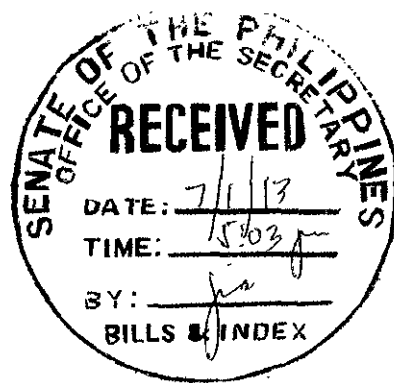


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
S. B. No. 232



Introduced by Senator Maria Lourdes Nancy S. Binay

EXPLANATORY NOTE

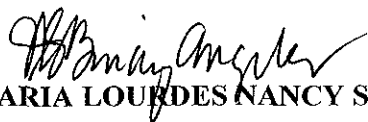
Oil and gas have become increasingly important to the Philippine economy both as the driving engine behind the transportation sector and primary fuel for power generation. Except for 6,000 barrels per day (MB/d) produced by Galoc Production Company (Galoc), the Philippines imports almost 300,000 MB/d 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.

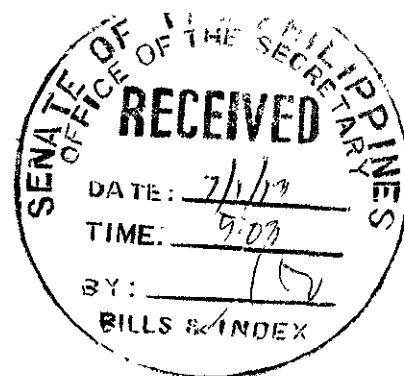
While it sets out one of the most attractive fiscal regimes within the Asian region, PD 87 needs to be amended to adapt to the modern requirements of the upstream petroleum industry. To compete with Indonesia, Thailand and Malaysia where a great number of oil and gas deposits were already discovered, 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 timely passage of this bill is earnestly recommended.



MARIA LOURDES NANCY S. BINAY
Senator

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



SENATE
S. B. No. 232

Introduced by Senator Maria Lourdes Nancy S. Binay

1 AN ACT TO PROMOTE THE DISCOVERY AND PRODUCTION OF
2 INDIGENOUS PETROLEUM AND FOR OTHER PURPOSES
3

4 *Be it enacted by the Senate and House of Representatives of the Philippines in*
5 *Congress assembled:*
6

7 **SECTION 1.** *Short Title.* This Act shall be known and may be cited as “*The*
8 *Petroleum Exploration and Development Act of 2013.*”
9

10 **SECTION 2.** *Declaration of Policy.* All petroleum resources in public and private
11 lands within the territory and exclusive economic zone of the Republic of the
12 Philippines are owned by the State.¹ It is hereby declared to be the policy of the State
13 (a) to ensure a continuous, adequate, and economic supply of energy with the end in
14 view of ultimately achieving self-reliance in the country’s energy requirements
15 through the integrated and intensive exploration, production, management, and
16 development of the country’s indigenous petroleum resources²; (b) to hasten the
17 discovery and production of indigenous petroleum through the utilization of
18 government and/or private resources, local and foreign under the arrangements
19 embodied in this Act which are calculated to yield the maximum benefit to the
20 Filipino people and to assure just returns to participating private enterprises,
21 particularly those that will provide the necessary financing, technology and services
22 and fully assume all exploration risks; (c) to attract foreign capital and expertise by
23 providing meaningful incentives that are competitive with the fiscal and other terms
24 offered by other countries in the Asia-Pacific region; (d) to revitalize and encourage
25 more exploration activities in the Philippines; and (e) to rationalize and simplify the
26 regulatory framework governing exploration and production investment and activities
27 in the Philippines.
28

29 **SECTION 3.** *Definition of terms.* As used in this Act, the following terms shall have
30 the following meanings:
31

- 32 (a) “Affiliate” means (i) a company in which a Contractor holds directly or
33 indirectly at least fifty percent (50%) of its outstanding shares entitled to vote;
34 (ii) a company which holds directly or indirectly at least fifty percent (50%) of

¹ Sec 2, RA 7942, Mining Act of 1995

² Sec 2. RA 7638, Department of Energy Act of 1992.

- 1 the Contractor's outstanding shares entitled to vote; or (iii) a company in which
2 at least fifty percent (50%) of its share outstanding and entitled to vote are
3 owned by a company which holds directly or indirectly at least fifty percent of
4 the shares outstanding and entitled to vote of the Contractor.
5
- 6 (b) "Associated Gas" means all gaseous hydrocarbons produced in association with
7 Crude Oil from oil reservoirs, including residue gas remaining after the
8 extraction of liquid hydrocarbons therefrom.
9
- 10 (c) "Barrel" means 42 U.S. gallons or 9702 cubic inches at a temperature of sixty
11 degrees Fahrenheit (60°F). Any references in this Act to the value of any Crude
12 Oil at the Market Price shall be construed as a reference to the amount obtained
13 by multiplying the number of Barrels of that Crude Oil by Market Price per
14 Barrel applicable to that Crude Oil.
15
- 16 (d) "Calendar Year" means a period of twelve (12) consecutive months
17 commencing with January 1 and ending on the following December 31.
18
- 19 (e) "Casinghead Petroleum Spirit" means any hydrocarbons, including condensate,
20 existing in liquid form at a temperature of sixty degrees Fahrenheit (60°F) and at
21 an atmospheric pressure of 14.65 PSIA, which are obtained from Natural Gas at
22 the well head or by separation or by any chemical or physical process or ethane,
23 propane, and butane produced by gas processing.
24
- 25 (f) "Coal Bed Methane" means natural (hydrocarbon) gas with methane gas as its
26 main component naturally brought about in the coalification process in trapped
27 and absorbed condition in coal and/or coal layers.
28
- 29 (g) "Coal Bed Methane Contract" means a Contract for the exploration and
30 development of a Coal Bed Methane area under this Act.
31
- 32 (h) "Contract" or "Service Contract" refers to a contract entered into by the
33 Government and a Contractor in accordance with this Act including any
34 exhibits and attachments.
35
- 36 (i) "Contract Area" or "Area" means, at any time, the area within the sovereignty
37 or jurisdiction of the Republic of the Philippines which is the subject of a
38 Service Contract.
39
- 40 (j) "Contractor" means the contractor in a Service Contract whether acting alone
41 or in consortium with others.
42
- 43 (k) "Contractor Share" shall have the meaning set forth in Section 9(o).
44 (l) "Cross Recovery" means that the Operating Expenses incurred by a Deepwater
45 Contractor or its Affiliate in two or more Areas under different Deepwater
46 Contracts and the Operating Expenses it incurred in the drilling of Deepwater
47 Wells may be recovered from the Gross Income resulting from the sale of the
48 Petroleum produced within any one or more of the Deepwater Contracts, as if
49 they are covered by a single contract.
50

- 1 (m) "Crude Oil" or "Crude" means oil in its natural state before the same has been
2 refined or otherwise treated. It does not include oil produced through destructive
3 distillation of coal, bituminous shales or other stratified deposits, either in its
4 natural state or after the extraction of water, and sand or other foreign
5 substances therefrom.
6
- 7 (n) "Date of Commencement of Commercial Production" means the date of
8 commencement of production of Crude Oil and/or Natural Gas from any Oil
9 Field and Gas Field determined and announced by the Department and the
10 Contractor in accordance with the provisions of the Contract on determination
11 of commerciality, excluding production from an extended well test or drill stem
12 test.
13
- 14 (o) "Department" means the Department of Energy created under Republic Act No.
15 7638.
16
- 17 (p) "Department Secretary" means the Secretary of Energy.
18
- 19 (q) "Deepwater Contract" means a Contract that as of its effective date at least
20 eighty five percent (85%) of the total contract area are in water depths greater
21 than 200 meters, notwithstanding any subsequent reduction of the contract area
22 in water depths greater than 200 meters arising from relinquishment or other
23 reduction permitted under the Contract.
24
- 25 (r) "Deepwater Contractor" means the Contractor in a Deepwater Contract,
26 whether alone or in consortium with others.
27
- 28 (s) "Deepwater Well" refers to a well drilled on water depths greater than 200
29 meters.
30
- 31 (t) "Development Cost" means costs incurred by the Contractor for Development
32 Operations.
33
- 34 (u) "Development Operations" means operations carried out for the realization of
35 Petroleum production from the date of approval by the Department of the
36 Overall Development Program for any Oil Field and/or Gas Field including
37 design, construction, installation, drilling, and related research work as well as
38 relevant activities carried out before the Date of Commencement of Commercial
39 Production for the realization of Petroleum production.
40
- 41 (v) "Exploration Cost" means costs incurred by the Contractor for Exploration
42 Operations.
43
- 44 (w) "Exploration Operations" means operations carried out for the purpose of
45 discovering Petroleum-bearing traps by means of geological, geophysical,
46 geochemical and other methods including exploratory well drilling; all the work
47 undertaken to determine the commerciality of traps in which Petroleum has
48 been discovered including appraisal well drilling and feasibility studies,
49 formulation of the Overall Development Program; and activities related to all
50 such operations, including any work done prior to approval of the Overall

- 1 Development Program in an attempt to identify a market for Natural Gas.
2
- 3 (x) "Exploration Period" shall have the meaning set forth in Section 9(e).
4
- 5 (y) "Facilities" means all property of every kind, nature and description taken over,
6 appropriated or otherwise acquired under or for the purpose of Petroleum
7 Operations.
8
- 9 (z) "Filipino Participation Incentive Allowance (FPIA)" means the allowance
10 which may be given a Contractor with Filipino participation as provided in
11 Section 11 hereof.
12
- 13 (aa) "Foreign Exchange" means any currency other than that of the Republic of the
14 Philippines which is freely convertible into gold or currencies eligible to form
15 part of the country's international reserves and is acceptable to the Department
16 and the Contractor.
17
- 18 (bb) "Gas Field" means an accumulation of gas within the Contract Area composed
19 of one or several overlapping gas bearing zones, within one trap or within
20 associated traps of the same independent geological structure, including gas
21 caps, which may or may not be complicated by faulting, and which has
22 commercial value determined in accordance with the procedures stipulated in
23 the Contract.
24
- 25 (cc) "Government" means the Government of the Republic of the Philippines.
26
- 27 (dd) "Government Share" shall have the meaning set forth in Section 9 (p) hereof.
28
- 29 (ee) "Gross Income" means the gross proceeds from the sale, exchange or
30 disposition of Petroleum produced under the Contract and sold or exchanged
31 during the Taxable Year at Posted Price or Market Price, as the case may be,
32 and such other income which are incidental to and arising from one or more of
33 the Petroleum Operations of the Contractor.
34
- 35 (ff) "Investment Promotion Period" means the period within ten (10) years from the
36 effective date of this Act, which period may be extended by the President for an
37 additional period not exceeding five (5) years.
38
- 39 (gg) "LNG" means Liquefied Natural Gas.
40
- 41 (hh) "Major Contract" means a Service Contract where the Development Cost
42 incurred by the Contractor is not less than [Twenty Billion Pesos
43 (P20,000,000,000)].
44
- 45 (ii) "Market Price" means the price which is or would be realized for Petroleum
46 produced under a Contract if sold in a transaction between independent persons
47 dealing at arm's length in a free market.
48

- 1 (jj) "Natural Gas" means Non-associated Gas and Associated Gas in their natural
2 state including gas obtained from boreholes and wells and consisting primarily
3 of hydrocarbons.
4
- 5 (kk) Net Proceeds means the difference between (i) Gross Income, and (ii) the sum
6 of the Operating Expenses recoverable and the FPIA, if any.
7
- 8 (ll) "Non-associated Gas" means all gaseous hydrocarbons produced from gas
9 reservoirs, including wet gas, dry gas and residue gas after the extraction of
10 liquid hydrocarbons from wet gas.
11
- 12 (mm) "Non-Philippine Contractor" means a Contractor that is (a) not a Philippine
13 Corporation; or (b) a consortium wherein Philippine Corporations hold less than
14 sixty percent (60%) of the participating interest as defined in the joint operating
15 agreement governing the consortium.
16
- 17 (nn) "Oil Field" means an accumulation of Crude Oil within the Contract Area
18 composed of one or several overlapping oil-bearing zones, within one trap or
19 within associated traps of the same independent geological structure, which may
20 or may not be complicated by faulting, and which has commercial value
21 determined in accordance with the Contract.
22
- 23 (oo) "Oil Field and/or Gas Field Straddling a Boundary" means any Oil Field and/or
24 Gas Field extending beyond the Contract Area.
25
- 26 (pp) "Operating Cost" means the costs incurred by the Contractor for Production
27 Operations.
28
- 29 (qq) "Operating Expenses" means the total expenditures incurred by Contractor
30 within and outside the Philippines in all Petroleum Operations performed in
31 accordance with or pursuant to the Contract. These expenses shall include, but
32 are not necessarily limited to, the cost of seismic surveys, reprocessing and
33 special processing of seismic data, geological and geophysical studies, drilling,
34 equipping and completing wells, engineering studies, construction of well
35 platforms and tank batteries, flowline systems and terminals, the cost of
36 operating and maintaining all such facilities including general and
37 administrative costs and expenses, and home office overhead and service fees,
38 in accordance with the applicable accounting procedure of the Contract.
39 Operating Expenses shall also include, but are not necessarily limited to,
40 charges relating to lifting, transportation, storage, handling, and sale of
41 Petroleum, whether for export or domestic consumption, and interest and
42 financing charges incurred to fund Development Operations and Production
43 Operations. In the recovery of Operating Expenses, the first to be recovered
44 shall be the Operating Cost followed by the Exploration Cost and then the
45 Development Cost.
46
- 47 (rr) "Overall Development Program" means a plan prepared by the Contractor for
48 the development of an Oil Field and/or Gas Field and approved by the
49 Department and such plans shall include, but shall not be limited to, recoverable
50 reserves, the development well pattern, master design, production profile,

- 1 economic analysis and time schedule of the Development Operations,
2 abandonment and decommissioning.
3
- 4 (ss) "Petroleum" means any Crude Oil or mineral oil, Natural Gas or hydrocarbon
5 gas, Coal Bed Methane, condensate, Casinghead Petroleum Spirit, bitumen,
6 asphalt, mineral gas, and all other similar or naturally associated substances
7 with the exception of coal, peat, bituminous shale and/or other stratified mineral
8 fuel deposits.
9
- 10 (tt) "Petroleum In Commercial Quantity" means Petroleum in such quantities which
11 will permit its being economically developed, either on its own or in
12 combination with other existing and/or future discoveries of Petroleum, as
13 determined by the Contractor and approved by the Department after taking into
14 consideration the location of the Petroleum reserves, the depths and number of
15 wells required to be drilled, and the transport and terminal facilities needed to
16 utilize the Petroleum which has been discovered.
17
- 18 (uu) "Petroleum Operations" means searching for and obtaining Petroleum within
19 the Philippines through drilling and natural flow or suction or the like, and all
20 other operations incidental thereto. It includes the treatment, processing,
21 transportation (including transportation by pipeline), storage, handling and sale
22 (whether for export or domestic consumption) of Petroleum so obtained but
23 does not include any: (i) transportation of Petroleum outside the Philippines; (ii)
24 processing or refining of Crude Oil at a refinery; or (ii) any transaction in the
25 Crude Oil products so refined. It includes transportation of Petroleum up to
26 delivery point to the buyer(s) thereof, and the facilities upstream of said delivery
27 point(s) for the extraction of such Petroleum as described in the applicable
28 Overall Development Plan. Subject to the approval of the Department and to
29 terms as may be agreed between the Government and the Contractor, such
30 Contractor may construct, install and operate facilities (whether offshore and/or
31 onshore) to process the Natural Gas from the Contract Area into LNG, and to
32 store, transport, dispose and/or export such LNG, as part of Petroleum
33 Operations.
34
- 35 (vv) "Philippine Contractor" means a Contractor that is a Philippine Corporation or a
36 consortium wherein Philippine Corporations hold at least sixty percent (60%) of
37 the participating interest as defined in the joint operating agreement governing
38 the consortium.
39
- 40 (ww) "Philippine Corporation" means a corporation organized and existing under
41 Philippine laws at least sixty percent (60%) of the capital of which is owned and
42 held by Filipino citizens and/or other Philippine Corporations.
43
- 44 (xx) "Philippine Income Tax" means all taxes imposed by the National Internal
45 Revenue Code of the Philippines or equivalent legislation, as may be amended
46 from time to time, upon taxable corporate income, including withholding taxes
47 on dividends and distribution or remittances or profit to Contractor's parent
48 company or companies, or to Contractor's head office if the Contractor is a
49 branch of a foreign company, or to Contractor's shareholders.
50

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

7
8 (zz) "President" means the President of the Philippines.

9
10 (aaa) "Production Area" means that portion or portions of the Contract Area where
11 reservoirs containing Petroleum In Commercial Quantity are delineated by
12 Contractor with the approval of the Department.

13
14 (bbb) "Production Operations" means operations and all activities related thereto
15 carried out for producing Petroleum from an Oil Field and/or Gas Field from
16 the Date of Commencement of Commercial Production, including but not
17 limited to extraction, injection, stimulation, treatment, storage, transportation,
18 and lifting.

19
20 (ccc) "Special Purpose Vessel" means a vessel that is used for offshore Petroleum
21 Operations including but not limited to: drilling operations; seismic,
22 geophysical, geochemical, oceanographic and similar surveys; survey; supply,
23 anchor or hose handling, pipe or cable laying; offshore construction,
24 installation, commissioning and hook-up; heavy lifting; dredging and rock
25 placement; pipeline and subsea facilities inspection and maintenance; floating
26 accommodation, floating storage; floating production storage and offloading;
27 fire-fighting, search and rescue; and oil spill control and response.

28
29 (ddd) "Sub-Contractor" means an individual or entity that directly or indirectly
30 provides goods and services required for Petroleum Operations including the
31 related subcontractors at whatever tier;

32
33 (eee) "Taxable Net Income" shall have the meaning set forth in Section 6 hereof.

34
35 (fff) "Taxable Year" means the calendar or fiscal year of the Contractor.

36
37 **SECTION 4.** *Government may undertake Petroleum exploration and production.*
38 Subject to existing private rights, the Government may directly explore for and
39 produce indigenous Petroleum. It may also indirectly undertake the same under
40 Service Contracts as hereafter provided. These Contracts may cover onshore or
41 offshore areas or a combination of both provided that each Contract Area shall as
42 much as practicable be contiguous. In every case, the Contractor must be technically
43 competent and financially capable as determined by the Department to undertake the
44 Petroleum Operations required in the Contract. In the context of Section 2, Article XII
45 of the 1987 Constitution regarding the large-scale exploration, development and
46 utilization of petroleum resources, Non-Philippine Contractors are qualified to enter
47 into Service Contracts provided that the work commitment for all of the phases
48 comprising the Exploration Period, including but not limited to the acquisition of
49 seismic data and the drilling of exploratory and/or appraisal well(s), shall not be less
50 than One Billion Pesos (P1,000,000,000).

- 1
2 **SECTION 5.** *Execution of the Contract authorized in this Act.* A Contract
3 authorized in this Act shall be executed as follows:
4
5 (a) If the Contract is with a Non-Philippine Contractor, then the Contract shall be
6 entered into on behalf of the Government by the President, upon the
7 recommendation of the Department.
8 (b)
9 (c) If the Contract is with a Philippine Contractor, the Contract shall be entered into
10 on behalf of the Government by (i) the President, or (ii) by the Department
11 Secretary, subject to the approval of the President, *Provided*, That if there are
12 assignments of the participating interest that result in the Contractor being
13 deemed a Non-Philippine Contractor then such Contract shall be re-executed by
14 the President upon the recommendation of the Department.
15
16 (d) The President shall notify Congress of every Contract entered into within thirty
17 days from the execution thereof.
18
19 (e) A Contract under this Act shall be executed after due public notice and pre-
20 qualification and may be awarded through public bidding or concluded through
21 negotiations. In case bids are requested and no bid is submitted, or the bids are
22 rejected by the Department for being disadvantageous to the Government, the
23 Contract may be concluded through negotiation.
24
25 (f) In opening Contract Areas and in selecting the best offers and proposals for
26 Petroleum Operations the Department may use any of the following methods: (i)
27 conduct a public bidding for a specific area(s) on the basis of defined criteria; or
28 (ii) conduct negotiations for a specific area(s) previously offered by the
29 Department but for which there has been insufficient interest to warrant a public
30 bidding. Any activities related to the implementation of Section 5 (e) of this Act
31 shall be given the widest publicity in and outside the Philippines. The
32 Department shall publish model contracts and announce at least three (3)
33 months in advance any intention to offer areas for bidding to include the
34 evaluation criteria to be applied and the respective weights to be given for each
35 criterion.³
36

37 **SECTION 6.** *Nature of Service Contract.* In a Service Contract:

- 38
39 (a) the Government grants the Contractor the exclusive right to explore and develop
40 any Petroleum within the Contract Area;
41
42 (b) the Contractor provides the necessary financing, technology and services to
43 conduct Petroleum Operations and assumes all exploration risk for which it
44 shall be entitled to recover Operating Expenses and to be paid a service fee from
45 the Petroleum produced under the Contract; and
46
47 (c) the Government receives a stipulated share of the Net Proceeds from the
48 Petroleum produced under the Contract.

³ See Section 6 and 7, House Bill No. 3019, Oil and Gas Act of 2004.

1
2 **SECTION 7. *Provisions of Service Contract.*** The provisions of each Contract shall
3 include but is not limited to the following: term, exclusion or relinquishment of areas,
4 minimum work commitment and expenditure, obligations and rights of the
5 Contractor, work program and budget, declaration of commerciality, cost recovery
6 and accounting, sale and disposal of Petroleum, pricing of Petroleum sold or disposed,
7 income tax, payments, natural gas, submission of data and reports, assets and
8 equipment, consultation and arbitration, incentives for Filipino participation,
9 employment and training of Filipinos, preferential use of local goods and services,
10 books of account and audit, insurance, confidentiality, assignments, health,
11 environmental protection and safety, and termination.

12
13 **SECTION 8. *Obligations of the Contractor.*** The Contractor shall undertake,
14 manage and execute Petroleum Operations under the full control and supervision of
15 the Government, through the Department. The Contract may authorize the Contractor
16 to take and dispose of and market either domestically or for export all Petroleum
17 produced under the Contract subject to supplying the domestic requirements of the
18 Republic of the Philippines on a *pro-rata* basis. The Government shall oversee the
19 management of the operations contemplated in the contract and in this connection
20 shall require the Contractor to:

- 21
22 (a) Provide the necessary services and technology;
23 (b) Provide the requisite financing;
24 (c) Perform the exploration work obligations and program prescribed in the
25 Contract, which may be more but shall not be less than the obligations
26 prescribed in this Act;
27 (d) Once Petroleum in Commercial Quantity is discovered, operate the field on
28 behalf of the Government in accordance with accepted good oil field practice
29 using modern and scientific methods to enable maximum economic production
30 of petroleum; avoiding hazards to life, health and property; avoiding pollution
31 of air, land and waters; and pursuant to an efficient and economic program of
32 operation;
33 (e) Assume all exploration risks such that if no Petroleum in Commercial Quantity
34 is discovered and produced, it will not be entitled to reimbursement from the
35 Government, subject to any applicable Cross Recovery;
36 (f) Furnish the Department promptly with geological and other information, data
37 and reports which it may require;
38 (g) Maintain detailed technical records and accounts of its operations;
39 (h) Conform to regulations regarding, among others safety, demarcation of Contract
40 Areas, and non-interference with the rights of other petroleum, mineral and
41 natural resources operators;
42 (i) Maintain all meters and measuring equipment in good order and allow access to
43 these as well as to the exploration and production sites and operations to
44 inspectors authorized by the Department;
45 (j) Allow examiners of the Bureau of Internal Revenue and other representatives
46 authorized by the Department full access to their accounts, books and records,
47 for tax and other fiscal purposes;
48 (k) Be subject to Philippine Income Tax;
49 (l) After commercial production of Petroleum commences in the Contract Area, to
50 supply from Contractor's and Government's shares in such production, a

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

11
12 On the other hand the Department shall:

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

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

26
27 SECTION 9. *Minimum terms and conditions.* In addition to those elsewhere
28 provided in this Act, every Contract executed in pursuance hereof shall contain the
29 following minimum terms and conditions:

- 30
31 (a) Every Contractor shall be obliged to spend in direct prosecution of exploration
32 work and in delineation and development following the discovery of Petroleum
33 in Commercial Quantity not less than the amounts provided for in the Contract
34 between the Government and the Contractor and these amounts shall not be less
35 than the total obtained by multiplying the number of hectares covered by the
36 Contract by the following amounts per hectare:

37

38	<u>PERIOD</u>	<u>ONSHORE</u>	<u>OFFSHORE</u>
39			
40	Year 1	P 15.00	P 15.00
41	Year 2	15.00	15.00
42	Year 3	15.00	30.00
43	Year 4	15.00	30.00
44	Year 5	15.00	30.00
45	Year 6	45.00	90.00
46	Year 7	45.00	90.00
47	Year 8	45.00	90.00
48	Year 9	45.00	90.00
49	Year 10	45.00	90.00
50			

- 1 (b) *Provided*, That if during any Contract year the Contractor shall spend more than
2 the amount of money required to be spent, the excess may be credited against
3 the money required to be spent by the Contractor during the succeeding years;
4 *Provided*, further, That in case the same Contractor holds two or more areas
5 under different Contracts, the total amount of work obligations for exploration
6 required for in the initial term of all such Contracts may be spent within any one
7 or more of them as if they are covered by a single Contract; *Provided*, That
8 should the Contractor fail to comply with the work obligations provided for in
9 the Contract, it shall pay the Government the amount it should have spent but
10 did not in direct prosecution of its work obligations. In case the Contractor
11 renounces or abandons wholly or partly the area covered by the Contract within
12 two years from its effective date, it should in respect of the abandoned area pay
13 the Government the amount it should have spent, but did not, for exploration
14 work during said two (2) years, for which payment, among other obligations,
15 the performance guarantee posted by the contractor shall be answerable.
16
- 17 (c) Every Contract shall provide for the compulsory relinquishment of at least
18 twenty-five percent (25%) of the initial area at the end of five years from its
19 effective date and in the event of an extension of the Contract from seven to ten
20 years, an additional relinquishment of at least twenty-five percent (25%) of the
21 initial area at the end of seven years from its effective date. Any portion of the
22 Contract Area already delineated as a Production Area shall not be taken into
23 account in ascertaining the extent of relinquishment required. Any area
24 renounced or abandoned under Section 9(b) above shall be credited against the
25 portion of the area subject to the Contract which is required to be surrendered
26 hereunder.
27
- 28 (d) The Contractor shall, after the discovery of Petroleum in Commercial Quantity,
29 delineate the Production Area within the period agreed upon in the Contract.
30
- 31 (e) The Exploration Period under every Contract shall be seven (7) years which
32 may consist of sub-phases as defined in the Contract, extendible for three (3)
33 years if the Contractor has not been in default in its exploration work
34 obligations and other obligations after which the Contract shall lapse, unless
35 Petroleum has been discovered by the end of tenth year and the Contractor
36 requests a further extension of one year to determine whether it is in commercial
37 quantity in which event, another extension of one year for exploration may be
38 granted. If Petroleum in Commercial Quantity has been discovered, the
39 Contractor may retain after the Exploration Period and during the effectivity of
40 the Contract twelve and one-half percent (12.5%) of the initial area in addition
41 to the delineated Production Area: *Provided*, however, That the Contractor shall
42 pay annual rentals on such retained area which shall not be less than fifty pesos
43 (P50.00) per hectare or fraction thereof for onshore areas and not less than one
44 hundred pesos (P100.00) as determined by the Department per hectare or
45 fraction thereof for offshore areas; *Provided*, further, That such rentals can be
46 offset against exploration expenditures actually spent on such area.
47
- 48 (f) Where Petroleum in Commercial Quantity is discovered during the Exploration
49 Period in any area covered by the Contract, the Contract with respect to said
50 area shall remain in force for production purposes during the balance of the ten

1 (1) year Exploration Period and for an additional period of twenty-five (25)
2 years, thereafter renewable for a period not exceeding fifteen (15) years under
3 such terms and conditions as may be agreed upon by the Government and the
4 Contractor at the time of renewal.
5

6 (g) Other than assets leased from third parties, the Contractor shall own the
7 materials, equipment, plants and other installations purchased, installed and/or
8 constructed for the Petroleum Operations, whether such assets are movable or
9 immovable in nature, and whether located within or outside of the Contract
10 Area. The Contractor shall transfer possession and ownership of fully cost
11 recovered assets, as is, upon termination of the Contract or within the period
12 agreed by the Government and the Contractor, *Provided*, that in case the
13 Department does not elect to possess certain assets which have been fully cost
14 recovered, the Contractor shall to the extent required under the Overall
15 Development Plan remove or dispose the relevant assets within one year from
16 the termination of the Contract, or within the period agreed by the Government
17 and the Contractor, *Provided*, further that the Contractor shall have the right to
18 continue to use the aforementioned assets until it has concluded its use of them
19 in accordance with obligations under the Contract.
20

21
22 (h) The Contractor shall be responsible for the decommissioning of the Facilities
23 and as part of the Overall Development Program the Contractor shall define a
24 decommissioning plan as well as a process to determine provisions for future
25 abandonment costs. In respect of Facilities located offshore the means and
26 methods of decommissioning shall be consistent with Article 60(3) of the 1982
27 United Nations Convention on the Law of the Sea and the "Guidelines and
28 Standards for the Removal of Offshore Installations and Structures on the
29 Continental Shelf and in the Exclusive Economic Zone" issued in 1989 by the
30 International Maritime Organization. The decommissioning plan shall
31 incorporate the following principles: (i) the decommissioning plan shall make
32 provision for the cost of decommissioning; (ii) the Contract may provide for the
33 creation of a decommissioning fund; (iii) costs incurred by the Contractor for
34 decommissioning including payments to the decommissioning fund shall be cost
35 recoverable; (iv) the Contractor may be required to provide security to ensure
36 compliance with its decommissioning obligations; and (v) the Department may
37 elect to take over the Facilities in which event the decommissioning fund shall
38 be transferred to the Department and the Contractor shall be relieved of any
39 further liability for decommissioning the Facilities.
40

41 (i) The Contractor shall be subject to the provisions of laws of general application
42 relating to labor, health, safety and ecology insofar as they are not in conflict
43 with the provisions otherwise contained in this Act. The Contractor shall be
44 responsible to take measures to manage the health, safety and environmental
45 risks arising from the conduct of Petroleum Operations, and should have the
46 ability to prevent and respond to critical events.
47

48 (j) Every Contract executed in pursuance of this Act shall contain provisions
49 regarding the discovery, production, sale and disposal of Natural Gas and
50 Casinghead Petroleum Spirit that shall be in line with the rules herein prescribed

1 for Crude Oil except that; (1) the Market Price shall be the basis for tax and all
2 other purposes; and (2) after meeting any requirements in secondary recovery
3 operations priority shall be given to supplying prospective demand in the
4 Philippines.
5

6 (k) A Contractor shall be exempt from all national and local taxes, except
7 Philippine Income Tax.
8

9 (l) In each Calendar Year, the Contractor shall recover from the Gross Income an
10 amount equal to all unrecovered Operating Expenses; *Provided*, that the amount
11 so recovered shall not exceed eighty percent (80%) of the Gross Income in any
12 Calendar Year; *Provided further*, that if in any Calendar Year, the unrecovered
13 Operating Expenses exceed eighty percent (80%) of the Gross Income, or there
14 is no Gross Income, then the unrecovered Operating Expenses shall be
15 recovered from the Gross Income in the succeeding Calendar Year(s); *Provided*
16 *further*, that after the first three Calendar Years of commercial production the
17 percentage of Operating Expenses that can be recovered from Gross Income
18 shall be reduced to seventy percent (70%). Reimbursement of the Contractor's
19 Operating Expenses includes amortization, depreciation and interest as provided
20 hereunder. In the recovery of Operating Expenses, the first to be recovered shall
21 be the Operating Cost followed by the Exploration cost then the Development
22 Cost. Tangible Exploration Costs such as capital assets may, at the option of
23 Contractor, be depreciated for a period of three (3) years under the straight line
24 or double declining method. Intangible Exploration Costs may be recovered in
25 full during the Calendar Year they are incurred.
26

27 (m) Cross-Recovery of Operating Expenses set forth in this section shall be allowed
28 for Deepwater Contracts that become effective during the Investment Promotion
29 Period. A Deepwater Contractor shall be entitled to the Cross Recovery of the
30 Operating Expenses (including but not limited to the drilling of Deepwater
31 Wells) incurred in two or more Areas under different Deepwater Contracts, as
32 if they are covered by a single Contract. Operating Expenses incurred by a
33 Deepwater Contractor before the Date of Commencement of Commercial
34 Production shall be cross-recoverable starting on the said date. The following
35 shall be cross-recoverable: (i) the entire amount of Operating Expenses incurred
36 within ten (10) years before the Date of Commencement of Commercial
37 Production; and (ii) Operating Expenses incurred more than ten (10) years
38 before the Date of Commencement of Commercial Production shall be reduced
39 by an amount equal to twenty percent (20%) for each year beyond ten (10) years
40 before the Date of Commencement of Commercial Production. Operating
41 Expenses of Deepwater Contracts under this Act may be cross-recovered from
42 the gross income of a service contract executed under Presidential Decree No.
43 87 which meets the definition of a Deepwater Contract. If the Contractor is a
44 consortium then Cross Recovery shall apply *mutatis mutandis* to a member of
45 consortium holding an interest in two or more Areas under different Deepwater
46 Contracts. The manner for claiming, computing, and paying *Cross Recovery*
47 shall be stipulated in the Contract.
48

49 (n) The Contractor's service fee shall be equal to forty percent (40%) of the Net
50 Proceeds from Petroleum Operations during a Calendar Year ("Contractor

1 Share”), *Provided*, that in the case of a Deepwater Contract or Major Contract
2 that becomes effective during the Investment Promotion Period the Contractor’s
3 service fee shall be equal to fifty percent (50%) of the Net Proceeds. The
4 Contractor shall have the right and privilege of receiving the Contractor’s
5 service fee in kind as Contractor’s share of the Petroleum produced, saved and
6 sold from the Contract Area. The Secretary may authorize the Contractor to
7 market the Government share of Petroleum together with the Contractor’s share
8 which sale shall be exempt from any law, rules or regulations requiring public
9 bidding, *Provided*, that the selling price shall not be less than the Market Price.
10

- 11 (o) The Government shall be entitled to receive sixty percent (60%) of the Net
12 Proceeds from Petroleum Operations during a Calendar Year (“Government
13 Share”), *Provided*, that in the case of a Deepwater Contract or Major Contract
14 that becomes effective during the Investment Promotion Period the Government
15 Share shall be equal to fifty percent (50%) of the Net Proceeds.
16

17 **SECTION 10. *Contract Areas.*** A Contractor or its Affiliate may enter into one or
18 more Contracts with the Government. Contracts for offshore areas may cover *any*
19 *portion* beneath the Philippine territorial waters or its continental shelf, or portion of
20 the continental slope, terrace or areas which are or may be subject to Philippine
21 jurisdiction; *Provided*, That for Deepwater Contracts, the Department may provide for
22 more liberal terms than provided for herein with respect to contract area, exploration
23 period and relinquishment. No individual Contract shall cover less than fifty thousand
24 (50,000) nor more than seven hundred and fifty thousand (750,000) hectares for
25 onshore areas, or less than eighty thousand (80,000) nor more than one million five
26 hundred thousand (1,500,000) hectares for offshore areas.
27

28 **SECTION 11. *Filipino Participation Incentive Allowance.*** If the Contractor is a
29 consortium in which Philippine Corporations have an aggregate participating interest
30 of at least fifteen percent (15%), the Government may grant the Contractor an
31 allowance commensurate with the scope of Filipino participation, not exceeding seven
32 and one half percent (7.5%) of the Gross Income.
33

34 **SECTION 12. *Transfer and assignment.*** The rights and obligations under a Contract
35 executed under this Act shall not be assigned or transferred without the prior approval
36 of the Department; *Provided*, That with respect to the transfer or assignment of
37 contractual rights and obligations under this Act to an Affiliate of the transferor, the
38 approval thereof by the Department shall be automatic, if the transferee is as qualified
39 as the transferor to enter into such contract with the Government.
40

41 **SECTION 13. *Privileges of Contractor.*** The provisions of any law to the contrary
42 notwithstanding, a Contract executed under this Act shall provide that the Contractor
43 shall have the following privileges:
44

- 45 (a) Exemption from all national and local taxes (including real property tax), except
46 Philippine Income Tax;
47
48 (b) Exemption from payment of all levies, tariffs, duties, compensating tax and
49 value added tax on the importation into the Philippines of all machinery,
50 equipment, spare parts and all materials required for, and to be used exclusively

- 1 by the Contractor or its Sub-Contractors in Petroleum Operations, subject to the
2 following conditions: (i) that said machinery, equipment, spare parts and
3 materials of comparable price, quality and quantity are not manufactured
4 domestically nor readily available to Contractor or its Sub-Contractor(s) within
5 the same or better time frame; and (ii) said machinery, equipment, spare parts
6 and materials are directly and actually needed and will be used exclusively by
7 the Contractor or Sub-Contractor for Petroleum Operations and are covered by
8 shipping documents in the name of the Contractor to whom the shipment will be
9 delivered directly by the customs authorities; and (iii) the prior approval of the
10 Department was obtained by the Contractor before the importation of such
11 machinery, equipment, spare parts and materials which approval shall not be
12 unreasonably withheld; *Provided*, however, if the Contractor or its Sub-
13 Contractor(s) sell, transfer or dispose of such machinery, equipment, spare parts
14 and materials in the Philippines without the prior approval of the Department
15 the Contractor shall pay twice the amount of tax exemption granted on the item
16 sold, transferred or disposed; *Provided* finally, that the Department shall allow
17 and approve sale, transfer, or disposition of the said items without tax if made
18 (1) to another Contractor; (2) for reasons of technical obsolescence; or (3) for
19 purposes of replacement to improve and/or expand the Petroleum Operations of
20 the Contractor;
- 21
- 22 (c) Exemption from the posting of a performance or surety bond during the period
23 of Production Operations under the Contract;
- 24
- 25 (d) Exemption upon approval by the Department from laws, regulations and/or
26 ordinance restricting (1) the construction, installation and operation of power
27 plants for the exclusive use of the Contractor if no local enterprise can supply
28 within a reasonable period and at reasonable cost the power needed by the
29 Contractor in its petroleum operations, and (2) the exportation of machinery,
30 equipment, spare parts and materials which were imported solely for the
31 Contractor's Petroleum Operations when no longer needed therefore;
- 32
- 33 (e) Exemption from publication requirements under Republic Act No. 5455
34 otherwise known as the "Foreign Business Regulation Act";
- 35
- 36 (f) Exemption from the investment requirements of foreign corporations under
37 Section 126 in relation to Section 148 of the Corporation Code of the
38 Philippines;
- 39
- 40 (g) Exportation of Petroleum subject to the obligation to supply a portion of
41 domestic requirements as provided in Section 7(1);
- 42
- 43 (h) Entry, upon the sole approval of the Department which shall not be
44 unreasonably withheld, of foreign nationals for technical and specialized
45 positions (including their spouses and unmarried children below twenty one
46 (21) years of age), who may exercise their professions solely for the operations
47 of the Contractor as prescribed in its Contract with the Government under this
48 Act; *Provided*, That if the employment or connection of any such foreign
49 national with the Contractor or Sub-Contractor ceases, the applicable laws and
50 regulations on immigration shall apply to said foreign national and the members

1 of the family; *Provided, further* That Filipinos shall be given preference to
2 positions for which they have adequate training and experience; and *Provided,*
3 finally, That the Contractor shall adopt and implement a program for providing
4 technology transfer and specialized technical training to Filipinos. Foreign
5 nationals within the purview of this provision, who are not excluded by Section
6 29 of Commonwealth Act No. 613, as amended, shall be permitted to enter and
7 reside in the Philippines during the period of employment of such foreign
8 nationals. They shall be entitled to a multiple entry visa, valid for a period of
9 three years (or if the employment is for a period less than three years, then for
10 the duration of employment), and shall be allowed to enter and leave the
11 Philippines without further documentary requirements other than valid passports
12 or other travel documents in the nature of passports. The validity of the multiple
13 entry visa shall be extendible yearly. The said foreign nationals admitted under
14 this provision, as well as their respective spouses and dependents shall be
15 exempt from: (a) obtaining alien certificates of registration and immigration
16 clearance certificates; and (b) securing the Alien Employment Permit (AEP) and
17 all types of clearances, permits, licenses or their equivalents required by any
18 government department or agency; and
19

- 20 (i) Rights and obligations in any Contract concluded pursuant to this Act shall be
21 deemed as essential considerations for the Contract and shall not be unilaterally
22 changed or impaired.
23

24 **SECTION 14. *Repatriation of capital and retention of profits abroad.*** The
25 Contractor shall be entitled to: (1) repatriate over a reasonable period the capital
26 investment and all costs and expenses actually spent on or brought into the country in
27 Foreign Exchange or other assets and registered with the Bangko Sentral ng Pilipinas;
28 (2) retain abroad all Foreign Exchange representing proceeds arising from exports
29 accruing to the Contractor over and above (a) the Foreign Exchange to be converted
30 into Pesos in an amount sufficient to cover the costs of the Petroleum Operations
31 payable in Philippine currency; and (b) revenues due the Government from such
32 Petroleum Operations; *Provided,* however, That the Government and the Contractor
33 shall stipulate in the Contract the currency in which the Government revenues arising
34 under (b) above are to be paid; (3) convert into Foreign Exchange and remit abroad at
35 prevailing rates no less favorable to Contractor than those available to any other
36 purchaser of Foreign Exchange, any excess balances of their Philippine currency
37 earnings from Petroleum production and sale over and above the current working
38 balance they require, and (4) convert Foreign Exchange into Philippine Currency for
39 all purposes in connection with its petroleum operations at prevailing rates no less
40 favorable to contractor than those available to any other purchaser of such currency.
41

42 **SECTION 15. *Arbitration.*** The Department may stipulate in a Contract that disputes
43 in the implementation thereof between the Government and the Contractor may be
44 settled in accordance with generally accepted international arbitration practice.
45

46 **SECTION 16. *Performance Guarantee.*** The Contract may require the posting of a
47 bond or other guarantee of sufficient amount in favor of the Government and with
48 surety or sureties satisfactory to the Department, conditioned upon the faithful
49 performance by the Contractor of any or all of the obligations under the Contract.
50

1 **SECTION 17. *Implementing Agency and Inter-Agency Committee.*** The Department
2 of Energy is designated as the implementing agency of this Act.

3
4 (a) Inter-agency committee on vessel, customs, immigration and quarantine
5 clearance - To ensure a unified and coordinated effort among the Government
6 agencies involved in vessel, customs, immigration and quarantine clearance in
7 relation to the conduct of Petroleum Operations, and to expedite the entry and/or
8 exit of the required vessels, machinery, equipment, materials and spare parts, an
9 inter-agency committee is hereby created composed of the representatives of the
10 Department (Chair), the Department of Finance (Vice-Chair), the Bureau of
11 Customs, the Bureau of Immigration, the Philippine Coast Guard, and the
12 National Quarantine Office.

13
14 (b) Inter-agency committee on work permits and visas – To ensure a unified and
15 coordinated effort among the relevant Government agencies, and to expedite the
16 entry and/or exit of foreign nationals required for the conduct of Petroleum
17 Operations, an inter-agency committee is hereby created composed of the
18 representatives of the Department (Chair), the Department of Foreign Affairs
19 (Vice-Chair), the Bureau of Immigration, and the Department of Labor and
20 Employment.

21
22 (c) Additional inter-agency committees – The Department may establish such other
23 inter-agency committees as may be required facilitate the implementation of this
24 Act and to facilitate cooperation and the sharing of resources and information
25 among the relevant Government agencies.

26
27 (d) The Department shall have the power to reorganize the inter-agencies created
28 pursuant to this section, as may be required from time to time.

29
30 **SECTION 18. *Powers and Functions.*** In addition to the powers and functions of the
31 Department under Republic Act No. 7638 , the Department shall:

32
33 (a) Promulgate and issue rules and regulations implementing the provisions of the
34 Act;

35
36 (b) Prescribe appropriate forms, documentary requirements, and fees for the
37 processing of applications or the provision of administrative services under the
38 Act;

39
40 (c) Define areas that are available for Contracts and to give wide publicity to any
41 notice or invitation to bid for such Contracts consistent with the best interest of
42 the Government;

43
44 (d) Conduct investment promotion programs for domestic and international
45 investors in coordination with the Department of Trade and Industry;

46
47 (e) Provide Contractors and potential investors with updated information and
48 authoritative resources regarding the permits, approvals and other requirements
49 for investments under this Act and for conducting Petroleum Operations;

50

- 1 (f) Establish a One Stop Shop Center for the purpose of facilitating the registration,
2 licensing or issuing of permits to investors under this Act, in coordination with
3 the appropriate Government agencies;
4
5
- 6 (g) Enter into Contracts, or recommend to the President to enter into Contracts, as
7 the case may be, with such terms and conditions as may be appropriate under
8 the circumstances;
9
- 10 (h) Provide for the manner and form of the payment of Philippine Income Tax, the
11 reimbursement of Operating Expenses, Cross-Recovery, the payment of the
12 Government Share and Contractor's service fee, and other payments pursuant to
13 the applicable Contract;
14
- 15 (i) Act as the repository of the applications, notices, approvals, Contracts, reports,
16 submissions and other pertinent documents and information related to the
17 implementation of this Act;
18
- 19 (j) Provide the public with information on the award and status of Contracts, the
20 operational and financial performance of Contractors, major projects approved
21 by the Department, and the revenues generated for the Government;
22
- 23 (k) Conduct programs to control marine pollution from offshore Petroleum
24 Operations and to establish and maintain emergency response capabilities, in
25 coordination with the Philippine Coast Guard and the Department of
26 Environment and Natural Resources;
27
- 28 (l) Conduct development programs (directly or through a Contractor or other party)
29 benefit communities in areas, or adjacent to areas, where Petroleum Operations
30 are conducted, in coordination with the relevant Contractors and local
31 government units;
32
- 33 (m) Conduct regular and special meetings with concerned Government agencies
34 (including local government units) as may be required to achieve the objectives
35 of the Act, to reduce bureaucratic red tape, to simplify and standardize permit
36 requirements and procedures, to resolve any inter-agency issues, and to
37 facilitate the efficient conduct of Petroleum Operations;
38
- 39 (n) Prescribe rules and regulations for: (i) the services that may be rendered by
40 Government personnel (including but not limited to customs, immigration,
41 quarantine and vessel clearance in support of offshore Petroleum Operations)
42 involving special arrangements due to the remote location or difficulty of access
43 to the area where the presence of Government personnel is required; (ii) the
44 provision by the Contractor or other party of any required training,
45 transportation, meals, accommodation, personal protective equipment, or other
46 assistance; and (iii) the payment by the Department or the relevant Government
47 agency of reasonable allowances to the aforesaid Government personnel in view
48 of travel required, extended or irregular working hours, or exposure to hazards,
49 and the manner of funding such allowances;
50

- 1 (o) Submit an annual report to the President and Congress on the activities and the
2 accomplishments of the Department to implement the Act; and
3
4 (p) Perform such other functions and responsibilities as may be directed by the
5 President and to exercise all powers necessary or incidental to attain the
6 objectives of this Act.
7

8 **SECTION 19. *Imposition of Tax.*** The Contractor shall be liable each Taxable Year
9 for Philippine Income Tax under the provisions of the National Internal Revenue
10 Code and this Act. The Philippine Income Tax shall be part of the Government Share.
11

12 **SECTION 20. *Taxable Net Income.*** The Taxable Net Income shall be equivalent to
13 the Contractor Share grossed-up for the amount of Philippine Income Tax.
14

15 **SECTION 21. *Tax return.*** Each corporation comprising the Contractor shall render to
16 the Department a return for each Taxable Year in duplicate in such form and manner
17 as provided by Philippine laws setting forth its Taxable Net Income. The Department
18 shall file the returns with the Commissioner of Internal Revenue or his deputies or
19 other persons authorized to receive such return within the period specified in the
20 National Internal Revenue Code and the Rules and Regulations promulgated
21 thereunder.
22

23 **SECTION 22. *Payment of tax.*** The Department shall, on behalf of each corporation
24 comprising Contractor, pay from the Government Share of the Net Proceeds and
25 separately remit to the Bureau of Internal Revenue, all Philippine Income Tax based
26 on income or profit derived from Petroleum Operations under the Contract. The
27 Department shall separately remit such Philippine Income Tax to, and obtain separate
28 official receipts acknowledging payment of said taxes from, the proper Government
29 authority. The Department shall furnish to each of the corporations comprising the
30 Contractor their respective official receipts issued in their names. The Contractor's
31 liability for Philippine Income Tax in any Taxable Year shall not exceed the
32 Government Share, and the Contractor shall not be liable for the payment of any
33 Philippine Income Tax in excess of the Government Share.
34

35 **SECTION 23. *Final income tax on Sub-Contractors.*** — Every Sub-Contractor,
36 whether domestic or foreign, entering into a contract with a Contractor engaged in
37 Petroleum Operations in the Philippines shall be liable to a final income tax
38 equivalent to eight percent (8%) of its gross income derived from such contract, such
39 tax to be in lieu of any and all taxes, whether national or local: *Provided, however,*
40 that any income received from all other sources within and without the Philippines in
41 the case of domestic Sub-Contractors and within the Philippines in the case of foreign
42 Sub-Contractors shall be subject to the regular income tax imposed under the National
43 Internal Revenue Code. The term "gross income" means all income earned or received
44 as a result of the contract entered into by the subcontractor with a service contractor
45 engaged in petroleum operations in the Philippines under this Act.
46

47 **SECTION 24. *Taxation of foreign nationals employed by Contractors and Sub-***
48 ***Contractors.*** Foreign nationals who are permanent residents of a foreign country but
49 who are employed and assigned in the Philippines by Contractors or by Sub-
50 Contractors engaged in Petroleum Operations in the Philippines, shall be liable to a

1 final income tax equal to fifteen percent (15%) of the salaries, wages, annuities,
2 compensations, remunerations and emoluments received from such contractors or
3 subcontractors. Any income earned from all other sources within the Philippines by
4 the said alien employees shall be subject to the income tax imposed under the
5 National Internal Revenue Code.

6
7 **SECTION 25. *Withholding of certain taxes.*** (a) Every Contractor shall deduct,
8 withhold, and pay the tax imposed under Section 23 from the amounts paid by
9 Contractor to the Sub-Contractor under the contract entered into by and between them
10 in the same manner and subject to the same conditions as provided in Section 26 of
11 the National Internal Revenue Code. (b) Every Contractor shall also deduct, withhold
12 and pay the tax imposed under Section 24 from the salaries, wages, annuities,
13 compensations, remunerations and emoluments paid to its foreign national employees
14 and the foreign nationals employed by its foreign Sub-Contractors in the same manner
15 and under the same conditions as provided in Section 26 of the National Internal
16 Revenue Code. (c) Every domestic Sub-Contractor shall deduct, withhold and pay the
17 tax imposed in Section 24 from the salaries, wages, annuities, compensations,
18 remunerations and emoluments paid to its foreign national employees in the same
19 manner and under the same conditions as provided in Section 26 of the National
20 Internal Revenue Code.

21
22 **SECTION 26. *Registration of Sub-Contracts.*** - All contracts entered into between
23 the Contractor and a Sub-Contractor engaged in Petroleum Operations in the
24 Philippines shall be registered with the Department. The cost of Sub-Contracts shall
25 be considered as part of reimbursable operating expenses of the Contractor under this
26 Act only if it is shown that the contract has been properly registered with the
27 Department and the taxes due under this Act have been withheld and paid in
28 accordance with the provisions of Sections 26 of the National Internal Revenue Code.

29
30 **SECTION 27. *Applicability of the provisions of the National Internal Revenue Code.***
31 All provisions of the National Internal Revenue Code and the rules and regulations
32 promulgated in relation therewith that are not inconsistent with the provisions of this
33 Act shall be applicable to the Contractor.

34
35 **SECTION 28. *Auxiliary Exploration and Development Rights.*** To facilitate the
36 efficient conduct of Petroleum Operations the Contractor shall have the following
37 rights:

38
39 (a) **Water Rights.** - The Contractor shall have water rights for its Petroleum
40 Operations upon approval of application with the appropriate government agency in
41 accordance with existing water laws, rules and regulations promulgated thereunder:
42 Provided, That water rights already granted or vested through long use, recognized
43 and acknowledged by local customs, laws, and decisions of courts shall not thereby be
44 impaired: *Provided,*
45 further, That the Government reserves the right to regulate water rights and the
46 reasonable and equitable distribution of water supply so as to prevent the monopoly of
47 the use thereof.

48
49 (b) **Right to Possess Explosives.** - The Contractor shall have the right to possess and
50 use explosives within his contract area as may be necessary for his Petroleum

1 Operations upon approval of an application with the appropriate government agency
2 in accordance with existing laws, rules and regulations promulgated thereunder:
3 *Provided*, That the Government reserves the right to regulate and control the
4 explosive accessories to ensure safe mining operations.
5

6 (c) Easement Rights. - When the Contract Area is so situated that for purposes of
7 more convenient Petroleum Operations it is necessary to build, construct or install on
8 the area or lands owned, occupied or leased by other persons, such infrastructure as
9 roads, warehouses, staging or storage areas and port facilities, tramways, runways,
10 airports, electric transmission, telephone or telegraph lines, sites for water wells,
11 ditches canals, pipelines, etc., the Contractor, upon payment of just compensation
12 shall be entitled to enter and occupy said areas or lands.
13

14 (d) Entry into Private Lands and Concession Areas. - Subject to prior notification, the
15 Contractor shall not be prevented from entry into private lands and concession areas
16 by surface owners, occupants, or concessionaires when conducting Petroleum
17 Operations therein: *Provided*, That any damage done to the property of the surface
18 owner, occupant, or concessionaire as a consequence of such operations shall be
19 properly compensated as may be provided for in the implementing rules and
20 regulations: *Provided*, further, That to guarantee such compensation, the Contractor
21 authorized to conduct Petroleum Operations shall, prior thereto, post a bond with the
22 Department based on the type of properties, the prevailing prices in and around the
23 area where the Petroleum Operations are to be conducted, with surety or sureties
24 satisfactory to the Department.
25

26 **SECTION 29. *Safety and Exclusion Zones.*** The President may establish and
27 reserve certain lands, waters, submerged lands, foreshore areas, and air space as
28 safety and exclusion zones in order: (a) to protect public health, safety and the
29 environment; (b) to secure vital infrastructure used in Petroleum Operations from
30 damage; and (c) to prevent disruptions in the availability of Petroleum. The
31 Department may prohibit certain activities in such safety and exclusion zones
32 without its prior authorization, including but not limited to: (a) trawl fishing or other
33 fishing methods which involve the use of weights, anchors or similar devices on the
34 seabed; (b) anchoring; (c) use of and/or dumping of explosives; (d) drilling,
35 construction or the installation of submarine pipelines or cable; and (e) similar
36 activities which may pose a potential risk to the Petroleum sand to public health,
37 safety and the environment.
38

39 **SECTION 30. *Temporary restraining orders and injunctions.*** Republic Act No.
40 8975 (An act to ensure the expeditious implementation and completion of
41 Government infrastructure projects by prohibiting lower courts from issuing
42 temporary restraining orders, preliminary injunctions, or preliminary mandatory
43 injunctions, providing penalties for violations thereof, and for other purposes) shall
44 apply to projects pursuant to a Contract under this Act and such projects shall be
45 deemed as "national government projects" for the purpose of RA No. 8975.
46

47 **SECTION 31. *Vessels used for Petroleum Operations.*** Foreign-owned or foreign-
48 registered Special Purpose Vessels used by Contractors for Petroleum Operations
49 shall not be deemed to be public or common carriers engaged in domestic trade or
50 coastwise trade and are exempt from the requirement to obtain a certificate of

1 Philippine registry under Presidential Decree No. 761 and related laws and issuances,
2 subject to the following conditions: (a) the Special Purpose Vessel is used exclusively
3 for Petroleum Operations by one or more Contractors and its use by the Contractor for
4 a specified duration has been approved by the Department; (b) vessels of similar
5 specifications and capacity are not locally available at competitive price; (c) the
6 Special Purpose Vessel is not used in the business of carrying passengers and general
7 cargo from port to port in the Philippines; (d) the Special Purpose Vessel enters
8 Philippine ports principally for the purpose of transporting personnel and cargo
9 required for Petroleum Operations in an offshore location, resupply, refueling, repair
10 or maintenance, or if required, for the purpose of customs, immigration and
11 quarantine clearance. The Special Purpose Vessel may be manned or operated by
12 foreign and/or Filipino nationals. The Department and the Maritime Industry
13 Authority shall issue joint regulations prescribing a simplified procedure for the
14 issuance of permits for Special Purpose Vessels that will facilitate the efficient and
15 cost-effective conduct of Petroleum Operations.

16
17 **SECTION 32. *Allocation of Government Share.*** The Government Share as referred
18 to in Section 9 shall be allocated in accordance with Sections 290 and 292 of Republic
19 Act No. 7160 otherwise known as the Local Government Code of 1991. In case
20 Petroleum Operations are undertaken by a government-owned or controlled
21 corporation, the sharing and allocation shall be in accordance with Sections 291 and
22 292 of the said Code.

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

34
35 **SECTION 34. *Preference to Local Labor.*** The Contractor shall give priority in
36 employment to qualified personnel in the municipality or municipalities or province
37 where the Petroleum Operations are conducted.

38
39 **SECTION 35. *Foreign Assistance.*** Nothing in this Act or of any other law shall
40 preclude the Government of the Republic of the Philippines, through the Department
41 or any other proper office or agency, from negotiation or entering into any agreement
42 with any foreign country or government for assistance in terms of equipment,
43 technical know-how and financing for the exploration and production of Petroleum.

44
45 **SECTION 36. *Disputed Maritime Areas.*** Pending the resolution of disputes with
46 certain States in respect of maritime areas with known or potential Petroleum reserves
47 within the territory or exclusive economic zone of the Philippines, the Government
48 may consider, pursue and enter into provisional arrangements consistent with Articles
49 74 and 83 of the 1982 United Nations Convention on the Law of the Sea. The
50 President upon the recommendation of the Secretary of Energy and the Secretary of

1 Foreign Affairs may enter into bilateral or multilateral agreements for the
2 establishment of Joint Development Zones (JDZ) wherein the State parties with
3 conflicting claims may conduct joint exploration, development and production of
4 Petroleum ("JDZ Agreement"). Any JDZ Agreement entered into by the President
5 shall provide that the States party thereto have entered into the agreement without
6 prejudice to their respective claims, and that the agreement does not nullify their
7 respective claims. The President may authorize the Department Secretary, the
8 Secretary of Foreign Affairs, and/or the President of the Philippine National Oil
9 Company, to enter into: (i) preliminary or preparatory agreements, or memoranda of
10 understanding with their respective counterparts to establish joint committees or
11 similar bodies for the purpose of initiating discussions and studies on the proposed
12 establishment of Joint Development Zones; and/or (ii) agreements to share technical
13 data and/or conduct joint exploration operations (including but not limited to seismic
14 surveys) to assist the parties in defining suitable areas to be covered by the proposed
15 JDZ (collectively, "Preparatory Agreements"). The JDZ Agreement shall include
16 among others a statement of the principles and purpose of the agreement, the scope of
17 the agreement, the definition of the area to be covered by the JDZ, the rights and
18 obligations of the parties, any reservations made as to the rights of the parties, the
19 program of work to be carried out, the respective shares of the parties in the costs to
20 be incurred and any production of Petroleum that will be realized, the management of
21 the JDZ, and the term and termination of the agreement. In accordance with
22 SECTION 21, Article VII of the 1987 Constitution the JDZ Agreement shall be
23 deemed an international agreement that requires the concurrence of at least two-thirds
24 of all the members of the Senate, *Provided*, however, that the Preparatory Agreements
25 shall not require such concurrence.

26
27 **SECTION 37. Funds.** To carry out the purpose of this Act, there is hereby
28 appropriated, out of any funds in the National Treasury not otherwise appropriated the
29 sum of Fifty Million Pesos (P50,000,000) for the fiscal year Two Thousand Eleven.
30 Hereafter the necessary appropriations shall be included in subsequent General
31 Appropriations Act.

32
33 **SECTION 38. Non-impairment of existing Service Contracts.** All valid and existing
34 service contracts granted under Presidential Decree No. 87 at the date of the
35 effectivity of this Act, shall remain valid, shall not be impaired, and shall be
36 recognized by the Government until the termination or expiration thereof, including
37 any extension allowed therein. *Provided*, That an existing service contract may be
38 converted into a Contract under this Act, upon the application of the service
39 contractor and subject to the approval of the President. *Provided*, further, that any
40 application for conversion shall be submitted to the Department within eighteen (18)
41 months from the effectivity of this Act.

42
43 **SECTION 39. Separability Clause.** If any provision of this Act shall be held
44 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
45 full force and effect.

46
47 **SECTION 40. Repealing Clause.** Presidential Decree No. 87, as amended, shall
48 continue to subsist and govern all service contracts entered into in accordance with its
49 provisions prior to the effectivity of this act, until such time as all such service
50 contracts have expired or terminated in accordance with its terms. All other laws,

1 presidential decrees, executive orders and issuances, or any part thereof, which are
2 inconsistent herewith are hereby repealed, provided that no existing rights shall be
3 prejudiced thereby.

4

5 **SECTION 41.** *Effectivity Clause.* This Act shall take effect upon its publication in the
6 Official Gazette or in at least one newspaper of general circulation.

Approved,