

REPUBLIQUE CENTRAFRICAINE



PETROLEUM CODE and DECREE

(Unofficial English Translation)

REPUBLIQUE CENTRAFRICAINE

Unité - Dignité - Travail

**ORDINANCE N° 93.007 OF MAY 25, 1993
STATING THE PETROLEUM CODE
OF THE CENTRAL AFRICAN REPUBLIC**

UNOFFICIAL ENGLISH TRANSLATION

This unofficial English translation has been prepared for information purposes only.

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**THE PRESIDENT OF THE REPUBLIC,
HEAD OF THE STATE,**

Considering the Constitution of November 28, 1986, as modified by the Constitutional Laws N° 91.001 of March 8, 1991, N° 91.003 of July 4, 1991 and N° 92.013 of August 28, 1992;

Considering the Ordinance N° 92.002 of November 27, 1992, concerning the prorogation of the Powers of the President of the Republic, Head of the State, and establishing the Competence and Organization of the Provisional National Political Council of the Republic;

Considering the Decree N° 93.012 of February 26, 1993, concerning the appointment of the Prime Minister, Head of the Government;

Considering the Decree N° 93.064 of March 2, 1993, concerning the appointment of the Members of the Government, and the modifying Decrees N° 93.067 of March 5, 1993 and N° 93.124 of April 24, 1993;

HEREBY ORDERS THE FOLLOWING

PART I

GENERAL PROVISIONS

Article 1

All activities relating to petroleum prospection, exploration, exploitation and transportation by pipelines in the territory of the Central African Republic, as well as taxation applicable to such activities, shall be governed by the provisions of this ordinance and the instruments establishing the implementation thereof.

Article 2

For the purposes of this ordinance:

- (a) **"Minister"** means the Minister in charge of petroleum;
- (b) **"petroleum"** means any liquid or gaseous hydrocarbons existing in their natural condition, otherwise referred to as crude oil or natural gas as the case may be, as well as any other products and substances associated with such hydrocarbons, and solid hydrocarbons, including oil shales;

- (c) **"petroleum operations"** means all or any of the activities relating to prospection, exploration, exploitation, transportation and marketing of petroleum, including the treatment of natural gas, but excluding activities relating to refining and marketing of petroleum products;
- (d) **"petroleum contract"** means a contract entered into by the State or a State company with one or more petroleum companies to perform, on an exclusive basis, petroleum exploration and exploitation operations within a specified area; a petroleum contract may be a concession contract or any other kind of contract provided by this ordinance;
- (e) **"concession contract"**, as referred to in Article 33 of this ordinance, means the petroleum contract related to a petroleum exploration permit and, where applicable, to one or more exploitation concessions;
- (f) **"petroleum mining title"** means a petroleum exploration permit or exploitation concession;
- (g) **"prospection"** means preliminary activities relating to detection of indications showing that petroleum may exist, including, inter alia, the use of geological, geochemical or geophysical methods, but excluding the drilling of wells to a depth of more than three hundred meters unless otherwise provided for in the prospection authorization;
- (h) **"exploration"** means activities relating to prospection and drilling exploratory wells with a view to discovering petroleum deposits, including appraisal and delineation of a petroleum discovery deemed to be commercial;
- (i) **"exploitation"** means activities relating to extraction of petroleum, including inter alia development, production and abandonment of petroleum fields;
- (j) **"transportation"** means transportation of extracted petroleum by pipelines, excluding in particular flowlines and gathering lines within the fields.

Article 3

All deposits or natural accumulations of petroleum in the soil or subsoil of the Central African Republic, whether discovered or undiscovered, are and remain the exclusive property of the State.

Article 4

The State exercises, within the whole territory of the Central African Republic, sovereign rights regarding petroleum prospection, exploration, exploitation and transportation.

No person may carry out petroleum prospection, exploration, exploitation and transportation work, even the surface owner, unless he has been previously granted an authorization in accordance with the provisions of this ordinance.

Article 5

The State may conduct any petroleum operations:

- (a) either directly by itself or through a State company; or
- (b) by means of petroleum contracts entered into with any qualified company, under the conditions provided for by this ordinance.

As the case may be, the State may also grant petroleum prospection authorizations for purposes of technical information only.

Article 6

Without prejudice to any existing rights, the Minister may declare available areas in respect of which petroleum contracts may be entered into or, as the case may be, in respect of which prospection authorizations may be granted.

The Minister shall have full discretionary power with respect to applications or proposals for a petroleum contract. A rejection shall not give the applicant any right to either appeal or claim compensation.

Without prejudice to any existing rights, in the event of competing applications or proposals, there shall be no right of priority.

Article 7

Petroleum contracts, petroleum mining titles and prospection authorizations may only be granted to a commercial company or, jointly, to several commercial companies, organized under the laws of the Central African Republic or a foreign country.

No person may hold petroleum contracts, petroleum mining titles or prospection authorizations unless he proves to possess the necessary technical skills and financial capabilities to properly carry out petroleum operations.

Several qualified companies may associate in order to enter into and execute a petroleum contract as well as to hold the related mining titles. Any protocol, contract or convention regarding such association shall be declared to the Minister and shall be subject to prior approval pursuant to the provisions of Article 35 below.

The activities of petroleum prospection, exploration, exploitation and transportation companies are commercial acts.

Article 8

Exploitation of petroleum fields shall not give rise to any subsurface duty for the landowners.

Article 9

The existence of a petroleum contract in respect of a given area shall not preclude the granting, over all or part of such area, of an exploration and exploitation mining title for mineral substances other than petroleum. The existence of such mining titles shall not also preclude the execution of a petroleum contract in respect of all or part of the area concerned.

Where there are several rights over the same area but for different substances, the most recent rightholder shall conduct his operations in such a manner that no prejudice be caused to those of the foremost rightholder.

PART II

PETROLEUM PROSPECTION AUTHORIZATIONS

Article 10

The Minister may grant a petroleum prospection authorization relating to areas which are not subject to a petroleum mining title, by issuing a ministerial order which shall set forth the terms and conditions of the authorization.

The prospection authorization is granted for a maximum period of one year and may be renewed once for a like period of time. It shall not constitute a mining title and shall be neither assigned nor transferred.

The conditions of granting a petroleum prospection authorization shall be set forth by decree.

Article 11

The prospection authorization shall grant the holder the non-exclusive right to perform petroleum prospection work, within the limits of its area.

It shall not grant the holder any right to obtain a petroleum mining title or to dispose of products extracted in the event of a petroleum discovery during prospection work.

The results of prospection work shall be provided to the Minister in accordance with the terms and conditions set forth in the order granting the authorization.

The State may at any time grant a petroleum mining title or enter into a petroleum contract in respect of all or part of the area subject to a prospection authorization; in such a case, the prospection authorization shall be terminated, ipso jure, as regards the area concerned, and the holder thereof shall have no right to claim any compensation.

Nevertheless, where appropriate, the prospection authorization may set forth a preference right, under equivalent conditions, on behalf of the holder thereof in the event of granting a petroleum exploration permit in respect of all or part of the same area.

PART III

PETROLEUM EXPLORATION PERMITS

Article 12

The petroleum exploration permit, referred to as "H permit", grants the holder the exclusive right to perform, at his sole risk and expense, any petroleum prospection or exploration work, within the limits of the area thereof and without any depth limit except any exclusion.

The exploration permit is granted by decree, upon report by the Minister, for an initial period of no more than four years, which may be renewed pursuant to the provisions of article 13 below, under the terms and conditions of the petroleum concession contract provided for in article 33 of this ordinance, which shall have been previously entered into with the State.

Article 13

The term of a petroleum exploration permit may be, upon application by the holder thereof, which application shall be presented in the appropriate manner prior to the expiry of the current term, renewed twice by ministerial order, for the duration set forth in the petroleum contract; each such renewal shall not exceed four years, provided however that the holder has fulfilled his obligations with respect to the current term.

Upon each renewal, the surface of the permit shall be reduced in accordance with the provisions of the petroleum contract.

The term of the second renewal may be extended, by ministerial order, if necessary, in particular in order to permit the completion of exploratory wells under progress or the appraisal or delineation of a petroleum discovery.

Article 14

The petroleum contract shall set forth the minimum exploration work program which the holder of the exploration permit undertakes to perform during the initial term of the permit, as well as during each renewal period.

In the event the holder does not fulfill its work obligations within the time periods allotted to him, he shall pay the State a compensation equivalent to the amount of the unfulfilled obligations.

Article 15

The holder of an exploration permit shall as soon as possible notify the Minister of any petroleum discovery.

In the event such discovery permits to assume the existence of a commercially exploitable field, the holder shall diligently perform the work necessary for appraisal and delineation of such field. Upon completion of such work, the holder shall establish whether or not the discovery is commercial.

Article 16

The petroleum exploration permit grants the holder the right to dispose of petroleum which may be extracted from the soil during exploration work and production tests, subject to prior notice to the Minister.

The rights and obligations of the holder shall, in such a case, be those of a concession holder with respect to any such production, in particular as regards the payment of the royalty on production provided for in Article 66 below, in accordance with the provisions of the petroleum contract related to the exploration permit.

Article 17

As soon as the existence of a commercially exploitable petroleum field is established, the holder of the exploration permit shall apply for granting an exploitation concession and shall undertake development work.

The granting of an exploitation concession shall give rise to the termination of the exploration permit inside the area granted, but it shall not affect the exploration permit outside such area, and shall not alter the minimum work program to be performed by the holder.

Article 18

Where a petroleum exploration permit reaches its normal date of renewal or final expiry before it has been stated on the application for its renewal or for a concession, as requested in the appropriate manner, and where the holder has fulfilled his commitments and the obligations arising from this ordinance, the instruments establishing the implementation thereof and the petroleum contract, the validity of the permit over the area concerned by such application shall be extended, by ministerial order, until a decision occurs.

Article 19

The holder of a petroleum exploration permit may relinquish all or part of the areas concerned by such permit, subject to prior notice of no less than two months and in accordance with the provisions of the contract.

Such relinquishment shall come into effect only after it has been pronounced by a ministerial order. It shall give rise to the cancellation of the permit over the relinquished areas.

A relinquishment in part shall not reduce the contractual obligations of the holder, unless otherwise provided for in the petroleum contract.

A whole relinquishment shall give rise to the termination of the petroleum contract; it shall be accepted only if the holder has fulfilled all his contractual obligations related to the current term.

Article 20

Any transfer, whether in whole or part, of a petroleum exploration permit shall come into effect only if it is authorized by decree, upon report by the Minister. Such authorization shall be applied for by the assignee within a month from the signing of the agreement, which agreement shall have been entered into under the suspensive condition of this authorization.

Any agreement entered into in breach of the provisions of this Article shall be null and void and may give rise to the whole cancellation of the permit in the manner set forth in Article 86 below.

No person may be authorized to become, through a transfer, holder of all or part of an exploration permit if he does not comply with the conditions requested for granting such a permit.

The assignee shall comply with the same obligations as the holder, in accordance with the petroleum contract which shall remain into effect in whole.

Where the permit is granted to several joint holders, the withdrawal of one or several of these holders shall not give rise to the cancellation of the permit nor the termination of the petroleum contract, provided that the holder(s) shall adhere to the commitments which have been contracted with respect to said permit. Such withdrawal shall be accepted by a ministerial order.

Article 21

Upon expiry, whether in whole or part, of a petroleum exploration permit, either at the end of each term or in the event of relinquishment or cancellation, the wells, tubings and wellheads located in the relinquished areas of the permit shall remain in place and be transferred to the State without any compensation to the holders.

The holder shall, however, perform at its sole expense the abandonment operations necessary before such a transfer. He shall also have provided the State with all the petroleum information and data which he holds with respect to the relinquished area.

Article 22

During the term of a petroleum permit, the holder thereof may, upon request, be authorized by a ministerial order to exploit the producing wells, for a provisional period of no more than two years, during which he shall continue the appraisal and delineation of the field concerned, in accordance with the provisions of Article 15 above.

Such authorization may be revoked in the same manner in the event of no compliance with the provisions of Article 14 along with those of the last paragraph of this Article. It shall become null and void in the event of termination of the exploration permit, whatever the reason thereof, unless it has been applied for a concession in the appropriate manner.

The procedure for examining the application for a provisional exploitation authorization, extension of such authorization to new wells and revocation of the authorization is set forth by decree.

The holder of a provisional exploitation authorization shall comply with the same conditions and obligations as a concession holder under this ordinance and the petroleum contract. In particular, he may freely dispose of the petroleum produced, subject to the payment of the royalty provided for in Article 66 below.

PART IV

PETROLEUM EXPLOITATION CONCESSIONS

Article 23

The petroleum exploitation concession grants its holder the exclusive right to carry out, at his sole risk and expense, within the limits of the related area, any operations relating to the exploitation of a commercially exploitable field, and, as the case may be, relating to exploration, as well as the right to dispose of the production of petroleum, in accordance with the petroleum contract entered into by the holder with the State.

The exploitation concession is granted by decree, upon report by the Minister.

Article 24

The term of the petroleum exploitation concession shall not exceed thirty years.

The concession may be renewed twice, in the manner set forth in Article 23 above as regards the granting thereof, for a period of no more than ten years each, provided that the holder has fulfilled his obligations and demonstrates the possibility to keep a commercial production of petroleum beyond the current term.

Article 25

The area of a concession shall be determined in the instrument which establishes such concession. It shall be limited by the surface generated by the vertical lines drawn along the perimeter defined over the ground, unless as otherwise provided for in the petroleum contract.

Article 26

The holder of a petroleum exploration permit who gives evidence, through the performance of exploration and appraisal work conducted in accordance with this ordinance, that a commercially exploitable field exists within the permit area, shall have the right, in the event of an application made in the appropriate manner prior to the expiry of the term of the permit, to be granted an exploitation concession with respect to said field.

Such application shall be accompanied with a development and production plan for said field, which shall in particular specify all information regarding the recoverable petroleum reserves, the estimated production profile, the development scheme and time schedule, the estimated capital expenditures and costs, together with a study demonstrating the commercial nature of the field.

The holder shall undertake to carry out diligently development work with respect to the commercial field, pursuant to the development plan and the possible changes thereof.

The granting of a concession shall not affect the exploration permit outside the concession area until the expiry of such permit.

During the term of a petroleum exploration permit, only the holder thereof may be granted a concession inside the permit area.

Article 27

The establishment of a concession creates a real estate right for a limited period, not subject to mortgage, and different from the property of the ground.

Article 28

Any transfer, whether in whole or part, of a concession, whatever the manner or the purpose thereof, shall come into effect only if it is authorized in the manner provided for in Article 23 above as regards the granting of the concession. Such authorization shall be applied for by the assignee within a month from the signing of the agreement, which agreement shall have been entered into under the suspensive condition of this authorization.

Any agreement entered into in breach of the provisions of this Article shall be null and void and may give rise to the revocation of the concession in the manner set forth in Article 86 below.

No person may be authorized to become, through a transfer, holder of all or part of a concession if he does not comply with the conditions requested for granting such a concession.

In the event of transfer, the whole petroleum contract shall remain into effect and shall apply to the assignee.

Article 29

The holder of a concession may relinquish all or part thereof, subject to prior notice of no less than one year, and provided he has fulfilled his obligations.

Such relinquishment shall come into effect only after it has been accepted by ministerial order. Such order shall determine, as the case may be, the area kept by the holder.

Article 30

Unless in the event of Force Majeure, where a concession has been unexploited for one year, the revocation thereof may be decided, in the manner set forth in Article 86 below, after the holder has been served formal notice to recover the exploitation within a time period which shall not be less than six months, and if, after expiry of this time period, the formal notice has not given rise to any effect.

Article 31

Upon expiry of the concession, either at the regular end of its term, or in the event of relinquishment or revocation, the holder shall, except as otherwise agreed upon by the Minister, perform, at its expense, the operations related to the abandonment of the exploitation of the field. The facilities, equipment and land related to the concession which are necessary to continue the exploitation shall, upon request from the Minister, be transferred to the State, without any compensation to the holder.

PART V

PETROLEUM EXPLORATION AND EXPLOITATION CONTRACTS

Article 32

The State may enter into petroleum exploration and exploitation contracts which may be:

- (a) concession contracts related to the granting of petroleum mining titles provided for in Parts III and IV of this ordinance; or
- (b) risk service contracts.

The contracts shall be executed by the Minister and approved by decree.

Article 33

The concession contract shall be entered into prior to the granting of a petroleum exploration permit; it shall set forth the rights and obligations of the State and the holder during the term of the exploration permit and, in the event of a commercially exploitable discovery, during the term of the exploitation concession.

The concession contract shall, inter alia, specify the following issues:

- (a) exploration permit area;
- (b) term of the contract and of the various periods of the exploration permit and of the exploitation concessions, together with conditions for the renewal and extension thereof;
- (c) work commitments for each period of the exploration permit;
- (d) conditions for the preparation of work programs and budgets, supervision of the performance thereof, submission to the Minister of all reports and information concerning the petroleum operations;
- (e) respective rights and obligations of the contracting parties;
- (f) conditions for a commercial discovery and the development of a commercial field as well as for the granting of an exploitation concession;
- (g) rights and obligations of the holder concerning transportation of petroleum extracted;
- (h) ownership of production and methods of determining the valuation of petroleum produced;
- (i) as the case may be, methods of participation by the State or a State company, together with rules of association with the holder;
- (j) clauses related to finance, taxation and customs;
- (k) termination of the contract and revocation or cancellation of mining titles under various circumstances;
- (l) employment and training of nationals;
- (m) legal clauses regarding applicable law, stability of conditions, Force Majeure and settlement of disputes;
- (n) terms and conditions relating to the assignment and transfer of the contract and the mining titles.

Where the circumstances so justify, the purpose of a concession contract may be limited to the exploitation of one or several petroleum fields yet discovered and delineated, without being related to the granting of an exploration permit.

Article 34

A risk service contract is the agreement whereby the State or, as the case may be, a State company contracts the services of a qualified company for the purposes of carrying out, on their behalf and on an exclusive basis, inside the given contract area, petroleum operations relating to exploration and, in the event of a commercially exploitable discovery, relating to exploitation of fields. In addition, such company shall undertake at its sole risk the financing of said operations. It shall not be the holder of petroleum mining titles.

A risk service contract shall set forth an exploration period and, where applicable, an exploitation period which shall become effective, with respect to each commercially exploitable field, when the existence of such a field is established.

In the event of commercial petroleum production, the State or the State company, as the case may be, shall be the owner of such production out of which it shall, in accordance with the provisions of the risk service contract, reimburse the holder for his capital expenditures and costs, and pay him a compensation either in cash or in kind. In the event of reimbursement and compensation in kind, the holder shall receive a share of the production and the contract shall be a so-called "production sharing contract".

The holder of a risk service contract shall be subject to the applicable provisions of this ordinance, unless as otherwise provided for.

Article 35

Any assignment or transfer of all or part of a petroleum contract to any qualified company shall be subject to prior approval, under the same conditions as those provided for the transfer of an exploration permit or an exploitation concession in Articles 20 et 28 above. The petroleum contract may provide for specific methods in the event of assignment or transfer to an affiliated company.

PART VI

TRANSPORTATION OF PETROLEUM BY PIPELINES

Article 36

The holders of petroleum contracts, or each co-holder thereof, shall have the right, during the term of the contract and under the conditions set forth in this Part, to transport in their own facilities, inside the territory of the Central African Republic, or to cause to be transported while keeping the ownership thereof, the products resulting from their activities of exploitation

or their share of said products, to the points of gathering, treatment, storage, loading or major consumption.

In the event that conventions for purposes of allowing or facilitating transportation of petroleum by pipelines through other States are entered into between the Central African Republic and said States, the former shall grant the above-mentioned holders of the petroleum contracts all the advantages which may arise from the execution of such conventions in favor of the holders of petroleum contracts.

Article 37

The rights provided for in Article 36 above may be transferred individually or jointly by the holders of a petroleum contract under the conditions set forth in said contract. The possible transfers to a third party shall be subject to prior approval by the Minister, which approval shall be granted by ministerial order.

The beneficiaries of the transfer shall comply with the conditions set forth in this ordinance regarding the construction and operation of pipelines and facilities set forth therein.

Article 38

Holders of petroleum contracts may associate in order to undertake the joint transportation of the products extracted from their exploitations subject to the provisions of Article 40 below.

They may also associate with qualified third parties, including the State, either directly or through a public entity or a State company, for the construction and operation of pipelines and facilities.

Any protocol, agreement or contract entered into by the persons concerned shall be subject to prior approval by the Minister, which approval shall be granted by ministerial order.

Article 39

The route and characteristics of pipelines and facilities shall be drawn up in such a manner that the gathering, transportation and lifting of the products extracted from the petroleum fields are carried out under optimum technical and economic conditions.

For purposes of drawing up said route, the designer of the project may dispose of the right of temporary occupation under the conditions provided for in Part VII of this ordinance.

In order to ensure the compliance with the provisions of the first paragraph of this Article, in the event of discovery, within the same geographical region, of other fields exploitable by third parties, the Minister may request the holders of petroleum contracts or the beneficiaries of a transfer as set forth in Article 37 above, to associate with other producers for purposes of jointly building or operating pipelines and facilities, in order to lift all or part of the production from said fields. In the event that no agreement is reached between the holders, the Minister may proceed authoritatively pursuant to the conditions set forth in the petroleum contracts.

Article 40

The authorization for transportation of petroleum by pipelines shall be granted by decree. It shall include the approval of the project of construction of pipelines and facilities attached to the application and shall declare the project to be in the public interest.

Occupation of land necessary for pipelines and facilities shall be made under the conditions provided for in Part VII of this ordinance.

The transportation authorization shall also include the right for the holder to establish pipelines and facilities on land which he does not own. The owners of land subject to rights of way shall undertake to refrain from doing any action which could hinder the normal operation of pipelines and facilities. Such landowners, in the case of private land, shall be entitled to a compensation which shall be determined, in the event no amicable agreement can be reached, by the authority competent with determination of expropriation compensation.

Where the pipelines or facilities hinder the normal utilization of land and where the landowner so requests, the holder shall proceed to the acquisition of said land. The value thereof shall be, in the event no amicable agreement can be reached, determined as for purposes of expropriation.

Article 41

Unless under Force Majeure, the authorization for transportation of petroleum shall become null and void when the holder of the petroleum contract or the beneficiaries of a transfer as set forth in Article 37 above have not started or cause to be started the scheduled work within one year from the approval of the project.

Article 42

The company which operates a pipeline for transportation of petroleum may, in the event no amicable agreement can be reached, be requested by ministerial order to accept, within the limit and the duration of its excess transportation capacity, the transportation of products coming from exploitations other than that which have justified the approval of the project.

Such products shall not be the purpose of any discrimination regarding the transportation tariff, under similar conditions of quality, regularity and flow.

Article 43

The transportation tariffs shall be established by the company in charge of the transportation, in accordance with international petroleum industry practice, and subject to approval of the Minister. For this purpose, the tariffs shall be sent to the Minister at least four months prior to the production start-up, together with the methods of determination thereof and all necessary information. Any subsequent change in the tariff shall be notified and justified to the Minister at

least two months prior to its effectiveness. During these time periods, the Minister may oppose to the proposed tariffs under the conditions set forth in the petroleum contracts.

In the event of significant variances in the components of the tariffs, new tariffs taking into account such variances shall be established in accordance with the methods provided for above.

Article 44

In the event the holder or one of the holders of an authorization for transportation of petroleum by pipelines infringes the provisions of this law or the regulatory or contractual provisions establishing the implementation thereof, or the provisions regarding public safety or protection of environment, the Minister shall serve a formal notice on him to comply with such provisions within a time period of at least three months, unless in the event public safety or national defense would demand an immediate application of such provisions.

In the event the holder concerned does not comply with such demand, the Government may order, as the case may be, for the only share of the holder concerned in the association, the State management of the operation, at the concerned holder's sole risk and expense. If after a period of three months following such State management, the holder concerned has not fulfilled his obligations, the revocation of the authorization with respect to such holder, shall be stated by decree and the rights of the holder concerned shall be transferred to the State.

Article 45

The provisions of this Part regarding the authorization for transportation of petroleum by pipelines shall not apply to the pipelines and facilities installed inside a concession area for purposes of exploitation of said concession.

PART VII

OBLIGATIONS AND RIGHTS RELATING TO PETROLEUM OPERATIONS

Article 46

Pursuant to the specific provisions of legislation and regulations applicable to each of the following matters, the holder of a petroleum contract may, within the territory of the Central African Republic, whether inside or outside the contract area, and under the conditions set forth in this Part:

- (a) occupy the land required for carrying out petroleum operations and related activities, in particular activities referred to in paragraphs (b) and (c) below, and also the land required for accommodation of personnel assigned to the operations;

- (b) perform or cause to be performed any infrastructure work required for carrying out, under normal economic conditions, petroleum operations and related activities, such as transportation and storage of equipment and products extracted, excluding transportation of petroleum by pipelines as set forth in Part VII of this ordinance, establishment of equipment of telecommunication and lines of communication, as well as production and supply of energy required for petroleum operations;
- (c) perform or cause to be performed drilling and work required for supplying personnel, work and facilities with water, in accordance with the regulations which govern water takes;
- (d) take and utilize or cause to be taken and utilized the ground materials required for the activities set forth in paragraphs (a), (b) and (c) above, subject to the payment of royalties on extraction in force, if any, or of a fair compensation to be paid to the landowner.

Article 47

The occupation of land and exercise of the rights set forth in Article 46 above shall be subject to agreement between the holder of the petroleum contract and the landowners or the beneficiaries of customary rights.

In the event no amicable agreement can be reached, the Minister in charge of estate and the Minister may grant the holder temporary land occupation or utilization authorizations so as not to delay the normal performance of petroleum operations, without prejudice to the legitimate rights of the landowners or the beneficiaries of customary rights. Such authorization shall also determine a provisional and approximate land compensation, which shall be established prior to the entering into possession and which shall constitute a payment on account for the compensations set forth in Article 48 below.

Subject to the provisions of the third paragraph below, occupation of land registered in the private property of the State and other public entities, which are not yet occupied legally by third parties, shall take place without any compensation.

Occupation of land which belongs to private persons shall give them the right to receive an annual compensation equal to the amount which corresponds, during such occupation, to the value of the net product of the land prior to such occupation.

Where occupation so realized deprives the landowner of the utilization of the soil during more than two years or where, after the performance of work, the occupied land proves to be no longer utilized as before such occupation, the landowner may request that the holder of the petroleum contract shall acquire the land. Land to be so acquired shall be valued at the amount which corresponds, upon acquisition or purchase of customary rights, to the value of said land or rights before such occupation.

Disputes regarding the compensations set forth above shall be subject to civil courts.

Article 48

The performance of petroleum operations and construction of related facilities may, as the case may be, be declared to be in the public interest and urgent, upon request from the holder of the petroleum contract, pursuant to the relevant applicable legislation. Such declaration shall be granted by decree issued upon proposal by the Minister in charge of estate and by the Minister.

As and when required, any land or goods may be expropriated in the public interest pursuant to the legislation and regulations in force; the holder of the petroleum contract shall bear all expenses, compensations and charges arising from such expropriation.

The expropriation compensation shall be equal to the value of land expropriated, which value shall be determined according to the utilization thereof prior to expropriation, or, as the case may be, prior to occupation. Disputes regarding such compensation shall be subject to civil courts. The transfer of ownership shall be pronounced in accordance with the procedure for expropriation.

Article 49

Unless a specific authorization has been granted, the holder of a petroleum contract shall not occupy nor perform any kind of work on the following land:

- (a) any land within less than fifty meters of any building, used for religious purposes or not, enclosing wall, yard and garden, house, group of dwellings, village, urban centre, burial place, well, water point, reservoir, street, road, railway, water pipeline, pipeline, works of public interest and infrastructure works;
- (b) any land within less than one thousand meters of a national border or an airport;
- (c) any land declared by the State to be a national park or natural reserve.

However, as regards land set forth in paragraph (c) above, for purposes of providing incentives to the performance of petroleum operations, the holders of petroleum contracts may be authorized, through an explicit authorization granted jointly by the Minister in charge of estate and the Minister, to perform petroleum operations thereon, provided that the holder submit beforehand a report which shall specify the conditions for the performance of said petroleum operations in such a manner as to safeguard the environment.

Article 50

The holder of a petroleum contract shall bear all expenses, compensations and charges incurred by the occupation of land required for petroleum operations.

The holder of a petroleum contract shall repair and make good any loss or damage caused by, or resulting from, petroleum operations or related activities, or facilities located inside or outside the contract area, whether the contract holder or a subcontractor is responsible for such loss or damage. Failing such repair, the compensation shall correspond to the value of the resulting damage.

Article 51

The termination of a petroleum contract, whether in whole or part, shall have no effect to the rights arising from Article 46 above for the holder of such contract regarding work, pipelines and facilities realized pursuant to the provisions of this Part, provided that such work, pipelines and facilities shall be utilized under the holder's activities on the portion which may be kept or for purposes of other petroleum contracts.

Article 52

Depending on the type and duration of the work for which they are responsible, the holders of prospection authorizations shall have the same rights and obligations as the holders of petroleum contracts, as provided for in this Part.

Article 53

In the event a petroleum field spreads over several contract areas granted to separate contract holders, said holders shall enter into unitization agreements in order to exploit such field under the best conditions of technical and economic efficiency. Unitization agreements as well as joint exploitation programs shall be submitted to the Minister.

Article 54

In order to ensure the best technical and economic utilization, the Minister may impose to the holders of petroleum contracts conditions of realization and operation of work and facilities set forth in Article 46, in the same manner as it is provided for in the third paragraph of Article 39 above as regards pipelines for transportation of petroleum, provided that such conditions shall not alter the normal economic conditions for the activities of said holders.

In the event of a dispute between the operators concerned regarding the methods of such association, the Minister may proceed authoritatively pursuant to the provisions of the petroleum contracts.

Article 55

The holders of petroleum contracts shall conduct petroleum operations for which they are responsible with due diligence and in accordance with good international petroleum industry practice.

Article 56

The holders of petroleum contracts shall carry out petroleum operations in such a way as to ensure the conservation of natural resources, in particular petroleum deposits, and the protection of environment. For this purpose, they shall employ standard methods and practice of the international petroleum industry when carrying out all work and operations and shall take all necessary actions in order to prevent pollution of environment.

Article 57

The holders of petroleum contracts shall provide the Minister with all information, data, documents and samples pertaining to, or resulting from, petroleum operations. The foregoing shall be kept confidential and may not be disclosed other than under the conditions set forth in the petroleum contracts.

Article 58

The holders of petroleum contracts shall have the right, under their sole responsibility, to subcontract petroleum operations for which they are responsible to qualified companies.

For the purposes of the operations entrusted to them, and solely within such limit, subcontractors shall have the same rights and obligations as the holders of petroleum contracts. Any subcontract shall be delivered to the Minister.

Article 59

The holders of petroleum contracts and their subcontractors shall give preference to Central African companies in the award of contracts for construction, supply, and miscellaneous services, provided that such goods and services are competitive in quality, price, quantity, delivery time and terms of payment.

Article 60

The holders of petroleum contracts and their subcontractors shall give priority to the employment of qualified Central African personnel for the performance of their operations.

For that purpose, upon start up of petroleum operations, the holders of petroleum contracts shall establish and finance a training program for Central African personnel, in accordance with the conditions set forth in the petroleum contracts.

Article 61

The holders of petroleum contracts shall ensure that the requirements of health and safety standards are satisfied in accordance with good international petroleum industry practice, both by themselves and by their subcontractors.

Any serious accident shall be forthwith reported to the competent authorities.

Article 62

The holders of petroleum contracts shall, in the event of commercial petroleum production and to the extent it may be technically supported, supply on a priority basis, upon request from the Minister, a portion of said production to meet the requirements of domestic consumption in the Central African Republic. The conditions for such obligation shall be set forth in the petroleum contracts.

Once the requirements of the domestic consumption in the country have been met, if any, the holders of petroleum contracts shall be free to dispose of that portion of petroleum to which they are entitled.

Article 63

The Minister shall ensure that the provisions of this ordinance and the instruments establishing the implementation thereof shall be implemented, and that the holders of petroleum contracts shall fulfil their obligations. The Minister shall implement all regulatory measures and shall have full rights to carry out supervision and inspection of petroleum operations.

The agents from the department in charge of petroleum shall be responsible, under the authority of the Minister, with the administrative and technical supervision of the activities provided for in this ordinance.

PART VIII

PROVISIONS RELATING TO TAXATION, CUSTOMS AND FINANCE

Chapter I: Provisions relating to taxation

Article 64

The holders of petroleum contracts shall, in respect of petroleum exploration and exploitation activities carried out in the territory of the Central African Republic, be subject to the payment of taxes, duties and royalties set forth below, in particular those as determined by the General Tax Code, subject to the provisions of this Chapter applicable to petroleum operations and in accordance with the provisions of petroleum contracts.

Article 65

The holders of petroleum contracts shall be subject to an annual surface fee, the amount of which shall be set forth in the petroleum contract.

Article 66

The holders of concession contracts shall be subject to the payment of a royalty on production equal to a maximum of twelve and a half percent of the ex-field value of petroleum extracted within the territory of the Central African Republic. Such rate shall be reduced to five percent as regards production of natural gas. The production royalty rates as well as the methods of determination of the ex-field value shall be set forth in the concession contract.

Royalty shall be paid in kind or in cash, pursuant to the joint decision of the Minister in charge of Finance and the Minister, in accordance with the methods set forth in the concession contract.

The concession contract may provide for exemption, in whole or part, from royalty on production in some exceptional cases in view of providing incentives to petroleum operations in the Central African Republic.

Article 67

The holders of petroleum contracts shall be subject to corporate tax on the basis of net profits arising from their whole petroleum exploration and exploitation activities within the territory of the Central African Republic, under the conditions set forth in Article 64 above.

For that purpose, each holder of petroleum contracts, whatever his nationality, shall keep separate accounts for each calendar year in respect of petroleum operations carried out which shall permit to establish a profit and loss account and a balance sheet showing the results of said operations as well as the assets and liabilities which are allocated or directly related thereto. Income arising from transportation of petroleum by pipelines shall be subject to separate taxation under Article 76, unless as otherwise provided for in the petroleum contract.

Article 68

Taxable income shall be the net profit arising from all petroleum operations performed by the company in the territory of the Central African Republic, whether the company performs such operations alone or in association with other companies, including, inter alia, the transfer of any assets in the course of, or upon ending of, exploitation activities.

Net profit shall consist of the difference between the value of net assets at the closure and opening of the fiscal year, reduced by the additional assets brought in, and increased by the drawings effected during such fiscal year by the company or by the company's associates. "Net assets" means the amount to which assets exceed total liabilities represented by debts to third parties and justified or authorized depreciation and provisions.

If the company can justify a loss arising from the petroleum operations, such loss may be deducted from the taxable income beyond the carryforward time limit set forth in Article 138 of the General Tax Code.

Article 69

Income tax shall be paid at the rate of fifty percent of net profit arising from petroleum operations, unless as otherwise provided for in the petroleum contracts; in the latter case, such rate shall not be lower than the corporate tax rate in force upon signing of the contract.

Regulations for the establishment and collection of tax shall, to the extent they do not result from this ordinance nor from the petroleum contracts, be those provided for by the fiscal legislation and regulations regarding corporate tax in force in the Central African Republic.

Article 70

The following items, *inter alia*, shall be credited to the profit and loss account mentioned in Article 67 above:

- (1) the value of products sold, which must conform to prevailing international market prices established pursuant to the provisions of the petroleum contracts applicable to the company;
- (2) as the case may be, as regards the concession contracts, the value of the share of production paid in kind as royalty on production, pursuant to the provisions of Article 66 above;
- (3) income from the storage, treatment and transportation of petroleum, if any;
- (4) capital gains resulting from the assignment or transfer of any asset, unless specific waivers are set forth in the petroleum contracts;
- (5) all other income or proceeds arising from petroleum operations.

Article 71

The net income shall be established after deduction of all costs and expenses incurred for purposes of petroleum operations.

The following items, *inter alia*, shall be deductible:

- (1) general and overhead expenses of any kind, personnel expenses and charges related thereto, rents for buildings, costs of services rendered to companies holding petroleum contracts;

However, with respect to the expenses set forth in the foregoing paragraph:

- (a) costs relating to supplies, personnel and services provided by companies affiliated to the holders of petroleum contract shall not exceed the costs that would be normally invoiced in arm's length transactions between independent buyer and seller for comparable goods or services;
 - (b) a reasonable amount only shall be deductible for the salaries of personnel abroad belonging to the company or to any of the company's affiliates, to the extent that such personnel is assigned by the company to petroleum operations in the territory of the Central African Republic;
 - (c) only a reasonable percentage also shall be deductible for administrative expenses of the company's head office abroad which may be charged to petroleum operations performed in the territory of the Central African Republic;
 - (d) as a compensation, the limit set forth in Article 131, Section A.1.f.1), second paragraph, of the General Tax Code shall not be applicable to petroleum operations.
- (2) depreciation actually made by the company within the limit of rates generally accepted in the petroleum industry and in accordance with applicable rates provided for in the petroleum contracts, including depreciation which may have been deferred from previous fiscal years in which a loss was made;
 - (3) interests on funds made available to the company by third parties for the requirements of petroleum exploitation and transportation operations, to the extent that such interest does not exceed the rate normally applied in international financial markets for comparable loans;
 - (4) interests paid to associates or to affiliated companies in respect of funds made available to the company in addition to their share of capital, provided that such funds are assigned to the exploitation of petroleum fields and transportation of production therefrom in the Central African Republic and to the extent that interest rates do not exceed the rates referred to in paragraph (3) above;
 - (5) losses of equipment or property as a result of destruction or damage, bad debts or indemnities paid to third parties as compensation for damage;
 - (6) as the case may be, as regards the concession contracts, the total amount of royalty on production actually paid, either in cash or in kind, in pursuance of the provisions of Article 66 above;
 - (7) provisions made to cover clearly identified losses or charges that current events render probable;

- (8) if it is so provided for in the petroleum contract, the depletion allowance, within the limits set forth therein; such allowance shall be subject to the corporate tax set forth in Article 67 above provided that it is not invested by the holder of the petroleum contract as expenditures for purposes of exploration for new petroleum fields in the Central African Republic, or as equivalent expenditures, within the time period and under the conditions set forth in the contract;
- (9) the investment credits which may be authorized under the petroleum contract, as incentives to petroleum operations in the Central African Republic;
- (10) without prejudice to contractual provisions to the contrary, any other losses or charges directly related to petroleum operations, except the amount of corporate tax set forth in Article 67 above.

Article 72

The petroleum contract may specify the procedures which may be implemented for collection of corporate tax, including, in particular, the possibility of implementing a system of payments on account, or the possibility of collecting tax in kind.

Article 73

Insofar as a specific provision is set forth in the petroleum contract, the holder thereof may be subject to a supplementary petroleum payment calculated on the basis of profits arising from petroleum operations in accordance with the provisions of such contract.

Article 74

Except the corporate tax set forth in Article 67 above and, where applicable, the royalty on production and the supplementary petroleum payment mentioned in Articles 66 and 73 above respectively, the holders of petroleum contracts shall be exempt from any other direct tax on income arising from petroleum operations carried out in the territory of the Central African Republic and from any other tax, duty or impost of any kind whatsoever applicable to the production or sale of petroleum extracted and related revenues, and either due in respect of petroleum operations or payable upon creation and operation of companies holding petroleum contracts.

The exemption provided for in the foregoing paragraph shall be applicable, *inter alia*, to the following:

- (1) tax on income from transferable securities ("impôt sur les revenus des capitaux mobiliers") set forth in Article 79 bis of the General Tax Code, in respect of dividends paid to shareholders of companies holding petroleum contracts, and income from receivables, such as the deposits and sureties;

- (2) business licence tax ("contribution des patentes"), property tax on buildings ("contribution foncière sur les propriétés bâties") necessary for the petroleum operations, transaction duty ("taxe sur les transactions"), registration and stamp duties ("droits d'enregistrement et de timbre") to which companies holding petroleum contracts may be subject;
- (3) where a specific provision is provided for in the petroleum contract, any other tax or duty to which companies holding petroleum contracts or their subcontractors, as well as the expatriate employees of such companies and subcontractors, may be subject.

As a waiver to the foregoing provisions of this Article, land taxes shall be payable under the provisions of common law applicable to buildings used for residential purposes, and the above-mentioned exemptions shall apply neither to taxes or duties levied to compensate for special services rendered by the administration, nor to taxes or duties of which the payment is specifically provided for in the petroleum contract.

Article 75

The holders of petroleum contracts and their subcontractors shall be exempt from all taxes on turnover regarding services rendered and work directly related to petroleum operations, in particular tax on internal turnover ("impôt sur le chiffre d'affaires intérieur") and stamp duty ("droit de timbre").

Article 76

Companies which carry out transportation of petroleum by pipelines, whether liquid or gaseous, shall be subject to the corporate tax, the rate of which shall be that set forth in Article 69 above, in respect of profits arising from transportation operations carried out within the limits of the territory of the Central African Republic.

The taxable income shall be determined in accordance with the methods set forth in Articles 70 and 71 above, excepts as regards the depletion allowance and the royalty on production.

Exemptions and deductions set forth in Articles 74 and 75 above, as well as in Article 78 below, shall be applicable to said companies, in respect of activities set forth in this Article.

Chapter II: Provisions relating to customs

Article 77

Subject to the provisions of Article 78 and 79 below, the holders of petroleum contracts and their subcontractors shall comply with the provisions of the Customs Code.

Article 78

- (1) The holders of petroleum contracts, as well as their subcontractors, shall have the right to import the following into the Central African Republic:
 - (a) equipment, plants and vehicles required for petroleum operations, in respect of which all import duties and taxes shall be suspended;
 - (b) materials, spare parts and consumable items required for petroleum operations, free of all import duties and taxes.
- (2) Expatriate employees of petroleum contract holders and their subcontractors shall have the right to import the following into the Central African Republic:
 - (a) personal and domestic effects to meet their own requirements, free of all import duties and taxes;
 - (b) one automobile for personal use, in respect of which all duties and taxes shall be suspended.
- (3) When goods which are imported pursuant to the provisions of paragraphs (1) and (2) above cease to be assigned to petroleum operations or to personal use by expatriate employees but remain in the Central African Republic, they shall no longer be subject to the customs exemptions set forth in this Article, and duties and taxes to which the company, its subcontractors or its employees would be subject shall be calculated on the basis of the real market value of said goods as of the date of their disposal. In the case of special temporary entry, the recovery shall be made on that portion of duties and taxes of which collection is suspended.

Article 79

The holders of petroleum contracts shall have the right to export free of any export tax or duty the portion of petroleum to which they are entitled under such contracts.

Chapter III: Financial provisions

Article 80

The holders of petroleum contracts shall be subject to the foreign exchange regulations of the Central African Republic. Foreign contract holders may, however, be allowed the following benefits for the duration of their contracts:

- (1) the right to receive and retain abroad any funds acquired or borrowed abroad, including proceeds from the sale of their share of production, as well as the right to freely dispose of such funds, to the extent that the amount thereof exceeds their fiscal obligations and local requirements in respect of petroleum operations in the Central African Republic;

- (2) the right to transfer freely out of the Central African Republic proceeds from sales of petroleum, dividends and proceeds of any kind from capital invested, as well as income from the liquidation or realization of assets belonging to said contract holders;
- (3) the right to make direct payments abroad to foreign companies providing goods and services required for the performance of petroleum operations;
- (4) the right to freely convert the domestic currency of the Central African Republic and convertible foreign currencies for any exchange operations relating to petroleum operations.

The same benefits may be granted to the foreign subcontractors of petroleum contract holders, as well as to the expatriate employees of petroleum contract holders and their subcontractors.

Article 81

The conditions for the implementation of this Part shall be set forth, as and when required, by decree, and, as the case may be, in the petroleum contract.

PART IX

APPLICABLE LAW, DISPUTES, INFRINGEMENT AND PENALTIES

Article 82

Applicable law to petroleum operations and all other related activities carried out in the territory of the Central African Republic, as well as to any person of foreign or Central African nationality engaged in such operations or activities, shall be the law of the Central African Republic.

Article 83

Petroleum contracts may contain clauses which provide for the stability of contractual terms and conditions.

Article 84

Central African courts shall be competent to hear any infringement, offence or technical offence that may be committed by the holders of petroleum contracts, or by their subcontractors, representatives or employees.

However, petroleum contracts may contain clauses providing for international arbitration to settle any disputes between the State and the holders of petroleum contracts in respect of the interpretation or execution of such contracts.

Article 85

Any infringement of the provisions of this ordinance and the instruments establishing the implementation thereof shall be recorded in reports drawn up by sworn officials empowered for this purpose.

Any such infringement shall be punished with a fine varying from 500,000 to 10,000,000 Francs CFA as the case may be. In the event of repetition, the fine shall be doubled.

Article 86

In the event of material breach of the provisions of this ordinance and the instruments establishing the implementation thereof or the provisions of the petroleum contract, after formal notice has been served by the Minister on the contract holder without any remedy within the period specified in the petroleum contract, the State may declare the forfeiture of the contract. Such forfeiture shall be justified.

In the same manner, the breach of the provisions of this ordinance or of the provisions of the petroleum contract shall be recorded in the manner and pursuant to the procedure set forth in the contract, when such breach may give rise to the termination of the exploration permit or the revocation of the concession. Such termination of the exploration permit or revocation of the concession shall be pronounced in the same manner as for the granting thereof, following a formal notice by the Minister, without any remedy within the period specified in the petroleum contract.

PART X

MISCELLANEOUS PROVISIONS

Article 87

The provisions of Law N° 88/004 stating the Investment Code as well as those of Ordinance N° 79/016 stating the Mining Code shall not apply to petroleum operations.

Article 88

The effective implementation of this Code shall be established, as and when required, by decree as well as by orders or rulings pertaining thereto.

Article 89

Any provision contrary to this ordinance shall be repealed, in particular Ordinance N° 73/016 of February 10, 1973 regarding petroleum exploration, exploitation and transportation by pipelines and the fiscal regime applicable to such activities within the territory of the Central African Republic.

Article 90

This Ordinance stating the Petroleum Code of the Central African Republic shall be registered and published in the Official Gazette. It shall be executed as Law of the State.

DONE IN BANGUI, May 25, 1993

André KOLINGBA