

THE REPUBLIC OF SOMALILAND
MINISTER OF ENERGY AND MINERALS

Upstream Petroleum Bill

20 August 2014



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Part I - Introductory provisions

1. Definitions

In this Law, unless the context otherwise requires, –

"Law" means the Upstream Petroleum Law of [insert date] 2014;

“affiliate” means, any legal or physical entity referred to herein as a parent company which directly or indirectly controls a licensee or contractor or any legal entity which is directly or indirectly controlled by such parent company. A company is directly controlled by another company or companies when such company or companies are holding shares or other equity ownership carrying in the aggregate more than fifty percent of the voting rights exercisable at general meetings; and a particular company is indirectly controlled by a company or companies if a series of companies can be specified, beginning with the parent company or companies and ending with the particular company, so related that each company of the series, except the parent company or companies, is directly controlled by one or more of the companies earlier in the series.

"agreement area" means any part of the territory or the continental shelf of the State over which an exploration and production sharing agreement is entered into, on condition that any variation to that area shall be pursuant to relinquishment rules under this Law and the exploration and production sharing agreement;

“block” means an area which may be partitioned at the surface or stratigraphically as stipulated by this Law and regulations pursuant to the Law for use as geographical reference;

"continental shelf" means the seabed and subsoil of the marine areas extending beyond the State's territory (including territorial seas) as defined by the Constitution, applicable law and according to principles established by international law;

"contractor" means a legal entity that has entered into an exploration and production sharing agreement with the Government;

“exploration” means activities for the purpose of discovering petroleum and includes reconnaissance activities with the addition of drilling exploration wells, hereunder appraisal wells, and activities connected therewith;

“facility” means one or more installations, plant and other appurtenant equipment or structure for the purpose of petroleum activities, including transportation;

"field" means one or more petroleum reservoirs included as part of one field development plan;

"Government" means the Government of the State;

“license” means the award of rights by Government to a qualified entity to carry out specified

petroleum activities pursuant to this Law;

"licensee" means any person, individually or collectively, to whom a license for petroleum activities is awarded under this Law.

"Minister" means the Minister representing the Minister of Energy and Minerals;

"natural gas" means all hydrocarbons which are gaseous under normal atmospheric pressure and includes wet gas, dry gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas;

"operator" means any person executing the day to day management of petroleum activities on behalf of the licensee or contractor;

"petroleum" means crude oil, natural gas or any naturally occurring liquid or gaseous hydrocarbons existing in the subsoil as well as any other substances produced in association with such hydrocarbons;

"petroleum activities" means planning, preparation, installation and execution of all activities associated with petroleum reservoirs, including reconnaissance, exploration, development, production, transportation and decommissioning;

"exploration and production sharing agreement" means an agreement entered into between the Government and a contractor to carry out specified petroleum activities pursuant to this Law;

"petroleum reservoir" means a separate and naturally occurring accumulation of petroleum in a geological unit limited by rock characteristics, structural and stratigraphic boundaries, contact surface between petroleum and water in the formation, or a combination of these so that all the petroleum comprised everywhere is in pressure communication through liquid or gas;

"production" means all activities relating to extraction of petroleum from a petroleum reservoir, including development, injection, increased and enhanced recovery, processing and conversion of extracted petroleum except destructive distillation, transportation and all other works and services connected therewith;

"reconnaissance" means preliminary activities for the purpose of defining the existence of a petroleum reservoir by inter alia geological, petrophysical, geophysical, geochemical or geotechnical means, including drilling of shallow boreholes, but excluding exploration wells;

"regulations" means regulations prescribed pursuant to this Law;

"State" means the State of the Republic of Somaliland;

"territory" means the territory of the State as defined by the Constitution, applicable law and according to principles established by international law;

"transportation" means the shipment of petroleum by pipeline and associated activities, including

construction, placing, operation and use of a facility for the purpose of transportation, but does not include transport of petroleum in bulk by vessel or vehicle unless otherwise provided.

2. *Title to resources*

In accordance with Article 12 of the Constitution, international law principles and applicable law and without prejudice to any right granted, conferred, acquired, recognized or saved in this Law to conduct petroleum activities, all petroleum existing in its natural state subject to the jurisdiction of Somaliland is the property of the State and shall be vested in the Government on behalf of the people.

3. *Regulatory authority*

The Government shall ensure the implementation of the applicable Somaliland upstream petroleum policy through this Law and regulations pursuant to it, as well as other applicable law. The Minister shall be the primary responsible within the Government for regulating the upstream petroleum sector and managing the petroleum resources on behalf of the State and shall initiate new or revised legislation as required. The Minister shall award licenses and enter into exploration and production sharing agreements on behalf of the State in accordance with this law, monitor compliance with legislation and contractual obligations, coordinate with other Ministries compliance monitoring vested in other applicable law for the sector and report to the Parliament and the Public about the petroleum activities on a regular basis and when significant events occur and any other activities required to fulfil the rights and obligation pursuant to the policy and applicable legislation.

4. *Principles for Minister's role as Regulatory Authority*

- (1) The Minister shall apply principles of transparency and accountability in its role as regulatory authority, transparency shall be achieved inter alia by regular dissemination of relevant information regarding petroleum activities.
- (2) The Minister shall be objective and non-discriminatory in the.
- (3) Administrative appeals against decisions made by the Minister shall be reviewed by the Council of Ministers. Administrative appeals may not be made regarding decision made by the Council of Ministers. The details of the administrative appeals procedure may be prescribed in regulations.

5. *Scope*

This Law applies to petroleum activities within the territory and continental shelf of the State. .

6. *Applicable law*

- (1) State laws, regulations and authorisations required according to such laws and regulations shall be applicable to petroleum activities for all activities on the territory.
- (2) If a law does not state if it shall apply on the Continental Shelf for petroleum activities, the Council of Ministers may through Decree make it applicable to the extent the content does not

contravene international law obligations.

- (3) This law, and regulations pursuant to it, shall apply to the Continental Shelf in its entirety except for provisions which apply only to land-based petroleum activities or which are in contravention of international law obligations.

7. *Authorisations*

No person other than the State shall engage in petroleum activities except in accordance with applicable law and the terms of a license or exploration and production sharing agreement.

8. *Principles of petroleum resource management*

- (1) The aim of this Law is to establish a legal framework for the Government to manage the State's petroleum resources subject to the State's jurisdiction.
- (2) Resource management of petroleum resources shall be carried out in a long-term perspective for the benefit of the whole society of the State. As the petroleum resource is owned by the State on behalf of its people, it shall be optimally managed so that as much as possible of any petroleum is discovered and converted into economic assets which will allow for sustainable use in the economy and thereby contribute to ensuring welfare, employment and development within the State, while taking due regard to the environment, the people and third party interest.
- (3) The Government's management of petroleum resources shall be based on seeking to attract technically qualified investors with the financial capacity to undertake petroleum activities so that the State reduces own risk.
- (4) Any operations undertaken under a license, exploration and production sharing agreement or other authority granted under this Law shall be carried out in accordance with such applicable laws and regulations as may be prescribed and with the best available international practices in comparable circumstances relating to exploration and production of petroleum, including secondary recovery and the prevention of and waste of petroleum, so as to maximize the ultimate recovery of petroleum from a petroleum field.
- (5) Prudent petroleum activities shall include taking all reasonable steps to secure the safety, health and welfare of persons engaged in these activities, while protecting the environment and third party interests and shall be in accordance with any directions given, restrictions imposed or requirements made by the State to ensure compliance with applicable law.

9. *State participation*

- (1) The State may participate in petroleum activities pursuant to this Law through a share to be

stipulated in a license or exploration and production sharing agreement pursuant to this Law.

- (2) When announcing areas for exploration and production sharing agreements according to this Law, the Minister shall, with the approval of Council of Ministers, specify the maximum State share which may be exercised under subsection (1).
- (3) Subject to Parliament approval, a national oil company may be established by the Government. The Parliament proposal shall substantiate whether sufficient commercial petroleum is discovered to provide a sustainable basis for the company to be viable in its own right in a long-term perspective and include an assessment of consequences of establishing a national oil company.

10. Exploration and production sharing agreements

- (1) The Council of Ministers awards exclusive exploration and production rights through exploration and production sharing agreements concluded with contractor.
- (2) The Minister shall represent the State in negotiations for and entry into exploration and production sharing agreement limited to those items that are negotiable according to this Law and regulations stipulated pursuant to the Law.

Part II – Areas for petroleum activities

11. Strategic environmental assessment

- (1) Prior to opening up areas to petroleum activities, the Minister shall together with the Minister of environment initiate and coordinate a strategic environmental assessment in line with internationally recommended standards.
- (2) The strategic environmental assessment shall include an assessment of the impact of the petroleum activities on trade, industry and the environment as well as the economic and social effects that may result from the petroleum activities.
- (3) The Minister may require a body corporates to carry out a strategic environmental assessment before or as a condition for granting a license or entering into an exploration and production sharing agreement pursuant to this law. As a minimum the Minister shall always require that a comprehensive baseline study be carried out to ensure understanding of the environment before petroleum activities commence.
- (4) The Minister shall submit to parliament a report detailing the areas to be opened up for petroleum activities and the evaluation and impact assessment conducted under subsections (1) and (2).
- (5) The Minister shall make a public announcement through mass media and traditional means of areas considered opened up for petroleum activities and shall, in the announcement, make the

impact assessments conducted under subsection (2) available to the public, affected local authorities, other State agencies and associations or organisations which are likely to have a particular interest in the matter

- (6) Interested parties may, within a period of not more than ninety days after the public announcement made under subsection (4), present to the Minister, in writing, their views on the intended petroleum activities. Traditional fora such as elders of local communities shall also be consulted, in such case the views presented orally shall be written down by Government civil servant. If the deadline for presenting views according to this subsection is not met, the State is not obliged to consider such views.
- (7) Any views and comments received under subsection (5) and from the parliament shall be reviewed and considered before the Council of Ministers decides and the Minister declares an area open for petroleum activities.

12. Reference map

- (1) The Minister shall prepare a reference map showing the geographical area of land the State divided into blocks constituted as provided in subsection (2). If required a block may be subdivided stratigraphically.
- (2) The surface shall be divided into blocks of 15 latitude minutes and 20 longitude minutes in size, unless adjacent land areas or other circumstances warrant otherwise. This section shall not have any effect on the size of areas awarded prior to commencement of this Law.
- (3) Areas granted for a license or awarded for an exploration and production sharing agreement shall be defined by geographical coordinates. A block reference linked to the granted or awarded area shall only serve as an indication as to where the main part of the area in question is located. An area granted or awarded may therefore constitute one or more blocks or parts of blocks.
- (4) Changes to the block references shall not affect the size of areas awarded through exploration and production sharing agreements in force at the time of enactment of this law, except the block references.
- (5) The details of the delineation of blocks and the drawing of the reference map according to this section may be stipulated in regulation.

13. Partitioning of agreement area

The Minister may on application from a contractor, subject to procedures prescribed by regulations, approve that part of the agreement area is partitioned off and issued as a separate exploration and production sharing agreement.

Part III - Reconnaissance

14. Reconnaissance license

- (1) After the opening of an area for petroleum activities, upon application, the Minister may grant to a qualified body corporate a license for reconnaissance within a defined area of the territory or the continental shelf in accordance with this Law and regulations pursuant to it.
- (2) The defined area in subsection (1) shall not include agreement areas, unless a written permission has been obtained from the contractor.
- (3) Subject to section 15 a reconnaissance license shall be non-exclusive so that the Minister may grant a reconnaissance license to any other applicant for the defined area granted.
- (4) The reconnaissance license may be granted for a period of up to 3 years.
- (5) The reconnaissance license does not grant any preferential rights to enter into an exploration and production sharing agreement.
- (6) The Minister may prescribe regulations relating to application procedures, scope and conditions of a reconnaissance license and for the payment of an application fee and an annual fee.

15. Exclusive reconnaissance license

- (1) Provided that the Minister considers it necessary in order to establish a commercial basis for a reconnaissance to take place within the territory, the Minister may decide that a competitive public tender shall be held for the grant of an exclusive reconnaissance license. The competitive public tender procedure shall be carried out in a transparent manner as stipulated further in regulations.
- (2) The exclusivity granted pursuant to subsection (1) may not exceed two years and is limited to encompass similar reconnaissance methods.
- (3) Subsections 14 (4) and 14 (5) shall apply to reconnaissance licenses granted pursuant to this section.

Part IV - Exploration and production sharing agreement

16. Announcement of areas for exploration and production sharing agreements

- (1) The Minister may announce invitations to participate in a competitive round for exploration and production sharing agreement for all or part of areas opened for petroleum activities in accordance with section 11. The announcement shall specify conditions and award criteria for respectively contractors and operators. Applicants shall as a minimum demonstrate financial and

technical capacity to carry out work obligations.

- (2) The Minister may stipulate in the announcement in accordance with subsection (1) special additional conditions or requirement applicable for the individual round or a specific area.
- (3) The announcement shall be published in the Official Gazette, as well as in local and international publications and open website(s) selected by the Minister. The announcement shall be made public at least six months prior to the application deadline. The requirement to announce an invitation may not be waived unless the Council of Ministers makes a decision to the contrary.
- (4) If a previously announced area pursuant to the procedure in subsection (1) through (4) has not yielded any applications and the Minister is not aware of any new factors significantly affecting the attractiveness of such area, the Minister may engage in direct negotiations with body corporates expressing interest in entering into an exploration and production sharing agreement for a defined area.
- (5) Before the Minister starts direct negotiations with an interest party according to subsection (5), the Minister shall announce the intention to enter into direct negotiations. The announcement shall be made pursuant to the requirements in subsection (1) through (4) except the minimum application deadline shall be 3 months.
- (6) If no applicants have applied pursuant to subsection (6), the Minister may complete the direct negotiation with the applicant. The procedure and conditions provided for in this Law for awarding an area through open license rounds, shall apply similarly and to the extent possible for direct negotiations.

17. Application for exploration and production sharing agreement

- (1) Without prejudice to this Law, any person who intends to apply for an exploration and production sharing agreement shall submit an application to the Minister in accordance with prescribed regulations and such competitive bidding procedure as may be prescribed in the announced invitation and regulations.
- (2) Applicants shall pay the application fee prescribed in the announced invitation at the latest on the submission deadline. The application fee shall cover stipulated costs for the State to properly assess the applications, including costs for the hiring of expertise to assist in the assessment.
- (3) After the closing date for submission of an application for exploration and production sharing agreement, the Minister shall proceed with an evaluation and submit for approval by the Council of Ministers which applicants shall be awarded which area, if any.

18. Exploration and production sharing agreement

- (1) The Minister may on conditions to be further stipulated, award and enter into an exploration and production sharing agreement to one contractor or a group of contractors. The agreement area

shall be stipulated in accordance with section 12 (3).

- (2) An exploration and production sharing agreement shall include two phases:
 - a) an exploration phase not exceeding 10 years;
 - b) a production phase not exceeding 30 years.
- (3) The exploration phase shall be divided into an initial exploration period and one or more periods of extension.
- (4) The Minister may upon application by the contractor, extend the exploration and production sharing agreement within the periods stipulated in subsection (2) a). Unless otherwise approved by the Minister, applications for such extension must be submitted no later than 3 months prior to the expiry of the exploration phase.
- (5) When particular reasons so warrant the Minister may on application extend the exploration and production sharing agreement in excess of the period stipulated in subsection (2) b). Unless otherwise approved by the Minister, applications for such extension must be submitted no later than 5 years prior to expiry of the production phase.

19. Group applications

Cooperation agreements entered into between several body corporates with the intention of submitting a common application for exploration and production sharing agreement shall be submitted to the Minister. The Minister may at any time require amendments to cooperation agreements in order to ensure that such agreements comply and are consistent with applicable State law and model exploration and production sharing agreement documents.

20. Contractor rights

Contractors of an exploration and production sharing agreement shall form an unincorporated joint venture in which each contractor has a joint and undivided percentage participation interest

- (1) A contractor shall, subject to the provisions of this Law, have a right to carry out petroleum activities and execute such works as may be expedient in the agreement area. The exercise of such rights of the contractor shall be subject to restrictions and requirements in specified areas and for specific activities which shall be prescribed in this Law, regulations and exploration and production sharing agreement.
- (2) Subject to the provisions of this Law a contractor shall be permitted to export from Somaliland any petroleum which he is entitled under the terms of an exploration and production sharing agreement.

21. Content of the exploration and production sharing agreement

- (1) A model exploration and production sharing agreement shall be made available at the latest

three months before the submission deadline stipulated in accordance with section 16 of this Law.

- (2) The exploration and production sharing agreement shall define the rights and obligations of the contractor towards the State and between the contractors, and shall include the following items which are specific for each agreement area:
 - (a) The geographical coordinates of the awarded agreement area.
 - (b) If several contractors, the allocation of participation interest between these.
 - (c) The duration of the exploration and production sharing agreement and of each phase stipulated in accordance with section 18 (2) of this Law.
 - (d) The minimum work obligations and expenditure commitments for the exploration phase.
 - (e) Provisions concerning any State participation;
 - (f) Provisions concerning environmental conditions which address specific issues for the area awarded.
- (3) The exploration and production sharing agreement may be negotiated with regard to fiscal or economic terms within the bands stipulated by regulations or announced in the invitation.

The exploration and production sharing agreement may not be negotiated with regard to provisions stipulated in this law and regulations pursuant to it

22. *Operatorship*

- (1) Only a contractor may be appointed as operator. Additional operator qualification requirements to those of a contractor may be prescribed by regulations.
- (2) The Minister approves the appointment of the operator when entering into an exploration and production sharing agreement and no change of operator may take place without the approval of the Minister.

23. *Relinquishment*

- (1) An exploration and production sharing agreement shall provide for the relinquishment in a phased manner of portions of the agreement area, after the expiration of the initial exploration period specified in the exploration and production sharing agreement and after any extension periods.
- (2) Any agreement area relinquished in accordance with the terms of an exploration and production sharing agreement shall, in so far as it is possible, be contiguous and compact and of such size and shape as will permit the effective carrying out of petroleum activities in the relinquished

area and shall be in accordance with regulations.

- (3) The agreement area to be retained at the end of the exploration period shall, in so far as possible, include the petroleum reservoirs for all discoveries which may have been made in the agreement area and shall be of such size and shape as the Minister shall approve, except as may otherwise be provided in accordance with the terms of an exploration and production sharing agreement.

24. *Surrender*

A contractor may only surrender an exploration and production sharing agreement provided the minimum work obligation has been fulfilled and other financial obligations towards the State, including taxes, have been paid in full.

25. *Right for others to place facilities*

- (1) The contractor may not impede the laying of pipelines or cables, nor the placing of other facilities on, in or above the agreement area when the placement of a pipeline, cable or other facilities is approved by the Minister.
- (2) Any subsequently placed facility shall not cause unreasonable inconvenience to an existing facility in the area or any initiated petroleum activities.
- (3) The provision of the first paragraph applies correspondingly to necessary route and soil surveys prior to placement of the facility.

26. *Other natural resources*

If another natural resource is discovered within the agreement area or areas covered by a license, the contractor or licensee shall without delay notify the Minister.

An exploration and production sharing agreement or a license does not preclude the awarding of rights to others than the contractor to undertake activities related to natural resources other than petroleum, provided such activities do not cause unreasonable inconvenience to initiated petroleum activities or existing facilities. The same applies to activities for scientific research purposes.

Part V - Development and production

27. *Discovery and appraisal*

- (1) If a discovery is made which through testing, sampling or logging shows to probably contain mobile petroleum, the contractor shall notify the Minister within a period of thirty days after the date of such discovery and shall, in addition, furnish full particulars in writing of the discovery to the Minister as soon as practicable thereafter, indicating whether such discovery merits further appraisal or not.
- (2) The contractor, shall, after indicating that the discovery merits appraisal, prepare and submit to

the Minister a program and timetable to carry out an adequate and effective appraisal of such discovery for the purpose of enabling a determination to be made as promptly as possible whether such discovery merits a field development plan, and the exploration and production sharing agreement shall specify the period for carrying out such appraisal.

- (3) Where one or more petroleum reservoirs are established as sufficient basis to submit a field development plan, the contractor shall prepare for a development of the petroleum reservoir(s) in accordance with this Law and applicable regulations and in line with the best available practices prevailing in the petroleum industry.

28. *Field development plan*

- (1) The operator on behalf of the contractors shall submit to the Minister for review a field development plan in respect of one or more petroleum reservoirs to be developed in accordance with the terms of this Law, the exploration and production agreement and applicable laws and regulations. The operator on behalf of the contractors shall demonstrate in the field development plan submitted to the Minister that the solution(s) proposed aim at achieving optimal recovery rate over the life span of the petroleum reservoir(s).
- (2) Other ministries responsible for sectors significantly affected by the field development plan shall receive the field development plan for review from the Minister and shall be allowed at least 30 days' notice to submit remarks.
- (3) The Minister may require amendments to or a complete revision of the field development plan.
- (4) The Minister may require extra capacity to be included in planned facilities to allow for future third party access. Compensation for such spare capacity is limited to third party access tariffs as stipulated by this Law and regulations and no separate compensation from the State.
- (5) No substantial contractual obligations shall be undertaken nor construction work be started, until the field development plan has been approved.
- (6) The approval of the field development plan is made by the Minister. For field development with a planned expenditure of more than USD 50 million, the approvals shall be made by the Council of Ministers.

29. *Content of a field development plan*

- (1) The field development plan shall consist of two parts of which one part shall concern an environmental impact assessment study and the second part shall concern the manner of developing petroleum reservoir resources as well as technical and economic aspects of available development solutions.
- (2) The procedures, requirements and conditions related to the field development plan, including the environmental impact assessment study, shall be prescribed by regulations. The evolution of the field development plan shall be staged and carried out in dialogue with the Minister and

shall at earlier stages consider more than one concept as prescribed further in regulations. The environmental impact assessment shall be subject to public consultation as prescribed in regulations.

- (3) The operator on behalf of the contractors shall notify the Minister of any significant deviation or amendments to the field development plan that has been approved, and any significant alteration to a facility.

30. Test production

A contractor shall not initiate or conduct test production without obtaining the approval of the Minister in accordance provisions prescribed by regulations. Test production shall only be conducted for such limited period of time necessary to establish and verify data required for preparing and implementing full scale development and production following approval of a development plan.

31. Pipeline surveys on land

The contractor or licensee owning or in charge of the laying of a pipeline or cable within the license or agreement area shall in good time prior to the commencement of surveys of pipeline or cable route submit such information to the Minister and other competent authorities as stipulated by applicable legislation and obtain required approval by land owner's if not owned by the State.

32. Production permit

- (1) Upon application from a contractor the Minister shall grant a permit for fixed periods of time for the quantity of petroleum which may be produced. The Minister shall stipulate the procedure and documentation required for an application and granting of a production permit by regulations.
- (2) A contractor shall carry out continuous evaluation of the production strategy and technology and shall take the necessary measures to improve on the production efficiency.
- (3) The Minister may direct the contractor, to take all necessary and practical steps to increase or reduce the rate at which petroleum is being recovered to such a rate as will enhance the ultimate recovery of petroleum from the field and not to exceed the capacity of existing production facilities in accordance with such regulations as may be prescribed.
- (4) The Minister may require the contractor to submit a report on production and facility related matters, including alternative schemes for production and improved or enhanced recovery techniques.

33. Measurement of petroleum

The Minister may prescribe by regulations the equipment, methods, standards and measurement points to be applied for measurement of petroleum produced, processed or transported for resource

management, operational, economic and fiscal purposes, including audit of all of the listed elements.

34. *Unitisation*

- (1) Where a petroleum reservoir extends across the delimitation line from one agreement area into another, the contractors shall seek to reach agreement on the most efficient coordinated way of petroleum activities to secure optimal recovery of petroleum, including apportionment of each contractor's entitlement to petroleum. Unitisation agreements shall be submitted to the Minister for approval.
- (2) If consensus among the contractors on entering into an unitisation agreements pursuant to subsection (1) is not reached within reasonable time, then the Minister may impose the terms and conditions of the unitisation agreement, including when necessary the initial apportionment of and principles for reapportionment of contractors' entitlements to petroleum.
- (3) Where the petroleum reservoir extends beyond the agreement area into an area which is not subject to an exploration and production sharing agreement, the contractor may file an application to the Minister in order to extend the agreement area in accordance with provisions stipulated in regulations. The Minister may stipulate conditions for including or adding additional area in accordance with this subsection.
- (4) If a petroleum reservoir extends beyond the State's international border or boundary, such petroleum reservoir shall be subject to international unitisation provisions stipulated in treaties entered into by the State and the concerned neighbouring state(s). Other than for safety reasons, no petroleum activities affecting the reservoir(s) shall be carried out with regards to a trans-border or trans-boundary reservoir before a binding treaty has been entered into by the states concerned.
- (5) In case of agreement according to (4) of allowing monitoring and inspections by civil servants from the other states concerned, the State may grant immunity to foreign civil servants for work-related acts carried out in accordance with the treaty provisions.

35. *Joint petroleum activities*

- (1) Contractors from two or more adjacent agreement areas with discovered petroleum reservoirs may agree on petroleum activities to be jointly operated.
- (2) Joint petroleum activities in accordance with subsection (1) shall be considered by the contractors if this will be significantly more effective in terms of increased recovery of petroleum or reduced costs.
- (3) Agreements on joint exploration drilling shall be submitted to the Minister. Agreements on other joint petroleum activities shall be submitted to the Minister for approval.
- (4) If the contractors fail to agree on the terms and conditions for an agreement on joint petroleum activities pursuant to subsection (2) within reasonable time, the terms and conditions may be

prescribed by the Minister.

36. *Use of natural gas and restrictions on venting and flaring*

- (1) Associated natural gas may only be used for petroleum activities in accordance with best available petroleum industry practice and regulations as may be prescribed.
- (2) Contractors or licensees must obtain a permit from the Minister before any flaring or cold ventilation may take place. Flaring or cold ventilation of extracted components shall only be permitted when necessary for safety, including in emergency situations where time does not allow obtaining a permit, or when commissioning a facility.

37. *Facility license*

- (1) The Minister may on specified conditions grant to an applicant a specific license for the construction, placement and operation of transportation or storage facilities when such rights do not already follow from an approved field development plan.
- (2) The facility license may be granted for a duration stipulated by the Minister. The application shall include an environmental impact assessment and be subject to such other conditions, application procedures, award criteria and content requirements as may be prescribed by regulations.

38. *Third party access*

The Minister may decide on the basis of criteria established by regulations that third parties shall have the right to make use of spare capacity of a facility for production, transportation, or storage of petroleum. Procedures and tariff principles may be prescribed by regulations.

39. *Use of bases, landing and point of export of petroleum*

- (1) The Minister may stipulate where petroleum from the continental shelf shall be landed and where shipment of petroleum for export from either the territory or the continental shelf shall take place.
- (2) Petroleum activities on the continental shelf shall be conducted from a base in Somaliland that may be designated by the Minister.

40. *Emergency supplies*

Where there is war or other emergency affecting energy supplies, the Minister may require a contractor to sell all or part of the quantity of petroleum produced at the prevailing market prices to the State or any agency of the State.

Part VI - Decommissioning

41. Cessation of operations

- (1) In accordance with regulations stipulated by the Minister the contractor or facility licensee shall notify the Minister as early as possible and prior to termination of petroleum activities or use of a facility.
- (2) After the termination of petroleum activities in any area pursuant to this Law, the contractor, or licensee, shall restore the affected areas and remove all causes of damage or danger to the environment in accordance with regulations. Such restoration shall include removal of all property brought into the affected area but no longer required for further petroleum activities, the plugging or closing off of all abandoned wells in such a manner as may be provided by the regulations; and the conservation and protection of natural resources in such area.

42. Decommissioning plan

- (1) A decommissioning plan shall in accordance with regulations be presented to the Minister at the earliest three years prior to, and not later than one year prior to expiry, or a planned surrender, of an exploration and production sharing agreement or a facility license pursuant to this Law or termination of the use of a facility with appurtenant equipment. In cases of revocation of an exploration and production sharing agreement or facility license a decommissioning plan shall be prepared and submitted as soon as practically possible.
- (2) Based on the decommissioning plan, the Minister shall make a decision on implementation of the plan. The decision may deviate from the submitted plan or the Minister may require amendments to the submitted plan.
- (3) Contractor, licensee and such other person responsible shall implement the decision made in accordance with subsection (2) without undue delay. Any person responsible for implementation of the decommissioning decision shall be liable for any damage caused to third parties pursuant to this chapter of the Law.

43. Decommissioning fund

To secure funding of decommissioning operations included in an approved decommissioning plan the contractor or licensee must establish a decommissioning fund for each petroleum field in accordance with regulations stipulated by the Minister.

44. Reversion

- (1) The State may free of charge take over the ownership or right of use of facilities when an exploration and production sharing agreement or facility license pursuant to this Law expires, is surrendered or revoked or the use of a facility is terminated. At the time of taking over a facility by the State, the facility shall be in good and operable condition.

- (2) If the facility is placed on private land the State shall compensate the owner of the land for any continued use beyond what has been compensated by the licensee or contractor in accordance with the Constitution, section 59 of this law and other applicable legislation.
- (3) Upon take-over of a facility by the State, funds dedicated to covering costs of permanent cessation of petroleum activities or decommissioning, shall become the property of the State when such funds are accumulated and set aside in a special account by the contractor or licensee from revenue subject to cost recovery in accordance with the exploration and production sharing agreement, the license or with tax effect pursuant to applicable law.
- (4) If land use is subject to lease or rental, the State shall be entitled to continue such lease or rental on the same terms and conditions as in force prior to expiry, surrender or revocation of an exploration and production sharing agreement or facility license or termination of use of facility.
- (5) If the State wishes to take over a facility as an alternative to decommissioning, the contractor or licensee shall transfer all related rights and documentation related to that facility and its operation necessary for continued petroleum activities subject to conditions stipulated by regulations.
- (6) Rights of third party use related to a facility approved by the Minister remains in force if the State takes over a facility.

Part VII – Entitlements, fees and taxes

45. *Area fee*

- (1) The contractor shall pay area fee to the State for the agreement area from the first year following the expiry of the initial exploration period stipulated in the exploration and production sharing agreement in accordance with section 18 (3) of this Law.
- (2) The area fee shall be progressive and calculated per square kilometre based on methods and procedures stipulated by regulations or the exploration and production sharing agreement and may be different for areas onshore and offshore. Agreement areas subject to ongoing petroleum activities or hindrances not subject to the control of the contractor shall as a main rule be exempted from area fee as further stipulated in regulations.

46. *Royalty and bonuses*

- (1) There the State may stipulate in regulations or in the model exploration and production agreement that royalty shall be payable in respect of any petroleum produced within the territory and on the continental shelf of the State.
- (2) The State has the right to collect its entitlements to royalty either in cash or in kind proportionally as extracted from a petroleum reservoir subject to an approved development plan and production permits, except for petroleum which is re-injected in a petroleum reservoir

within the same agreement area.

- (3) Petroleum produced pursuant to an exploration and production sharing agreement shall be subject to the payment of royalty at such volumes, rates and payment methods as may be specified by regulations and the contractor shall be liable for the payment of such royalty as is due in respect of such petroleum.
- (4) Royalty taken in kind shall be delivered at no cost to the State at the point of delivery stipulated in the development plan.
- (5) The Government may stipulate in regulations or in the model exploration and production agreement the payment of bonuses at defined milestones.

47. Production sharing

The method of calculation and allocation of entitlements of the production sharing, including cost petroleum, and profit petroleum shall be stipulated by the Minister in the exploration and production sharing agreement according to regulations approved by the Council of Ministers.

48. Pricing of petroleum

- (1) The pricing of petroleum shall be in accordance with methods prescribed by regulations and shall be based on petroleum prices obtained between independent parties in the international market for similar quality petroleum.
- (2) Any sales or transfer of interest in petroleum or volumes delivered shall be reported to the Minister.

49. Arm's length transactions

Subject to the provisions of this Law, any transaction between a contractor or a licensee and an affiliate in relation to petroleum activities to be carried out under this Law shall be on the basis of prevailing international competitive prices and such other terms and conditions as would be fair and reasonable if such transaction had taken place between the contractor or licensee and a non-affiliate.

50. Taxes and excise

Contractors and licensees carrying out petroleum activities within the State's territory and continental shelf shall be subject to taxes and excise as stipulated by applicable law, the Minister may stipulated in the Exploration and Production Sharing Agreement protection against substantial changes in taxes and excise.

51. Payments

Payments of all fees, royalty, bonuses or other payments to the State related to petroleum activities pursuant to this Law and production sharing agreement shall be in accordance with the Petroleum

Revenue Law.

Part VIII - Mortgaging and registration of rights

52. Mortgaging and registration of rights

- (1) A contractor may only mortgage his participating interest in an exploration and production sharing agreement or facility license for the purpose of financing petroleum activities associated with that exploration and production sharing agreement or facility license after the approval of the Minister according to regulations stipulated by the Minister. Essential facilities and equipment belonging to a main facility shall not be mortgaged separately.
- (2) Mortgage of a participating interest in an exploration and production sharing agreement or facility license comprises those rights which at any time follow from that specific agreement or license.

53. License and exploration and production sharing agreement register

- (1) A register for licenses and exploration and production sharing agreements shall be established and regulated in accordance with regulations prescribed by the Minister.
- (2) Debt that is subject to mortgaging and registered in accordance with subsection (1) shall have priority over other debts effective from the date the mortgage is registered in the petroleum register, except preferred debts secured by applicable law.
- (3) For petroleum activities on land, the license and exploration and production sharing agreement register shall be linked with any land register in a manner prescribed by regulations pursuant to this Law.

Part IX - Health, safety and environment

54. HSE competence

- (1) Before a licensee or contractor carries out any petroleum activities he shall document a health and safety plan in accordance with prescribed regulations and maintain at the work site an establishment capable of dealing adequately with fire, oil spills, blow-outs, accidents or other emergency situations so as to prevent or control such situations and to minimize loss or damage there from.
- (2) Any person managing or undertaking petroleum activities pursuant to or arising out of an exploration and production sharing agreement or license awarded subject to this Law shall ensure and document high standard of health and high level of safety for his employees and the employees of subcontractors.

55. *Safety zones*

- (1) Around and above facilities there shall be a safety zone unless otherwise decided by the Minister. In the event of accidents and emergencies the Minister may establish or extend safety zones. The extent of zones referred to in the first and second sentences shall be determined by the Council of Ministers. This provision is not applicable to pipelines and cables.
- (2) The Council of Ministers may decide that a safety zone shall extend across the maritime boundary onto the continental shelf of another state. Furthermore, the King may decide that there shall be a safety zone on the State's continental shelf even if the facility in question is located outside the State's continental shelf.
- (3) The Minister may decide that a zone corresponding to the safety zone shall be established in reasonable time prior to the placing of facilities as mentioned in subsection (1).
- (4) The Minister may decide that there shall be a safety zone around and above abandoned or dumped facilities, or parts of such facilities.
- (5) Unauthorised vessels, crafts, fishing gear or other objects must not be present in zones as mentioned in the subsection (1), (2), (3) and (4). The Minister may allow fishing if it can take place in the zone or in parts of the zone without threatening safety or interfering with the petroleum activities.
- (6) The Minister may prescribe regulations to secure access for facilities as mentioned in subsection (1) to zones as mentioned in the subsection (3).
- (7) This section is not applicable to facilities onshore or on the part of the seabed subject to private property rights.

56. *Emergency preparedness*

- (1) Prior to commencing petroleum activities a licensee or contractor shall establish contingency plans in accordance with regulations prescribed by the Minister.
- (2) The licensee or contractor shall initiate and maintain security measures to contribute to avoiding attacks against facilities and shall at all times have contingency plans to deal with such attacks.
- (3) The licensee or contractor shall place facilities at the disposal of the relevant authorities for emergency and security drills and shall, where necessary, participate in such drills.
- (4) Armed personnel may only be provided for by the State upon application from the operator or licensees and contractors.

57. *State interception*

If at any time a licensee fails to carry out petroleum activities in a safe manner in accordance with applicable law and with the best available international techniques and practices prevailing in the

petroleum industry in comparable circumstances, the Minister may, after giving the licensee or contractor, as the case may be, such notice as may be reasonable in the circumstances. The Minister may take all measures necessary to ensure safety, including suspension of petroleum activities for as long as the requirement to prudent petroleum activities warrant, and may recover the costs and expenses of so doing from the licensee or the contractor.

Part X - General and Miscellaneous provisions

58. *Assignment*

An exploration and production sharing agreement or facility license awarded under this Law shall not directly or indirectly, in a way that may provide decisive control of a person possessing a participating interest in the exploration and production sharing agreement or facility license, be assigned, in a whole or in part, by the contractor or licensee to another person without the prior consent in writing of the Minister.

59. *Land rights*

- (1) Subject to the provisions of this Law and such regulations as may be prescribed, the Government, contractor or a licensee shall have the right to enter upon any land to carry out petroleum activities.
- (2) Any person holding a title to or an interest in land on which the State, contractor or a licensee proposes to enter and to carry out petroleum activities shall permit the carrying out of such operations provided that:
 - (a) before the commencement of such operations all persons having a title to or interest in the land on which such operations are to be carried out shall be notified of the purpose, nature and location of the proposed operations;
 - (b) any person having a title to or interest in such land who suffers any loss or damage as a result of the petroleum activities shall be entitled to such compensation as may be determined by applicable rules for expropriation on temporary or permanent basis; and
 - (c) the compensation shall be calculated based on the value before the petroleum activity was initiated on the land in question.

60. *Prudent petroleum activities*

Petroleum activities shall be conducted with due diligence and efficiency and in accordance with both applicable law and best international available techniques and practices prevailing in the petroleum industry, in a workman-like manner, observing sound engineering and technical practices and using appropriate advanced technology and effective equipment, machinery, methods and materials.

61. *Data, information and sample reporting and management*

- (1) Licensees and contractors and other entities or persons conducting petroleum activities shall

keep and maintain in Somaliland complete and accurate records of all petroleum activities carried out, including all data, material, information and samples acquired and also maintain complete and accurate financial books of account, records and registers relating to such operations. If the license or exploration and production sharing agreement are surrendered the operator will be responsible for keeping and maintaining the information regarding the surrendered license or exploration and production sharing agreement.

- (2) A contractor and licensee shall furnish to the Minister at regular intervals reports on petroleum activities being carried out by him and shall also furnish to the Minister such data, samples, information or reports as the Minister may request or as prescribed by regulations.
- (3) Tools required, including software, to make use of or access material submitted or reported shall also be made available to the Minister.
- (4) The Minister shall ensure that material submitted to the State shall remain confidential for the time periods stipulated in regulations.

62. Guarantees

A licensee and contractor shall furnish the Minister such performance bonds and guarantees as may be required in accordance with the regulations and in accordance with the terms of a license or an exploration and production sharing agreement entered into under this Law in order to ensure the fulfilment of the obligations undertaken by such licensee or contractor or the discharge of his liabilities arising out of the activities under an exploration and production sharing agreement and to ensure compliance with applicable law.

63. Liability

- (1) The licensees and contractors in a license or an exploration and production sharing agreement are jointly and severally liable towards the State for obligations related to or arising out of petroleum activities within a license or agreement area.
- (2) Each licensee in a license or contractor to an exploration and production sharing agreement is jointly and severally liable towards third parties and on a pro rate basis towards the other licensees or contractors in the same license or exploration and production sharing agreement.
- (3) If liability in respect of a third party is incurred by a person undertaking operations for a licensee or contractor, then the licensees or contractors shall be jointly and severally liable for damage or loss caused by, the perpetrator or caused by any person under the instruction and supervision of the licensee or contractor.
- (4) A licensee and contractor shall be strictly liable for any pollution or damage caused by or resulting from petroleum activities as well as pollution or damage caused by or resulting from petroleum activities undertaken by its contractor, subcontractor, an agent or employee of such licensee and contractor and shall take all necessary measures to remedy any pollution or damage

so caused. Procedures relating to claims and recourse may be stipulated by regulations.

64. Insurance

- (1) Licensee and contractor shall at all times be insured by a qualified insurance company for petroleum activities conducted pursuant to this Law.
- (2) The insurance must at least cover:
 - (a) Damage to facility.
 - (b) Pollution damage and other liability towards third parties.
 - (c) Removal of physical remains and clean-up as a result of petroleum activities or accidents.
 - (d) Licensees' and contractors' employees engaged in petroleum activities.
- (3) The licensee and contractor shall see to that its contractors and subcontractors engaged by licensee in petroleum activities insure their employees to the same extent as licensee and contractor insures his own employees.
- (4) The Minister may require documentation of existing insurance agreements and require further insurance coverage or modify the terms.

65. Contractors and subcontractors

The licensee or contractor shall see to it that anyone performing work for the body corporate, either personally, through employees or through contractors or subcontractors, shall comply with provisions laid down in petroleum activities for the licensee or contractor.

66. Revocation

- (1) In the event of serious or repeated violation of provisions of this Law, applicable decisions, licenses or exploration and production sharing agreements, the Minister, with the approval of the council of ministers, may terminate the relevant exploration and production sharing agreement or revoke the license.
- (2) An exploration and production sharing agreement or license is revoked if the licensee or contractor is dissolved, enters into debt settlement or bankruptcy proceedings and the other licensees or contractors are not able to take over the participating interest in default.

67. Training

- (1) A licensee or contractor shall, in consultation with the Minister, prepare and implement, in accordance with the regulations and in accordance with the terms of a license or exploration and production sharing agreement, plans and programs for training Somaliland nationals in all job classifications and in all aspects of petroleum activities.
- (2) A licensee or contractor shall, while carrying out petroleum activities, prepare and implement plans for the transfer to the Minister of advanced technological know-how and skills relating to

petroleum activities but this provision shall not be interpreted to disable the licensee or contractor from protecting their competitive position in the petroleum industry or requiring the Minister also to take steps to protect such competitive position.

- (3) The contractor or licensee shall provide training for employees of the Government as stipulated by regulations.

68. *National content*

- (1) A licensee or contractor shall, in accordance with the regulations and with the terms of a exploration and production sharing agreement or license, ensure that opportunities are given as far as is possible for the employment of Somaliland nationals having the requisite expertise or qualifications in the various levels of the operations.
- (2) A licensee or contractor shall not engage in discriminatory practices on grounds of race, nationality or sex in the conditions of service provided for personnel.
- (3) Contractor or licensee shall employ or hire unskilled labour of Somaliland nationality only, unless otherwise required by international treaty or stipulated by regulations.
- (4) A licensee or contractor shall, as far as practicable, in accordance with the regulations and the license or exploration and production sharing agreement use goods and services produced or provided in Somaliland for his operations in preference to foreign goods and services provided that national goods and services is equal in quality or not detrimental to health, safety and environment standards.

69. *Organisational requirements*

A contractor or facility licensee which is not an incorporated company in Somaliland shall:

- (1) register in Somaliland an incorporated company or affiliate of such to be authorized to carry out solely petroleum activities in respect of which an exploration and production sharing agreement or license has been granted under this Law and such company shall be a signatory to any exploration and production sharing agreement or license;
- (2) maintain an organization in Somaliland competent to carry out petroleum activities within the State and shall have in charge of such office a representative with full authority to act and to enter into binding commitments on behalf of the contractor or licensee, detailed requirements may be stipulated further in application documentation or in regulations;
- (3) document that the organization holds the necessary level of technical, HSE and financial capacity to conduct petroleum activities within the territory and continental shelf of the State;
- (4) in respect of such petroleum activities, open and maintain an account with a bank in a transparent jurisdiction accepted by the Minister; and

- (5) not have engaged in corrupt activities and ownership and accounts must be fully transparent for the State, the Minister, its advisors and the Auditor General of Somaliland.

70. *Regulatory supervision and cost coverage*

- (1) The Minister may authorize any person to inspect, test and audit, as appropriate, any petroleum activities and to ensure that such petroleum activities are carried out in accordance applicable legislation, this Law and the regulations and in accordance with the terms and conditions of any applicable license or exploration and production sharing agreement.
- (2) Any person authorized by the Minister under subsection (1) of this section shall have the right at reasonable times to:
- (a) enter any area, structure, platform, vehicles, installation, vessel, aircraft, facilities, offices or buildings used by the licensee or contractor for petroleum activities;
 - (b) inspect, test and audit, as appropriate, the works, equipment, data, materials, operations and financial books of account, records and registers of a licensee or contractor relating to or used in such petroleum activities;
 - (c) take and remove for the purposes of analysis or testing sample of petroleum, water or other substance from a well;
 - (d) inspect, take extracts from, and make copies of any document relating to such operations; and
 - (e) make such examinations and inquiries as are necessary to ensure that the provisions of this Law and the regulations are being complied with.
- (3) A licensee or contractor shall provide any person authorized by the Minister under subsection (1) of this section with all reasonable facilities and assistance to enable the effective and timely performance of the inspection functions under this section.
- (4) The Government may require that expenses related to the regulatory supervision of petroleum activities in accordance with this section are covered by the licensee or contractor or by the party which the supervision in each case is directed at or where it takes place.
- (5) The State may through regulation require contractors and licensees carrying out petroleum activities an annual petroleum cost-based administration fee where the calculation of the fee shall be stipulated by regulations.

71. *Penal provisions*

[Input is required from Somaliland's solicitor general. The penal provisions should have as legally responsible both physical (individuals) and legal persons (corporations etc). Furthermore the fine level in order to be preventive must be sufficiently high given the investment level in the petroleum industry. We would expect anti-corruption measures and other behaviour regulation of civil servants, including penal provision in case of breach, is duly covered under other legislation.]

Part XI – Regulations

72. *General*

The Minister may, by legislative instrument, make regulations prescribing all matters that by this Law are required or permitted to be prescribed or are necessary or convenient to be prescribed by carrying out or giving full effect to this Law.

73. *Specific*

Without prejudice to the generality of section 72, the Minister may prescribe regulations for or with respect to:

- (a) ensuring the safe construction, maintenance and operation of installations and facilities used in connection with petroleum activities;
- (b) the safety, health and welfare of persons employed in petroleum activities and generally for all necessary safety measures;
- (c) the prevention of pollution and the taking of remedial action in respect of any pollution which may occur in connection with petroleum activities;
- (d) the inspection of areas in which petroleum activities are being carried out and of any facility, plant, machinery and equipment within those areas;
- (e) the reporting of and inquiries into accidents arising out of petroleum activities;
- (f) the keeping and inspection of records, accounts, statistics and plans with respect to petroleum activities;
- (g) the relinquishment of portions of agreement areas subject to an exploration and production sharing agreement;
- (h) the protection of grassing rights, fishery rights, and other economic or non-economic activities carried out within or in the vicinity of any areas in which petroleum activities are being carried out;
- (i) the making and submission of reports, returns and programs;
- (j) the transportation activities;
- (k) the rates of fees and entitlements payable in respect of petroleum activities, the methods of calculation of the amount of fees and entitlements and the manner and times of payment thereof;
- (l) the reference map of blocks, and guidelines on the maximum number of blocks that may be held by contractor under a license or exploration and production sharing agreement;

- (m) application procedures for exploration and production sharing agreements;
- (n) determining the value of petroleum;
- (o) requiring any licensee or contractor to submit the Minister their investment program;
- (p) the conservation of natural resources and the avoidance of waste, whether petroleum or otherwise, of the land to which this Law applies;
- (q) the accounting procedures to be followed and reporting on all petroleum activities;
- (r) the minimum conditions of service for workers engaged in petroleum activities;
- (s) further detailing of negotiable and non-negotiable terms and conditions of exploration and production sharing agreements pursuant to this Law;
- (t) the rates or methods of setting the rates at which petroleum and water may be recovered from any well or petroleum reservoir under a production permit;
- (u) the methods to be used for the measurement of petroleum, water and other substances from wells and other measure points for value calculation and monitoring purposes;
- (v) the pressure maintenance in, or re-pressuring of, a petroleum reservoir, on-site usage and the re-injection of petroleum;
- (w) the specified areas in which the exercise of rights of a licensee or contractor under this Law to carry out petroleum activities shall be restricted;
- (x) the application for and granting of permit to drill wells;
- (y) drilling activities and designation of wells and well bores;
- (z) reconnaissance and exploration activities and execution of work for that purpose;
- (aa) production activities and execution of work for that purpose;
- (bb) tariff structures for pipelines, storage facilities and third party access to facilities;
- (cc) the making, preserving and provision to the authorities of cores, cuttings, samples and other materials from the petroleum activities;
- (dd) testing of any form for petroleum;
- (ee) reporting and application for permission for flaring or cold ventilation;
- (ff) The cessation of petroleum activities, decommissioning of facilities and establishment of decommissioning funds; and

(gg) the penalties of offenses against the regulations.