article 80: Taxes and other Levies

- (1) Taxes, custom duties or other levies on the sale of Hydrocarbons and the conduct of Downstream Hydrocarbons Operations imposed by law shall be collected by the competent authorities.
- (2) Taxes, custom duties or other levies mentioned in paragraph (1) of this Article may differ by product depending on the applicable policies of relative pricing among products, but shall always be imposed as a fixed amount per unit and not as a percentage of the value of a product in accordance with the law
- (3) Fees of Downstream Hydrocarbons Operations will be regulated by a separate regulation.
- (4) For imported Hydrocarbons, including Petroleum Products, all import duties shall be payable at the time of import, without exemption. A refund or rebate of any applicable tariff or duty exemptions shall be payable to the importer upon receipt of relevant documents to the satisfaction of the Authority.

Chapter Nine Final Provisions

Article 81: Transfer of Revenue

The Authority shall transfer the revenue generated from issuing Licences, Hydrocarbons Operations, and other relevant means to the bank account of the Government.

Article 82: Prohibition of Bribing State Officials

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

Article 83: Dispute Resolution

- (1) If the Contractor is a Domestic Natural Person or a Domestic Legal Entity, then any dispute between the State and the Contractor shall be settled in the local courts of justice.
- (2) If the Contractor is a Foreign Natural Person or Foreign Legal Entity, then the following shall apply:

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

Article 84: Audit

The Authority shall be evaluated and audited on a quarterly basis by a reputable international accounting firm in accordance with the International Financial Reporting Standards (IFRS) published by the International Accounting Standards Board, which shall provide a written report to the Board and Cabinet. The evaluation and audit report shall be published by the Authority through its official web page, within two weeks of receipt.

Article 85: Transparency

The Authority shall publish through its official websites the minutes of meetings of the Board within two weeks after each meeting and all private sector contracts within two weeks of signing, taking into account confidentiality needs of any such contracts.

Article 86: Enactment of Regulations, Guidelines and Procedures

- (1) For a more effective implementation of this Law, the Ministry of Mines and Petroleum with the assistance of the Authority may draft and implement regulations in relation to Upstream Hydrocarbons Operations and Midstream Hydrocarbons Operations.
- (2) The Authority shall draft and implement regulations, guidelines, and procedures in relation to Downstream Hydrocarbons Operations.

Article 87: Effective Date

This Law shall enter into force as of the date of endorsement and shall be published in the official Gazette. With enforcement of this Law the Hydrocarbons Law which was published in the official Gazette No. 972 (1387) and any other provisions contradicting this law shall be void.