

PROCLAMATION No 295/1986

A PROCLAMATION TO REGULATE PETROLUM OPERATIONS

WEHREAS. The exploitation of petroleum resources of the country will greatly contribute to the economic growth and welfare of the Ethiopian broad masses:

WHEREAS. Petroleum Operations should be carried out in accordance with modern technology and sound principles of resource conservation and should provide a better knowledge of the petroleum potential of the nation:

WHEREAS. it is necessary to develop domestic expiries and domestic petroleum infrastructure by fostering the acquisition of Petroleum technology:

WHEREAS. to achieve these ends, it is essential to promulgate a special law on petroleum Operations:

NOW. THEREFORE, in accordance with Article 5(6) of the Redefinition of Powers and Responsibilities of the provisional Military Administrative Council and the Council of Ministers proclamation No. 110/1977.it is hereby proclaimed as follows:

1. *Short title*

This Proclamation may be cited as the “Petroleum Operations Proclamation No. 295/1986.”

2. *Definitions*

For the purposes of this proclamation.

1. “Contractor” means any person with whom the Government establishes a petroleum Agreement:
2. “Crude oil ”means all hydrocarbons regardless of specific gravity which are produced at the wellhead in a liquid state at atmospheric pressure, asphalt and ozokerites and the liquid hydrocarbons known as distillate or condensate obtained from natural gas by condensation or extraction:
3. “Government ” means the Government of Socialist Ethiopia:
4. “Minister” or “Ministry” means the Minister or Ministry of Mines and Energy. Respectively, or any successors in jurisdiction thereto:
5. “Natural Gas ” means hydrocarbons that are in a gaseous phase at atmospheric conditions of temperature and pressure, including wet mineral gas, dry mineral gas, Casing head gas and residue gas remaining after the extraction or separation of liquid hydrocarbons from wet gas, and non – hydrocarbon gas produced in association with liquid or gaseous hydrocarbons:
6. “Person” means any natural or judicial person:

7. "Petroleum" means Crude Oil and Natural Gas and includes hydrocarbons produced from oil shale's or tar sands.
8. "Petroleum Agreement" means a contract or other arrangement between the Government and a Contractor to conduct Petroleum Operations:
9. "Petroleum operations" means the operations involving and related to the exploration, development, extraction, Production, field separation, treatment (but excluding refining), storage, transportation up to the point of exportation or entry into a system for domestic consumption, and marketing of Petroleum, excluding refining of Crude Oil, but including the processing of Natural Gas:
10. "Subcontractor" means any person with whom a Contractor establishes a contractor establishes a contractual relationship for the provision of services required for performance under a petroleum Agreement:
11. "Territory of Ethiopia" means its land territory, internal waters, islands, archipelagos waters, territorial sea and its beds and subsoil, exclusive economic zone and continental shelf.

3. *Scope*

1. This proclamation shall govern Petroleum Operations carried out by a contractor within the Territory of Ethiopia.
2. Any agreement relating to Petroleum Operations entered into prior to the effective date of this Proclamation shall be governed by the laws existing on the effective date of the agreement unless otherwise mutually agreed to by the parties thereto.

4. *Ownership of petroleum*

1. Ownership of petroleum existing in its natural condition on, in and under the Territory of Ethiopia is vested in the state.
2. Ownership of petroleum when produced shall be determined in accordance with the provisions of the applicable petroleum Agreement.

5. *Undertaking of petroleum Operations*

The Government may undertake Petroleum Operations through contractors in accordance with a Petroleum Agreement.

6. *The Minister to represent the Government*

1. For the purposes of this proclamation, the Minister shall represent the Government in its dealings with a Contractor and shall also be responsible for the effective implementation of this proclamation.

2. The Minister may delegate in writing any of his power under this proclamation, except his powers to issue regulations or to sign or revoke a petroleum Agreement.

7. ***Powers of the Minister***

The Minister has the power to:

1. Issue regulations necessary for the effusive implementation of the provisions of this Proclamation:
2. Ensure that a Contractor has the requisite financial resources, technical competence and professional skills necessary to fulfill his obligations under the applicable petroleum Agreement:
3. Prepare model Petroleum Agreements, including Production Sharing or Modern Concession Agreements, which will serve as basis for the negotiation of a petroleum Agreement:
4. Either by competitive bidding or, subject to the directives of the Council of Ministers, by direct negotiation enter into:
 - a. An exclusive Petroleum Agreement which authorizes the Contractor to carry out Petroleum Operations in a particular area:
or
 - b. A non- exclusive Petroleum Agreement which authorizes the Contractor to carry out geological and geophysical surveys in a particular area:
5. Inspect and ensure that the activities of the Contractor are carried out in accordance with the provisions of the Petroleum Agreement:
6. Grant to a party other than the Contractor a permit for the exploration or production of minerals or natural resources other than petroleum within an area subject to the petroleum Agreement, provided that such exploration or production activities shall not unreasonably interfere with Petroleum Operations;
7. Calculate, collect and audit:
 - a. Royalties:
 - b. Surface fees:
 - c. Bonuses:
 - d. Rentals: or
 - e. Any other payment:

Made or required to be made by Contractors pursuant to the Petroleum Agreement or any regulations issued under this Proclamation.

8. ***Matters to be dealt with by directives***

The Minister may determine by directives:

1. The method and procedure for inviting and evaluating bids for a Petroleum Agreement:
2. The form and content of application for petroleum operations:
3. The qualifications and experience for persons applying to undertake Petroleum Operations; and
4. Other similar matters

9. ***Particulars in a petroleum Agreement***

Any petroleum Agreement shall provide. Inter alia for the following particular:

1. Royalties, surface faces, bonuses, rentals or any other payment to the state. Excluding taxes levied pursuant to the income tax laws of Ethiopia:
2. Safety requirements and programmes and other matters related to the working conditions of employees engaged in Petroleum Operations:
3. Minimum working obligations, minimum expenditures and periodic surrender of areas subject to petroleum Agreement:
4. Rights and obligations of the contractor:
5. The Minister's authority to inspect and control Petroleum Operations:
6. Time, manner and content of reports and information to be submitted to the Minister:
7. Procedures for assignment or transfer of rights or obligation of the contractor under a Petroleum Agreement:
8. Conditions for revocation or termination of Petroleum Agreement and procedures for the settlement of disputes:
9. The terms and conditions of State participation in some or all phases of Petroleum Operations:
10. Stabilization provision of the rights and obligations of the parties:
11. Requirements relating to environmental protection:
12. Accounting procedures;
13. Sanction for failure by a Contractor to fulfill obligations contained in a petroleum Agreement;
14. Manner of employment, rights and obligations and, in particular, the training. Of Ethiopia nations; and
15. Any other matters of relevance to the proper execution of petroleum operations.

10. ***Areas precluded from Petroleum Operations***

1. The Minister shall, in consultation with the appropriate State Organs, determine the areas in which Petroleum Operations may not be Permitted for reasons of national interest and security.
2. The determination made under sub- Article (1) one of this Article shall be without prejudice to existing rights in such Areas as established by a petroleum Agreement.

11. *Duration of petroleum Agreement shall be:*

1. The periods under a petroleum Agreement shall be:
 - a. up to two years for activities under non – exclusive petroleum Agreements
 - b. up to four years for exploration under exclusive Petroleum Agreements. and
 - c. up to twenty –five years for development and production under exclusive petroleum Agreements
2. The Minister may where circumstances justify, grant the following Maximum extensions to the initial periods set– forth in sub Article 1) of this Article:
 - a. Two years for activities under non – exclusive Petroleum Agreements:
 - b. Four years for exploration under exclusive Petroleum Agreements: and
 - c. Ten years for development and production under exclusive Petroleum Agreements.
3. The Minister may grant a further extension to the periods set forth in sub-Article (2) of this Article for the purpose of allowing a Contractor to complete drilling, logging, testing or plugging of any well which is actually being drilled, Logged, tested or plugged at the expire of the applicable period or for the completion of the appraisal programmed of a discovery.
4. In addition to the extension periods set forth above, the Minister may grant a further extension as may be necessary for purposes of evaluating a Natural Gas

12. *Preferences and training*

Contractor shall:

1. Give preference to the employment of Ethiopian nationals to the fullest extent possible: provide, such nationals have the required qualifications and experience:
2. Give preference to domestic materials, products and services where such materials, products and services are readily available at competitive prices and are of comparable quality:
3. Train Ethiopia nationals in Petroleum Operations in accordance with a petroleum Agreement.

13. *Transfer and assignment*

1. A contractor may transfer, assign or otherwise dispose of all or any part of his rights, obligations and interests under a Petroleum Agreement only

with the prior written consent of the Minister, which consent shall not be unreasonably withheld.

2. Subject to sub-Article (1) of this Article the terms and conditions of said transfer; the provisions of the petroleum Agreement shall govern assignment or deposal.

14. *Operating standards*

Contractors shall conduct Petroleum Operations in accordance with generally accepted international Petroleum industry standards and practice and in a manner, which is computable with the conservation of petroleum and other resources and the protection of human life, property and the environment.

15. *Disposal of assets*

1. The contractor shall transfer at no cost to the Government, plans, appliances and installations in an area which is subject to surrender or termination pursuant to the terms of a petroleum Agreement provided that the said area or part thereof:
 - a. Has been determined to be capable of commercial production as set forth in the applicable petroleum Agreement: or
 - b. Is currently producing or has previously produced petroleum commercial
2. The Minister may decline the transfer and may require the contractor to remove all or some of the plants, appliances and installations at no cost to the Government.

16. *Access to property*

If a Contractor requires the use of property in connection with Petroleum Operations, the Government may acquire the rights or interest thereon necessary for said operations; provided that the contractor shall pay fair compensation to the person holding such rights or interests.

17. *Protection of historical sites and other minerals*

A contractor shall:

1. Conduct Petroleum Operations in a manner designed to protect anthropological, archaeological and historical objects and sites;
2. Notify the Minister, as soon as practicable, in the event of discovery of anthropological, archaeological or historical objects or sites or other minerals:
3. Not remove from their locations, any anthropological archaeological and historical objects or other minerals discovered. With out the prior authorization of the Minister.

18. *Books and records*

1. A contract shall;
 - a. Keep in Ethiopia complete and accurate books of accounts on Petroleum Operations:
 - b. Annually submit to the Minister and other appropriate authorities financial statements, including balance sheets and profit and loss accounts, audited by a recognized independent auditor acceptable to the Minister.
2. A contractor shall keep records of his Petroleum Operations, including drilling, geophysical and geological data and shall submit such data reports and notice to the Minister in accordance with regulations issued by the Minister or. In the absence of such regulations, in accordance with the petroleum Agreement.

19. *Insurance and indemnity*

1. A contractor shall, prior to commencing Petroleum Operations, obtain and maintain in force Workmen's compensation, property and third party liability insurance in such reasonable amounts and coverage as has been approved in writing by the minister.
2. A contractor shall indemnify, defend and save the Government harmless against all claims, Losses and damage of any nature whatsoever, including without limitation, claims for loss or damage to property, or death of or injury to persons caused by, or resulting from, any operations conducted by, or on behalf of, the contractor under the terms of the applicable petroleum Agreement.

20. *Supply of domestic market*

1. The Minister may require the Contractor in writing to supply Crude Oil, for domestic consumption to the Government from the contractor's share of production.
2. The price, quantity and any other relevant terms of said supply shall be agreed upon by the two parties.

21. *Exemption from customs duties and levies*

1. Contractor and a Subcontractor shall be entitled to import into Ethiopia any and all drilling, geological, geophysical, production, treating, processing, transportation and other machinery and equipment necessary in Petroleum Operations, including aircraft, vessels, vehicles and other transportation equipment and parts therefore (other than sedan car and fuel therefore). Fuels, chemicals, lubricants, films, seismic tapes, house trailers, disassembled prefabricated structures and other materials

necessary for Petroleum Operations free of import duties, taxes, levies and imposts of any kind.

2. Expatriate employees of a Contractor and a Subcontractor shall be entitled to import into Ethiopia household goods and personal effects, including one sedan car, free of import duties, taxes, levies and imposts of any kind in accordance with prevailing regulations.
3. All items imported under sub-Article (1) and (2) of this Article and taken out of Ethiopia shall be exempt from export duties and other taxes levied on exports; provided, however that if these items are disposed of within Ethiopia, the Contractor, Subcontractor or their expatriate employees, as the case may be, shall pay customs duties and levies in accordance with the applicable laws.
4. The Contractor shall be entitled to export petroleum produced free of export duties. Taxes or imposts of any kind.

22. Royalties

1. A contractor shall pay royalty for Petroleum produced.
2. The petroleum Agreement shall fix the amount of royalty and the method of payment.

23. Income taxes and other payments

1. Contractor and a subcontractor shall pay income taxes in accordance with the applicable income tax laws of Ethiopia.
2. The salaries and other benefits in cash or in kind of expatriate employees of a Contractor and a Subcontractor derived from activities required for performance under a petroleum Agreement shall be exempt from personal income tax.
3. A contractor shall pay any additional payment, whether characterized as tax or otherwise, specified under any applicable petroleum Agreement.

24. Exchange regulations

1. Contractors and Subcontractors shall be subject to the applicable exchange control legislation and directives in effect from time to time in Ethiopia: provide, however, that Contractors and Subcontractors shall have the following rights after meeting all their respective payments and tax obligations under any applicable petroleum Agreement and under the applicable income tax laws of Ethiopia:
 - a. To retain or dispose of any funds outside Ethiopia including such funds as may result from Petroleum Operations:
 - b. To pay foreign Subcontractors and expatriate employees of the Contractor outside Ethiopia, provided, however that such foreign Subcontractors and expatriate employees shall be required to bring

in to Ethiopia such foreign exchange as required to meet payment of Ethiopian taxes and living expenses:

- c. To export such funds as Contractors or Subcontractors shall have imported into Ethiopia or derived from Petroleum Operations or the sale or lease of goods or performance of services under a petroleum Agreement.
2. Contractors and subcontractors shall make regular reports to the national Bank of Ethiopia regarding all currency received imported, remitted and maintained abroad. The manner of reporting shall be specified in the applicable Petroleum Agreement.

25. Arbitration

1. Any dispute, controversy or claim between the Government and the contractor arising out of, or relating to, the petroleum Agreement or the interpretation, breach or termination thereof shall, to the extent possible, be resolved through negotiations.
2. In the event that agreement cannot be reached through negotiations, the case shall be settled by arbitration in accordance with the procedures specified in the petroleum Agreement.

26. Applicable law

Without prejudice to Article 25 of this Proclamation, all Petroleum agreements and Petroleum Operations shall be governed by the laws of Ethiopia.

27. Conflicted with Other Laws

No laws or rules, whether written or customary, shall apply to matters expressly provided for in this proclamation. In particular, the following laws are inapplicable to Petroleum Operations:

- a. Mining proclamation No. 282/1971;
- b. Mining regulations No. 396/1971; and
- c. Joint Venture Establishment Proclamation No. 235/1983.

28. Effective date

This proclamation shall enter into force on the date of its publication in the Negarit Gazeta.

Done at Addis Ababa, this 26 day of March, 1986

THE PROVISIONAL MILITARY
ADMINISTRATIVE COUNCIL