

HYDROCARBONS LAW

SUPPLEMENT

Energie & Mines

The President of the Republic,

Considering the constitution, in particular its articles 12, 17, 18, 199, 122-24 and 126;

Considering the Ordinance no. 66-154 of 8 June 1966, amended and supplemented, dealing with the civil procedure code;

Considering the Ordinance no. 66-155 of 8 June 1966, amended and supplemented, dealing with the criminal procedure code;

Considering the Ordinance no. 66-156 of 8 June 1966, amended and supplemented, dealing with the penal code;

Considering the Ordinance no. 75-58 of 26 September 1975, amended and supplemented, dealing with the civil code;

Considering the Ordinance no. 75-59 of 26 September 1975, amended and supplemented, dealing with the code of commerce;

Considering the Ordinance no. 75-74 of 12 November 1975, amended, on the establishment of the general real estate register and the institution of the land book;

Considering the Ordinance no. 76-80 of 23 October 1976, amended and supplemented, dealing with the maritime code;

Considering the Ordinance no. 76-101 of 09 December 1976, amended and supplemented, on direct taxes and similar duties;

Considering the law no. 79-07 of 21 July 1979, amended and supplemented, on the customs code;

Considering the law no. 81-10 of 11 July 1981 related to the employment conditions of foreign workers;

Considering the law no. 83-13 of 2 July 1983, amended and supplemented, related to workman site claims and professional accidents;

Considering the law no. 83-17 of 16 July 1983, amended and supplemented, on the water code;

Considering the law no. 84-12 of 23 June 1984, amended and supplemented, on the general forests' system;

Considering the law no. 84-17 of 07 July 1984, amended and supplemented, related to the finance laws;

Considering the Ordinance no. 84-02 of 8 September 1984, dealing with the definition, composition and formation and management of the military domain;

Considering the law no. 86-14 of 19 August 1986, amended and supplemented, related to the prospecting, research, exploitation and transportation activities, by pipelines, of Hydrocarbons;

Considering the law no. 88-07 of 26 January 1988 related to health, safety and professional medical care;

Considering the law no. 90-08 of 7 April 1990 related to the commune code;

Considering the law no. 90-09 of 7 April 1990 related to the Wilaya code;

Considering the law no. 90-11 of 21 April 1990, amended and supplemented, related to professional relations;

Considering the law no. 90-22 of 18 August 1990, amended and supplemented, related to the trade register;

Considering the law no. 90-25 of 18 November 1990, amended and supplemented, related to land orientation;

Considering the law no. 90-30 of 1 December 1990 related to the estate law;

Considering the law no. 91-11 of 27 April 1991, amended, setting the rules relating to expropriation because of public interest;

Considering the Legislative Decree law no. 94-07 of 7 Dhou El Hidja 1414 corresponding to 18 May 1994, amended, related to architectural production conditions and the exercise of the architectural profession;

Considering the Ordinance no. 95-04 of 19 Chaabane 1415, corresponding to 21 January 1995 related to the approval of the agreement for settling disputes relating to investments between the States and coming from other States;

Considering the Ordinance no. 95-05 of 19 Chaabane 1415 corresponding to 21 January 1995, relating to the approval of the agreement creating the international investment guarantee agency;

Considering the Ordinance no. 95-07 of 23 Chaabane 1415 corresponding to 25 January 1995 related to insurances;

Considering the Ordinance no. 96-05 of 19 Chaabane 1416 corresponding to 10 January 1996 related to the approval of the United Nations agreement on maritime law;

Considering the Ordinance no. 96-22 of 23 Safar 1417 corresponding to 9 July 1996, amended and supplemented, related to punishment against violation of the foreign exchange settlement legislation and capital assets flows to and from foreign countries;

Considering the law no. 98-04 of 20 Safar 1419 corresponding to 15 June 1998 related to the preservation of cultural heritage;

Considering the law no. 01-10 of 11 Rabie Ethani 1422 corresponding to 3 July 2001 relating to the mining law;

Considering the Ordinance no. 01-03 of Aouel Jourmada Ethania 1422 corresponding to 20 August 2001 related to the investment development;

Considering the Ordinance no. 01-04 of the Aouel Jourmada Ethania 1422 corresponding to 20 August 2001 related to the organisation, the management and the privatisation of economic public companies;

Considering the law no. 01-20 of 27 Ramadhan 1422 corresponding to 12 December 2001, relating to land planning and sustainable development of the territory;

Considering the law no. 02-01 of 22 Dhou El Kaada 1422 corresponding to 05 February 2002 related to electricity and gas distribution;

Considering the law no. 03-10 of 19 Joumada El Oula 1424 corresponding to 19 July 2003 related to the protection of the environment within the framework of sustainable development;

Considering the Ordinance no. 03-03 of 19 Joumada El Oula 1424 corresponding to 19 July 2003, related to competition;

Considering the Ordinance no. 03-11 of 27 Joumada Ethania 1424 corresponding to 26 August 2003, related to cash and credit;

Considering the law no. 04-20 of 13 Dhou El Kaada 1425 corresponding to 25 December 2004 related to the prevention of major risks and the management of catastrophes within the framework of sustainable development;

Considering the law no. 04-08 of 27 Joumada Ethania 1425 corresponding to 14 August 2004 related to rules for practising commercial activities;

Considering the law no. 04-21 of 17 Dhou El Kaada 1425 corresponding to 29 December 2004 related to the 2005 finance law;

After adoption by the Parliament;

Promulgate the law whose content is as follows :

GENERAL PROVISIONS AND DEFINITIONS

Article 1

The purpose of this law is to define:

- the legal system of the activities of research, exploitation, transportation by pipeline, refining, hydrocarbons processing, marketing, storage, oil products as well as the works and facilities enabling their performance.
- the institutional framework allowing the implementation of the activities above.
- the rights and obligations of such persons performing one or several activities mentioned above.

Article 2

The establishment of the aforementioned institutional framework to apply the principle of mobility and adaptability which characterises the State's action and then to return to the latter, those of its prerogatives previously performed by Sonatrach S.P.A.

Thus discharged of a mission which contradicts and hinders its natural economic aim, Sonatrach S.P.A. benefits, by virtue of law, from increased reinforcement and sustainability of its fundamental role in the creation of wealth in favour of the national collective.

Article 3

Hydrocarbon substances and resources, whether discovered or not, located in the soil and subsoil of the national territory and maritime spaces coming under the national sovereignty are national community properties of which the State is the emanation.

These resources should be exploited by the use of efficient and rational means in order to achieve an optimal conservation, while complying with the environment protection rules.

Article 4

The activities referred to in article 1 above should be among the vehicles that help foster the use and training of national human resources and shall, therefore, benefit from incentive measures as provided for by the law herein.

Article 5

Under the meaning assigned by the present law, we understand by :

- Oil upstream : the research and exploitation operations.
- Prospecting Licence/Permit: permit issued by the Agency for hydrocarbons resources valorisation which entitles its holder, upon its request, to the non exclusive right to carry out prospecting works in one or several perimeters.
- Oil downstream: the operations of transportation by pipeline, refining, processing, marketing, storage and distribution.
- Barrel: a crude oil volume which, under normal pressure and temperature conditions, equals 158.9 litres.
- Barrel oil equivalent (b.o.e): liquid or gaseous hydrocarbon volume with 1,400,000 kilo-calories of energy value equal to that of a barrel of crude oil.
- Eligible client: client who has the right to conclude natural gas supply contracts with a producer, a distributor or a commercial agent of his choice and for this purpose, has a right of access

to the transportation and/or distribution network.

- Non-eligible client: client who does not have the right to conclude natural gas supply contracts with a producer, a distributor or a commercial agent of his choice or by the capacity that he consumes. This is the client of the actual distributor (historic operator) and he does not have the right of access to the transportation and/or distribution network.
 - Gathering and injection systems: underground or over-ground flow line networks, of various diameters, that help convey hydrocarbons to a field, between wells and processing and storage installations within the field, or dispatch the fluids between the re-injection facilities and injection wells.
- The following are also considered to be gathering flow lines: underground or over-ground pipes that help convey hydrocarbons between the storage facilities on the field and the transportation by pipeline networks.
- Marketing: the purchase and sale of hydrocarbons and oil products.
 - Conservation: Fields exploitation method meant to ensure the highest possible level compatible with the highest possible reserves recovery rate, at the lowest price possible.
 - Assignment: a deed by which the Minister in charge of hydrocarbons authorises the Assignee to build and operate for a limited period of time Transportation by pipeline works provided this latter implements the obligations contained within said deed, which are part of his duty.
 - Assignee: any person to whom transportation by pipelines has been assigned, at his own risks and expenses.
 - Contracting Party: any entity signatory (signatories) to the research and exploitation contract or to the exploitation contract.
 - Research and/or exploitation Contract, or contract: Contract enabling the research and/or exploitation activities to be carried out in accordance with the present law.
 - Association contract: research and/or exploitation contracts concluded between Sonatrach S.P.A. and one or several foreign partners under the law 86/14 above, before the publication date of the present law.
 - Cycling : operation related to wet gas fields and which consists of the re-injection of the gas produced after liquid fractions extraction (condensate) and possibly LPG in order to increase the recovery rate of these liquid fractions.
 - Distribution : any oil products marketing activity, whether wholesale or retail.
 - Maritime space: the territorial waters as well as the continental shelf and the exclusive economic area, such as defined by the Algerian legislation.
 - Exploitation : all works allowing the Hydrocarbons to be extracted and processed, to make them conform to the transportation by pipeline and marketing specifications.
 - Force majeure : any proven unforeseen, unpreventable and external act or event over which either party that claims the occurrence has no control, and which makes it impossible for the latter to momentarily or definitively execute one or several of its contractual obligations.
 - Associated gas: gaseous hydrocarbons in whatever form associated to a tank containing liquid hydrocarbons.
 - Wet gas : gaseous hydrocarbons whose involved quantity of components fraction is sufficient to allow it to become liquid at ambient pressure and temperature to justify the realisation of a facility to recover these liquids.
 - Natural gas or gas : all gaseous hydrocarbons produced from

wells, including wet gas and dry gas that might or might not be associated to liquid hydrocarbons, as well as the residue gas accruing from natural Gas liquids extraction. The specifications of this Gas must comply with the Algerian gas sale specifications.

■ **Non-associated gas** : all gaseous hydrocarbons, whether wet or dry, which :

- are well-head gases that contain more than 100 TCF (trillion cubic-feet) of Gas per crude oil barrel each, or natural Gas liquid produced by this reservoir.

- are produced from a reservoir said to be Gas bearing only, even if this latter is located in a well bore whereby crude oil is also produced internally through a further casing or tubing string..

■ **Liquefied Petroleum Gas (LPG)**: hydrocarbons whose basic content is a butane and propane mixture, which is not liquid under normal conditions.

■ **Dry gas**: gaseous hydrocarbons essentially composed of methane, ethane and inert gases.

■ **Deposit/Field** : geographic area whose subsoil is formed by one or several stacked reservoirs, and whose surface, according to the geological and engineering surveys results, is distinct and segregated from one or many other reservoirs.

■ **Commercially exploitable field**: a hydrocarbons field that the Contracting party commits to develop and set in production pursuant to the contract terms and conditions.

■ **Hydrocarbons** : liquid, gaseous and solid hydrocarbons, in particular, bituminous sands and oil shales.

■ **Liquid hydrocarbons** : crude oil, natural gas liquids and liquefied petroleum gases.

■ **Price indexing**: formula which takes account of inflation, in order to maintain the original value. The basic indices will be the ones in force at the start of the year the present law is published.

■ **Days** : calendar days.

■ **Domestic market**: all hydrocarbons required to cover national Energy and industrial needs, except the Gas meant for Fields' re-injection and cycling.

■ **Domestic natural gas market**: made up of domestic clients and gas suppliers. These clients consume the gas on the national territory.

■ **Operator** : any person with technical abilities, in charge of conducting oil operations.

■ **Plot** : a square of eight (08) kilometres per side corresponding to a square of five (05) minutes per side in terms of U.T.M. coordinates.

■ **Perimeter** : a limited area of the energy mining estate related to hydrocarbons, composed of one or several plots.

■ **Contracting area** : a limited area of the energy mining estate related to hydrocarbons, composed of one or several plots, such as defined as the Contract comes into force.

■ **Exploitation area**: the contracting perimeter minus the perimeters subject to relinquishment such as provided for by articles 38, 39 and 40 of this law.

■ **Person** : any foreign legal entity, as well as any private or private Algerian legal entity, having the technical and financial capabilities required by this law and by the regulations set out for its application.

With respect to the activities relating to retail sale, natural persons are privy to this notion.

■ **Ten year sliding plan**: The plan which is drawn up each year for the next ten (10) years.

■ **Point of measurement**: the location provided in the exploitation area whereby extracted hydrocarbons quantities will be determined.

■ **Third parties free access principle**: the principle which enables any Third Party to benefit from a right of access to the transportation by pipeline and storage infrastructures within the limits of available capacities in return for the payment of a non-discriminatory fee and provided the concerned products are consistent with the technical specifications attached to these infrastructures.

■ **Oil products**: all products recovered from refining operations as well as those products recovered from the separation of liquefied petroleum gases.

■ **Prospecting**: the works enabling hydrocarbons to be detected, particularly by the use of geographical and geophysical methods, including stratigraphic drillings.

■ **Refining**: operations that separate the oil or the condensate into liquid or gaseous products suitable for direct use.

■ **Research**: all prospecting and drilling activities which reveal hydrocarbon deposits.

■ **Primary recovery**: extraction of hydrocarbon reserves by means of reservoir natural pressure or production drainage mechanisms.

■ **Secondary recovery**: extraction of additional hydrocarbon reserves using improved recovery methods such as gas injection and/or water flooding.

■ **Tertiary recovery**: additional extraction, particularly by using one of the following enhanced recovery methods: thermal, chemical or miscible methods, of hydrocarbon reserves unattained through the primary and secondary recovery methods.

■ **Enhanced recovery**: use of secondary and/or tertiary recovery methods to recover hydrocarbon reserves.

■ **Ultimate reserves**: hydrocarbons that can be produced from any hydrocarbon field irrespective of economic factors.

■ **Reservoir**: the porous and permeable portion of a geological structure that contains a distinct hydrocarbons accumulation, characterised by a unique pressure system such that the hydrocarbons production of any portion of the reservoir will affect the reservoir pressure as a whole.

■ **Storage**: surface or underground oil products storage particularly including refined products, butane, propane and liquefied petroleum gases, which enables it to lay out reserves meant to supply the domestic market for a determined period of time.

The installations enabling such storage are neither connected with transportation by pipeline, nor refining facilities, or on-site operations, or those concerning the liquefied petroleum gas separation units.

■ **Swap**: process enabling the exchange of gas supplies stocks between various producers on the domestic market.

■ **Transportation by pipeline system**: one or several pipelines transporting the same effluent, including the integrated installations.

■ **Mining title**: any deed or instrument stating authority to assume hydrocarbons research and/or exploitation; this deed assigns no right of ownership over the soil or subsoil.

■ **Flaring**: operation consisting of atmospheric burning of the natural gas

■ **Annual investment tranches**: portion of the investment amount corresponding to the percentage stated in articles 87 and 91, meant for the calculation of the oil income tax.

■ **Transformation**: operations meant for separating liquefied petroleum gases, gas liquefaction, petrochemistry and gas chemistry.

- ● ● ■ Transportation by pipeline: the liquid and gaseous hydrocarbons transportation of oil products and the related storage, excluding the gathering and recovery networks on the fields and gas networks strictly dedicated to the domestic market.
- Uplift: percentage by which the annual investment tranches for the oil income tax calculation (TRP) are increased. This "Uplift" percentage covers all operating costs.
- Zone: the area such as defined in article 19 of this law.

Article 6

The performance of the activities set out in article 1, paragraph 1 above is an act of trade.

Any person or entity established in Algeria or having a branch there, or duly organised in any other form that allows him to be tax liable, may perform any or several of said activities provided the provisions of this law, the code of commerce as well as all other legal or regulatory provisions in force are respected.

Article 7

The contracting party to a research and exploitation contract or an exploitation contract only, or any hydrocarbons transportation by pipeline assignee may be entitled to the following benefits and rights :

- land acquisition and settlement rights, land constraints and acquisition, granted according to the law no. 01-10 of 3 July 2001 dealing with the mining law and the related legislation.
- The acquisition of maritime-related user rights, accorded in accordance with the provisions of the ordinance no. 76-80 of 23 October 1976, amended and supplemented, related to the maritime code.
- Expropriation pursuant to the law no. 91-11 of 27 April 1991 setting the rules regarding expropriation due for the purpose of the public interest, supplemented by article 65 of the finance law for the year 2005.

The competent authority shall initiate all proceedings necessary for granting the rights specified above through the national Agency for the control and regulation of activities pertaining to the hydrocarbons domain, should a case of transportation by pipeline arise, or, through the national Agency for hydrocarbons resources valorisation in the event of a research and/or exploitation contract.

All costs inherent to such proceedings and those accruing from them shall be charged to :

- the contracting party, in case of a research and/or exploitation contract,
- the assignee, in case of a transportation by pipeline assignment.

Article 8

The importing and marketing of hydrocarbons and oil products on the national territory are free, should the provisions of the law herein be observed. Any obligation imposed by the State shall give rise to a grant whose amount and terms and conditions of award are legally defined. This obligation shall be payable by the State.

Article 9

The prices of oil products and natural gas on the Algerian market are established as follows:

- to encourage the operators to develop infrastructures necessary to satisfy the domestic demand,
- to encourage the consumption of low pollution oil products such as unleaded petrol, compressed natural gas and LPG fuel, as a preference to other fuels,
- to encourage the consumption of natural gas in the economic activities of electrical production, industry and petrochemistry.

The sale price of the oil products on the Algerian market, excluding taxes, must include the price of the crude oil entered in the refinery, the refining costs, land transportation and transportation by pipeline, storage costs and wholesale and retail distribution cost, plus reasonable margins in each activity. The costs must include the depreciations on the existing investments and new investments as well as those on the investment renewals required in order to continue these activities.

The price of the crude oil entered in the refinery is calculated for each calendar year on the basis of the average price of crude oil for exporting purposes over the last ten (10) calendar years based on the statistics of the price of crude oil for exporting recorded and published by the Minister in charge of hydrocarbons.

The terms and conditions and the procedures which the Hydrocarbons regulation authority must apply in order to determine, at the start of each calendar year, the sale price, excluding taxes, of the oil products for said calendar year are defined through legal procedures. The terms and conditions and procedures defined through legal procedures must specify and identify the parameters to be adjusted by indexing formulae specific to the activity. Once determined, the sale price, excluding taxes, of the oil products on the Algerian market for the calendar year in question are notified by the Hydrocarbons regulation authority.

Article 10

The sale price of the gas to eligible and non-eligible clients on the domestic market by the products must only include the production costs, the costs of the infrastructures specifically required to satisfy the domestic market, the operating costs of the export infrastructures used to satisfy the needs of the domestic market, plus reasonable margins in each activity.

The costs must include the depreciations on the existing investments and new investments as well as those on the investment renewals required in order to continue these activities.

The terms and conditions and the procedures which the Hydrocarbons regulation authority must apply in order to determine, at the start of each calendar year, the sale price on the domestic market, excluding taxes, of the gas for said calendar year are defined through legal procedures. The terms and conditions and procedures defined through legal procedures must specify and identify the parameters to be adjusted by indexing formulae specific to the activity.

Once determined, the sale price, excluding taxes, of the gas on the Algerian market for the calendar year in question are notified by the Hydrocarbons regulation authority.

An identical price, excluding taxes, is applied by the gas producer to the supply of all the eligible and non-eligible clients in the domestic market.

To be connected, the eligible clients must contact the gas transportation network manager defined by the law no. 01-02 of 05.02.2002 on electricity and gas distribution by pipeline and are subjected to the provisions of its articles 65 and 68.

The operators set out in the law no. 01-02 of 05.02.2002 relating to the law on electricity and the distribution of gas by pipeline will apply the gas prices to the clients such as defined in its article 100 and 103.

Article 11

The Minister in charge of hydrocarbons ensures the optimal valorisation of the national hydrocarbon resources.

He is responsible for proposing the appropriate hydrocarbons measure and for implementing it once it has been adopted. The Minister in charge of hydrocarbons introduces the approval requests for the research and/or exploitation contracts which are approved by law in the Council of Ministers.

Article 12

Two independent national agencies have been created, with legal status and financial autonomy called Hydrocarbons Agencies :

- A national agency for the control and regulation of activities pertaining to the Hydrocarbons domain, hereafter designated "Hydrocarbons regulation authority".
- A national agency for hydrocarbons resources valorisation, hereafter designated ALNAFT.

The Hydrocarbons Agencies are not subjected to the rules applicable to the administration, particularly with regard to their organisation, their operating and the status of the personnel running them. The hydrocarbons agencies draw their resources in accordance with article 15 of this law. They have their own assets.

The accounting records of the hydrocarbon agencies are set up in a commercial form. They must draw up a distinct balance sheet. They are audited by the State in accordance with the regulations in force. They are governed by the trade rules in their relationships with third parties. Each hydrocarbons agency is administered by a board of directors.

To accomplish its mission successfully, the board of directors relies on specialised divisions. The Agency has statutory auditors to audit and approve the Agency's accounts, appointed in accordance with the regulations in force. The board of directors is composed of one chairman and five (05) directors appointed by presidential decree, on the proposal of the Minister in charge of hydrocarbons.

The board of directors enjoys the most extensive powers to act on behalf of each hydrocarbons agency and to ensure that any act and operation relating to its mission are authorised. The deliberations of the board of directors are only validated with the presence of three (03) members at least - one of whom is the chairman.

The deliberations are adopted upon the simple majority of the members present. In the event the votes are equal, the chairman's vote is preponderant. The chairman of the board of directors ensures the operating of the Hydrocarbons Agency concerned and assumes all the necessary powers, particularly in terms of :

- scheduling;
- appointment and dismissal of all employees and agents;
- personnel remuneration;
- administration of the company assets;
- acquisition, exchange or alienation of the furniture or buildings;
- representing the board in legal proceedings;
- accepting the withdrawal of memberships;
- replevin;
- oppositions and other duties before or after payment;
- to close off the inventory and accounts;
- to represent the Agency in all actions of civil life.

The chairman may sub-delegate under his responsibility all or part of his powers and authorities. The remuneration of the chairman and the members of the board of directors is fixed through legal procedures. The remuneration system for the personnel of each agency is defined by the internal regulations of each agency.

The role of board member is incompatible with any professional activity, any national or local electoral term of office, any public use or any holding, direct or indirect, of interests in a company in the hydrocarbons sector. Any member of the board of directors exercising one of the aforementioned activities is officially declared resigned, after consultation of the board of directors, by presidential decree.

The President of the Republic provides for his replacement on the proposal of the Minister in charge of hydrocarbons.

Any member of the board of directors who has been the subject of a legal ruling against him which has become definitive, is declared officially resigned after consultation of the board of directors, by presidential decree.

The President of the Republic provides for his replacement on the proposal of the Minister in charge of hydrocarbons.

At the end of their mission, the members of the board of directors may not carry out a professional activity in the companies in the hydrocarbon sector for a period of (02) years.

An advisory body, called an "advisory board" is established in each hydrocarbons agency. It is composed of two representatives from the ministerial departments concerned and potentially of all the interested parties (operators, consumers, workers). Each party delegates its representative(s). The advisory board formulates opinions on the activities of the board of directors.

The board of directors assists the works of the advisory board. The composition and the operating of the advisory board are fixed through legal procedures. The board of directors adopts its internal regulations which sets out the internal organisation, the operating mode and the statuses of the personnel. The members of the board of directors and employees of the Hydrocarbons Agency carry out their roles in total transparency, and with total impartiality and independence.

The members of the board of directors, of the advisory board and the employees of the Hydrocarbons Agency are subject to professional secrecy, except in the event they are called upon to act as legal witnesses.

The non-respect of the professional secrecy established by a definitive legal decision incurs the official cessation of the roles within the Hydrocarbons Agency.

● ● ● The replacement is made in accordance with the provisions of this law. The Hydrocarbons regulation authority organises its own internal reconciliation service for the disputes resulting from the application of the regulations and particularly the regulations relating to access to the transportation by pipeline and oil products' storage system and to the prices. The Hydrocarbons Regulation Authority draws up internal regulations relating to how this service is run.

Article 13

The Hydrocarbons regulation authority shall, in particular, see to it that respect is observed for :

- the technical regulations applicable to activities governed by the present law,
- the regulations related to the application of tariffs and Third Parties free access principle to transportation by pipeline and storage infrastructures,
- the regulations related to hygiene, industrial safety and the environment, and the prevention and management of major risks,
- the construction specifications brief covering the transportation by pipeline and storage infrastructures,
- the application of the norms and standards drawn up on the basis of the best international practices; these norms and standards will be defined through legal procedures,
- the application of penalties and fines payable to the Public

Treasury in the event of breach of the laws and regulations related to :

- the technical regulations applicable to activities governed by the present law,
- the regulations related to the application of tariffs and the Third Parties free access principle to transportation by pipeline and storage infrastructures,
- the regulations in terms of hygiene, industrial safety and the environment.

The amounts and the terms and conditions for applying the fines and penalties, set out in this article, are defined through legal procedures.

It is also responsible for :

- studying applications meant for granting transportation by pipeline assignments, and making recommendations to the Minister in charge of hydrocarbons.
- recommending to the Minister in charge of hydrocarbons the cancellation of a transportation by pipeline assignment in case of serious breach of the provisions set out in the assignment contract according to the conditions defined through legal procedures.
- managing the oil products and hydrocarbons' transportation prices' compensation and adjustment fund, whose operating terms and conditions are set out through legal procedures.
- collaborating with the Minister in charge of hydrocarbons in terms of sectorial policy and drawing up regulatory texts governing the hydrocarbons activities.

Article 14

The national Agency for Hydrocarbons resources valorisation (ALNAFT) is particularly responsible for :

- promoting investments related to hydrocarbons research and exploitation,

- managing and updating the hydrocarbons research and exploitation databases,
- issuing prospecting licences,
- issuing appeals for tender and evaluating the tenders related to the research and/or exploitation activities,
- granting research perimeters and exploitation perimeters and concluding research and/or exploitation contracts,
- monitoring and controlling, in its capacity as a contracting party, the execution of the research and/or exploitation contracts, in accordance with the provisions of the law herein,
- studying and approving the development plans and updating them on a timely basis,
- ensuring that the hydrocarbons resources' exploitation is carried out by respecting optimal conservation.
- determining and collecting the royalties and paying them to the Public Treasury on the first working day following their receipt, after such amount specified in article 15 hereunder has been deducted,
- promoting the exchange of information related to the gas market,
- ensuring that the oil income tax, and the land area tax provided for by chapter VIII of the law herein are paid by the operator as defined in article 29 hereinafter, as well as, should the case arise, the settlement of taxes related to gas flaring and water consumption in accordance with articles 52 and 53 hereunder.
- helping to promote the national industry,
- encouraging the research and development activities,
- collaborating with the Minister in charge of hydrocarbons in terms of sectorial policy and drawing up regulatory texts governing the hydrocarbons activities.
- consolidating a medium and long term plan for the hydrocarbons sector, using the medium and long term plans of the contracting parties as a reference and sending them to the Minister in charge of hydrocarbons on an annual basis in the month of January.
- exchanging tax information concerning the research and/or exploitation contracts with the tax administration.

Article 15

The allotment of budgets for both agencies specified in article 12 above is ensured through :

- Nought point five percent (0.5%) of the income from the royalties stated in articles 25, 26 and 85 of this law which is paid into ALNAFT's account. The Minister in charge of Hydrocarbons ensures the distribution within the framework of the approval of the budgets of each hydrocarbons agency,
- the remuneration of the services provided by both hydrocarbons agencies,
- any other income related to their activities.

The budgets and balance sheets of these two hydrocarbon agencies are approved by the Minister in charge of hydrocarbons. The Public Treasury will avail a redeemable advance payment to allow these two hydrocarbons agencies to carry out their activities during the first six (06) months of their inception. The terms and conditions for releasing and repaying this advance payment are fixed by a Public Treasury agreement with the agency in question.

Article 16

Without prejudice to the provisions set out by the laws and regulations in force concerning industrial safety, the activities gover-

ned by the law herein must be conducted by the contracting parties and operators in a manner such to prevent all risks that are inherent to them.

Article 17

Under the carrying out of the activities subject of this present law, the most stringent respect should apply to the obligations and prescriptions related to :

- the health and safety of the personnel,
- health and public sanitation,
- the essential mainland or maritime environment characteristics,
- archeological interests,
- the provisions of the laws and regulations in force related to the protection of the environment.

Article 18

Any person must, prior to carrying out such activity subject of the law herein, prepare and submit to the approval of the Hydrocarbons regulation authority an environmental impact study and an environmental management plan duly comprising the description of such environmental risks prevention and management measures associated to said activities in accordance with the legislation and regulations in force related to the environment.

The Hydrocarbons regulation authority is responsible for coordinating these studies in collaboration with the Ministry of the Environment and to obtain the corresponding signature of the contracting parties and operators concerned.

CHAPTER II OIL UPSTREAM

PROSPECTING, RESEARCH AND EXPLOITATION

Article 19

For research and exploitation purposes, the national mining estate relating to hydrocarbons shall be split into four (04) areas called zones A, B, C and D. This subdivision shall be specified through legal procedures. There shall be no retrospective change in the demarcation of the zones.

The national mining estate related to hydrocarbons shall be subdivided into plots which are the basic unit for determining the perimeters, the subject of a prospecting licence and a research and/or exploitation contract.

The Plot number, which comprises each perimeter and the geometry of the latter shall be set out through legal procedures.

The maximum perimeter sizes for each area and the minimum work programmes shall be set out through legal procedures.

Article 20

The Prospecting Licence may be granted by the National Agency for Hydrocarbons resources valorisation (ALNAFT) to any person wishing to carry out hydrocarbons prospecting activities over one or several perimeters.

This prospecting licence is issued for a period not exceeding two (02) years, according to the procedures and conditions established through legal procedures.

Article 21

The research and/or exploitation contract shall take precedence over the prospecting licence. Consequently, any plot concerned by a research and/or exploitation contract shall be, prima facie, excluded from the perimeters which are covered by the prospecting licence.

Article 22

All data and results arising from prospecting works shall be made available to the national agency for hydrocarbons resources valorisation (ALNAFT) according to the procedures set out by the regulations.

Article 23

The research and/or exploitation activities shall only be undertaken on the grounds of a mining title issued exclusively to the national agency for hydrocarbons resources valorisation (ALNAFT) according to the terms set out by regulations.

Prior to carrying out said activities, all persons must conclude a contract with the national agency for hydrocarbons resources valorisation (ALNAFT), in accordance with the terms of the law herein.

Article 24

The research and exploitation contract entitles the contracting party to the exclusive right to undertake in the perimeter defined by said contract :

- research activities,
- exploitation activities, should a discovery be declared commercially exploitable by the contracting party, and after the national Agency for hydrocarbons resources valorisation (ALNAFT) has approved the development plan related to said discovery.

The exploitation contract related to one or several already discovered fields, entitles the contracting party to the exclusive right to undertake exploitation activities within the perimeter defined by said contract, in accordance with the development plan approved by the national agency for hydrocarbons resources valorisation (ALNAFT). With respect to all contract types defined above, the contracting party may undertake research activities within the exploitation perimeter and shall apply the use of any appropriate recovery method, in accordance with article 3 of the present law.

Article 25

All hydrocarbons extracted under a research and/or exploitation contract are the property of the contracting party at the point of measurement and are subject to royalties, according to the terms and conditions set out by said contract.

These royalties shall be settled by bank cheque or by any other authorised instrument of payment and may be paid by an electronic funds transfer.

Article 26

The royalties are established on the basis of the quantities of hydrocarbons produced and deducted at the point of measurement, after onsite processing operations.

To calculate these royalties, the quantities of Hydrocarbons are excluded which are :

- either used for direct production requirements,

- or lost before the point of measurement,
- or re-injected into the field(s), provided this(these) field(s) are party to the sole and same contract.

The lost or used hydrocarbon quantities excluded from the calculation of royalties, must be restricted to levels which are technically acceptable and can be proved.

Article 27

There is no right of ownership attached to the soil defined by a research and/or exploitation contract.

Article 28

The hydrocarbon fields and wells are buildings but are not eligible for mortgages.

Article 29

Should the contracting party be more than one person, the contract shall specify who amongst the persons the operator is. Any operator change shall be subject to the prior approval of the national agency for hydrocarbons resources valorisation (ALNAFT).

Article 30

The research and/or exploitation contract as well as any rider to this contract is signed by the national agency for hydrocarbons resources valorisation (ALNAFT), and by the contracting party. Said contract, as well as any rider to this contract, is approved by decree made in the Council of Ministers and comes into force on the date said approval decree is published in the Official Journal of the Algerian Democratic Peoples' Republic. Said date is designated by "effective date". The contracting party and the national agency for hydrocarbons resources valorisation (ALNAFT) are designated "contracting parties".

Article 31

The person constituting the contracting party or the persons grouped together as a "contracting party" may, jointly or severally, assign all or party of their rights and obligations in this contract between each other and to any other person. To be valid, this assignment must have the prior consent of the national agency for hydrocarbons resources valorisation (ALNAFT) and must be formalised in a rider to this contract which is approved in accordance with the provisions of article 30 above.

In all cases, the national agency for hydrocarbons resources valorisation (ALNAFT) will give a right of first refusal to Sonatrach S.P.A. which must exercise this within a period not exceeding 90 days from the date this assignment is notified by ALNAFT.

All assignments are subject to the payment to the Public Treasury by the assignees, of a non-deductible tax, whose amount is equal to one percent (1%) of the value of the conversion. The calculation and liquidation method of this right is specified through regulations.

The Ministry in charge of Hydrocarbons may, upon a motivated or detailed report, derogate to these provisions for reasons of public interest within the framework of the policy in terms of hydrocarbons.

Article 32

The research and/or exploitation contract is concluded further to an appeal for tenders in accordance with the provisions set down by legal procedures. In particular, these legal procedures will define :

- the pre-qualification criteria and rules,
- the selection procedures for the Perimeters to be offered up for tender,
- the tender submitting procedures,
- the procedures for evaluating the tenders and concluding contracts.

The research and/or exploitation contracts provided for each appeal for tenders, will be approved by a decision made by the Minister in charge of Hydrocarbons.

The Ministry in charge of Hydrocarbons may, upon a motivated or detailed report, derogate to these provisions for reasons of public interest within the framework of the policy in terms of hydrocarbons.

Article 33

For each perimeter subject to competitive tendering in view of the conclusion of a research and exploitation contract, the national Agency for hydrocarbons resources valorisation (ALNAFT) shall determine and specify which of the following will be retained as a sole tendering selection criterion, on a case-by-case basis :

- minimum works programme estimated for the first research phase,
- non-deductible amount of the bonus to be paid to the Public Treasury upon the signature of the Contract,
- proposed royalties rate above the minimum fixed by the law herein.

Tender opening shall be public and the contract concluded forthwith with the highest bidder.

Article 34

With regard to the conclusion of exploitation contracts related to the already discovered fields, the national agency for the hydrocarbons resources valorisation (ALNAFT) shall proceed onto a two-phase competitive tendering :

■ a first so-called technical phase, meant to define the standard technical tender which will underlay the economic tender, and satisfy the criteria set out by the national agency for hydrocarbons research valorisation (ALNAFT), and which consists, particularly, of :

- the percentage of on-site recovery volumes,
- the production optimisation,
- the production facilities' capacities,
- the required investment projects' lead time,
- the minimum amount of investment guaranteed, based on standard costs issued by the national agency for hydrocarbons resources valorisation (ALNAFT).

■ a second so-called economic phase, meant to select one of the tenderers. The national agency for hydrocarbons resources valorisation (ALNAFT) shall determine and specify, as soon as the first phase commences, which among any two of the following shall be retained as a sole selection criterion :

- the proposed royalties rate above the minimum fixed by the law herein, or
- the non-deductible amount of the bonus to be paid to the Public Treasury upon the signature of the contract.

Tender opening concerning the economic phase shall be public and the Contract concluded forthwith with the highest bidder.

Article 35

The research and exploitation Contract shall comprise two (02) time periods : a research period and an exploitation period. The duration of the research and exploitation Contract will be thirty-two (32) years and will comprise :

- without prejudice to the provisions of articles 37 and 42 below, a seven (07) year research period commencing on the date the contract comes into effect.

This initial phase shall be referred to as the first research phase, and will be followed by a subsequent second and third Research phase of two (02) years' duration each.

- An exploitation period corresponding to the total duration of the contract, less the research period effectively used.

- This duration of thirty-two (32) years shall be extended to any withheld period used in compliance with article 42 hereunder.

- For the dry gas fields, an additional period of five (05) years will be added to the exploitation period.

Article 36

With respect to an exploitation contract related to an already discovered field, the duration period is twenty-five (25) years commencing on the date the contract comes into force. This duration will be thirty (30) years in the case of a dry gas field.

Article 37

Pursuant to the application of article 42 hereunder, the research and exploitation contract shall be automatically terminated by right and without further enquiry, should the contracting party fail to declare the field as commercially exploitable or select a perimeter.

The contracting party may ask for an exceptional extension of the research period of a maximum period of six (06) months, to enable him to complete the drilling and/or evaluation of the research wells which will have been initiated over the last three (03) months before the expiry of the research period.

This extension will be granted by the national agency for hydrocarbons resources valorisation (ALNAFT) upon the justified request of the contracting party, notified before the end of the research period.

Article 38

With the exception of the exploitation perimeters or perimeters which have been the subject of the application of article 42 hereunder, the contractual perimeter will be reduced by thirty percent (30%) at the end of the first research period phase.

With the exception of the exploitation perimeters or perimeters which have been the subject of the application of article 42 hereunder, the remaining perimeter will be reduced by thirty percent (30%) at the end of the second research period phase.

Article 39

At the end of the research period or the exceptional extension defined in article 37 above, the contracting party shall make available to the national agency for hydrocarbons resources valorisation (ALNAFT) the whole contracting perimeter with the exception of the exploitation perimeter(s) or the one (those) where article 42 hereunder is applied.

Article 40

The contracting party may waive, totally or partially, his contract during the research period provided he has already fulfilled the conditions and obligations of said contract and the conditions and obligations resulting from the law herein and the texts taken for its application.

Article 41

The selection and demarcation procedures related to :

- perimeters upon which article 42 hereinafter shall apply,
- exploitation perimeters,
- relinquished perimeters,

shall be determined through regulations.

Article 42

In the event the contracting party discovers one or several hydrocarbons fields for which he is unable to produce a commercially exploitable field notice during the research period, owing to ascertained restriction or absence of transportation by pipeline facilities, or provable absence of gas production market, he may, prior to the end of the research period, give written notice to the national agency for hydrocarbons resources valorisation (ALNAFT) of his decision to secure an area encompassing said field(s) for a restraint period of :

- three (03) years maximum commencing on the date such notification is received for the oil or wet gas fields,

- five (05) years maximum commencing on the date such notification is received for the dry gas fields,

The determination of the perimeter demarcating said field(s), as well as those studies concerning the absence or restrictions of the transportation by pipeline infrastructures and the absence of gas outlets shall be approved by the national agency for hydrocarbons resources valorisation (ALNAFT).

The restraint period effectively used can only be added to the research period.

Article 43

The research and exploitation contract must specify the minimum works programme which the contracting party commits to achieve for each of the phases of the research period.

The research and exploitation contract must also specify the amount of the performance bond guarantee payable in Algeria on a simple request made by the national agency for hydrocarbons resources valorisation (ALNAFT), as established by a top rated financial institution agreed upon by ALNAFT, and covering the amount of the minimum works to be carried out by the contracting party for each research phase.

Article 44

With respect to the execution of the contract, in no event shall the State assume any financing obligation or financing guarantee and be accountable to third parties.

The contracting party shall ensure, at its own expenses and fees, that all technical and financial resources and equipment necessary for the execution of the contract are mobilised. All expenses required for the execution of the contract will be borne by the contracting party.

● ● ● Article 45

The contracting party must, in particular, comply with the norms and standards decreed by the regulations in terms of :

- industrial safety,
- protection of the environment,
- operational technology.

He should, also, provide on a timely basis and without delay, the national Agency for Hydrocarbons resources valorisation (ALNAFT) with all data and results achieved under the execution of the contract, as well as all reports required by said agency (ALNAFT), within forms, terms and frequencies to be specified by the published procedures pertaining to the national Agency for Hydrocarbons resources valorisation (ALNAFT).

Article 46

The contracting party having made a field discovery may be entitled to benefit from an authorisation of early production from one or several wells for a period not exceeding twelve (12) months commencing on the date said authorisation is granted by the national agency for hydrocarbons resources valorisation (ALNAFT).

This autorisation shall enable the contracting party to further identify the characteristics necessary to the drawing up of the development plan. This early production will be subject to the tax system of the law herein.

Article 47

With the commercially exploitable declaration notification, the contracting party must submit to the national agency for hydrocarbons resources valorisation (ALNAFT) a draft development plan along with an estimate of the development costs and a demarcation of the exploitation perimeter. A budget must be provided annually.

To be completed, this draft must be approved by the national agency for hydrocarbons resources valorisation (ALNAFT). Any proposed change to the development plan must also receive the prior approval of the national agency for hydrocarbons resources valorisation (ALNAFT).

The annual budget must also receive approval from the national agency for hydrocarbons resources valorisation (ALNAFT). The development plan must specify the point(s) of measurement, in the exploitation perimeter, where the volume of hydrocarbons used to calculate the royalties will be determined.

Article 48

Each research and exploitation contract will contain a clause which will give Sonatrach S.P.A., when it is not the contracting party, an option to participate in the exploitation which may be a maximum of thirty percent (30%) but not be less than twenty per cent (20%).

This option given to SONATRACH S.P.A. must be exercised no later than thirty (30) Days after the approval of the commercial discovery development plan, by the national agency for hydrocarbons resources valorisation (ALNAFT).

Sonatrach S.P.A. cannot assign all or part of its participation, acquired within the framework of this option, before a period of

five (05) years from the date on which the option is exercised. For each commercial discovery where the option is exercised, Sonatrach S.P.A. will, at its own costs and expenses, pro rata of its participation, bear all the investment and exploitation costs related to the development plan approved by the national agency for hydrocarbons resources valorisation (ALNAFT).

Sonatrach S.P.A. will reimburse to the contracting party which has made the discovery, pro rata of its participation, all the costs of the discovery's well, as well as the costs relating to the assessment works of this discovery, approved beforehand by the national agency for hydrocarbons resources valorisation (ALNAFT).

Sonatrach S.P.A. and the other persons constituting the contracting party must conclude an operations agreement attached to the contract no more than thirty (30) Days after the option has been exercised. This operations agreement must define the rights and obligations of Sonatrach S.P.A. and other persons constituting the contracting party, and must specify the terms and conditions for paying the future costs within the framework of the contract as well as the amount and the terms and conditions of reimbursement by Sonatrach S.P.A. of the research costs mentioned in the previous paragraph.

Once approved by ALNAFT, this operations agreement is approved by decree made in the Council of Ministers and comes into force on the date said approval decree is published in the Official Journal of the Algerian Democratic Peoples' Republic.

The agreement binding Sonatrach S.P.A. and the contracting party must contain a marketing clause for any gas coming from the discovery in the event this gas is to be marketed and sold abroad.

Article 49

The contracting party is duty bound to apply the necessary methods enabling optimal conservation of the fields.

For this purpose, each development plan for a field must contain the works' commitments and expenses aiming to optimise the production for the entire duration of the field.

For this purpose, the contracting party is duty bound to apply the regulatory prescriptions in terms of conservation and estimation of the hydrocarbons reserves in particular with regard to the ultimate reserves.

Article 50

For reasons relating to the objectives of the national energy policy, field production restrictions may potentially be applied.

These restrictions will be the subject of a decision made by the Minister in charge of Hydrocarbons which will set down the quantites, the intervention date of these restrictions and their duration.

The breakdown of these restrictions will be fairly applied by the national agency for hydrocarbons resources valorisation (ALNAFT) to all contracting parties, pro rata of their respective production.

Article 51

Domestic market gas supply and gas export procedures as well as the role of the national agency for hydrocarbons resources

valorisation (ALNAFT), are set down in chapter III of the law herein.

To satisfy the needs of the domestic market, the national agency for hydrocarbon resources valorisation (ALNAFT) may ask each gas producer to contribute to the satisfaction of these needs, pro rata of its gas production subject to royalties.

Article 52

Gas flaring is prohibited. However, the national agency for hydrocarbons resources valorisation (ALNAFT) may, exceptionally and for restricted periods which cannot exceed 90 days, grant a flaring authorisation upon the request of the operator.

Without prejudice to the application of article 109 hereinafter, the operator asking for such exception shall be liable to a specific, non-deductible tax of eight thousand Algerian Dinars (DZD) per thousand Normal Cubic Meters (Nm³), payable to the Public Treasury.

The national agency for hydrocarbons resources valorisation (ALNAFT) is responsible for controlling the quantities flared and will ensure the operator pays this tax. This tax will be updated according to the following formula:

Average foreign exchange sale rate of the US dollar into dinars, of the calendar month preceding each payment, published by the Bank of Algeria (Algeria's central bank) divided by eighty (80) and multiplied by the amount of the tax set above.

The update of this specific tax will be applied on the first (1st) of January of each year.

Article 53

In the event the development plan proposed by the contracting party and approved by the national agency for hydrocarbons resources valorisation (ALNAFT), provides for the use of drinking or irrigation water to ensure enhanced recovery, a specific non-deductible tax shall be levied on the operator to conform to the legislation in force.

This specific tax, payable annually to the Public Treasury, is fixed at eighty (80) Algerian dinars per cubic metre used.

The national agency for hydrocarbons resources valorisation (ALNAFT) is responsible for controlling the quantities flared and will ensure the operator pays this tax.

This tax will be updated according to the following formula:

Average foreign exchange sale rate of the US dollar into dinars, of the calendar month preceding each payment, published by the Bank of Algeria (Algeria's central bank) divided by eighty (80) and multiplied by the amount of the tax set above.

The update of this specific tax will be applied on the first (1st) of January of each year.

Article 54

Should a field declared commercially exploitable encompass at least two perimeters covered by distinct contracts, the parties to the contracts shall set out a joint field development and exploitation plan, once they are notified of such by the national agency for hydrocarbons resources valorisation (ALNAFT). This plan will be referred to as a "unitisation plan". It is subject to the

approval of the national agency for hydrocarbons resources valorisation (ALNAFT).

In the event the contracting parties do not agree on a unitisation plan within a six (06) month period after being so notified by the national agency for hydrocarbons resources valorisation (ALNAFT), or if this latter does not approve the unitisation plan proposed by the contracting parties, it shall, at the contracting parties' costs and expenses and based on a list contained within the contract, commit an independent expert to work out said unitisation plan, which shall become effective as it is completed.

In the event such field encompasses one or several other non-contracting perimeters, the national agency for hydrocarbons resources valorisation (ALNAFT) shall proceed to competitive tendering to enter into an exploitation contract covering such field extension

The signatory (signatories) of this contract will be duty bound to conform to the process for drawing up the unitisation plan as defined above. In the event the commercially declared field encompasses two or several areas, the applicable tax system will be determined using the calculation parameters applicable to each zone, pro rata of the original volumes of hydrocarbons originally contained in each zone.

Article 55

The person, as defined by the law herein, may or may not be a resident. Any person or entity whose registered office is overseas is considered a non resident. A non resident person or entity acquiring an interest in a company of Algerian law shall be released through an import of convertible currencies duly established in accordance with the foreign exchange regulations in force. The Algerian branch of a non resident person or entity is considered to be non resident under the foreign exchange regulations. The equipment of this branch shall be financed through imported convertible currencies.

Provided the non resident person or entity has hedged its research expenses through duly established imported convertible currencies, this non resident is authorised to do the following :

- During the exploitation period, it is allowed to maintain abroad the income from its hydrocarbons exports earned within the framework of the contract. It is, however, duty bound to pay Algeria amounts in convertible currencies necessary to hedge its development, eventual research, exploitation, transportation by pipeline and management costs, as well as, those monies that are required for the payment of royalties, taxes and fees owed.
- It is allowed to freely use the income from sales, on the domestic market, of hydrocarbons acquired within the framework of the contract or to transfer the amounts in surplus of its costs and obligations abroad.

It shall make available to the national Agency for hydrocarbons resources valorisation (ALNAFT) a quarterly statement of these convertible currencies' imports and transfers. All residents are duty bound to repatriate and sell to the Bank of Algeria the income from its hydrocarbon exports in accordance with the foreign exchange regulations in force. It may freely transfer dividends from its non resident partners abroad. All residents may also, after the agreement of the monetary policy committee, make any transfer enabling it to carry out its activities, covered in the

law herein, abroad. This agreement from the monetary policy committee may take place no later than thirty (30) Days after the receipt of the request's regulatory file. Should the monetary policy committee refuse, it should provide reasons for this within the same timeframes.

Article 56

The contracting party shall, pursuant to the legislation and regulations in force, keep for each tax year a separate account per exploitation perimeter that makes it possible to draw up "added value" and "operating results" accounts and a balance sheet showing the results of the said activities, the assets and liabilities factors either assigned or related directly to it, as well as the gross profits or losses relating to these operations.

However, any investment, stock or spare part acquired directly in foreign currencies or locally with imported currencies will be recorded in US dollars. Each annual investment tranche will be accounted in their equivalent amount in dinars, at the foreign exchange purchase rate of the US dollar, on the last day of the financial year, as fixed by the Bank of Algeria.

Article 57

Without prejudice to the provisions of hereinafter article 58, when the contracting party does not comply with the subscribed commitments or when it no longer satisfies the conditions and obligations arising from the present law and documents related to its application, the contract may be terminated, after failure of this latter to abide by a thirty (30) Days' formal notice made for its attention, and which was effective upon its receipt date.

Article 58

Disputes arising out of the contract interpretation and/or execution or the application of the present law and/or to the documents issued in this regard between both of the national Agency for Hydrocarbons resources valorisation (ALNAFT) and the contracting party, shall be subject to a prior conciliation according to the terms and conditions agreed in the contract. If the matter fails to be settled amicably, the dispute may then be referred to an international arbitration in the conditions agreed in the contract.

However, when Sonatrach S.P.A. is the sole contracting party, the dispute will be settled by arbitration of the Minister in charge of Hydrocarbons. The applicable law for settling disputes is Algerian law, particularly the law herein and the texts taken for its application.

CHAPTER III

GAS

Article 59

Other than the missions defined in article 14 of the law herein, the national agency for hydrocarbons resources valorisation (ALNAFT) is responsible for :

1. Keeping and updating a gas reserves statement, a gas requirements statement to satisfy the domestic market and a statement showing the quantities of gas available for export.
2. Periodically determining, in accordance with article 61 hereinafter, a benchmark price for the gas, hereafter designated "benchmark price".
3. Ensuring that the contracting parties ensure domestic market supply.
4. Issuing exceptional gas flaring authorisations and making sure that the specific tax is paid as provided for in article 52 above.
5. Supplying and publishing gas market studies to the different contracting parties.
6. Organising, periodically, a gas market consulting forum and information exchanges to which shall be invited to attend all gas producers, whether in Algeria or abroad, contracting parties having discovered still untapped gas reserves, as well as, representatives from the Hydrocarbons regulation Authority and the electricity and gas regulation committee (C.R.E.G), set out in the aforementioned Electricity and Gas distribution law.

Article 60

In order to allow it to establish a benchmark price, the national Agency for hydrocarbons resources valorisation (ALNAFT) shall be provided with all gas sale contracts currently in force on the date the present law is published, together with any of its riders thereof, as well as, the contracts and agreements committed after such publication.

These contracts must particularly include :

- the buyer's name,
- the total quantity of gas estimated for the transaction,
- the duration of the contract,
- the delivery terms and conditions and frequencies,
- the client's delivery points and terms and conditions,
- the gas cash market,
- the price,
- the price calculation formulae and parameters, as well as the price revision conditions,

The contracts concluded after the publication of the present law must include a letter of commitment from the vendor specifying the non-existence of potential dependency relations binding him and the buyer. The nature of these dependency relations is defined by regulations.

All information contained in these contracts and riders will be kept strictly confidential in accordance with the provisions of article 12 of the law herein.

The national Agency for hydrocarbons resources valorisation (ALNAFT) shall periodically publish statistics on Algerian gas sales abroad provided that each of these contracts and riders' confidentiality is strictly abided by.

On the other hand, and all due consideration for the confidentiality of the contracts and riders, the Electricity and Gas regulation committee (C.R.E.G.) shall, periodically, publish statistics on Algerian domestic market gas sales.

Article 61

The national Agency for hydrocarbons resources valorisation (ALNAFT) shall, on a timely basis, determine a benchmark sale price to be approved through a bylaw by the Minister in charge of Hydrocarbons. The initial benchmark price calculated upon the law publication date shall be the weighted average price of the previous half year obtained from various Algerian export gas sale contracts.

The benchmark price shall be calculated in line with prices obtained in the previous period from all Algerian gas exports. The prices used for calculating the benchmark price will be the highest of the following prices :

- price resulting from each contract,
- benchmark price of the previous period.

The benchmark price in b.o.e. shall not be lower than a percentage of "Sahara blend" FOB average price of the previous quarter as published by an established specialised review.

This percentage of the average price FOB of Sahara Blend is established and readjusted periodically by a decree issued by the Minister in charge of Hydrocarbons, in line with the data on the gas market.

Article 62

At the start of each year, the national agency for hydrocarbons resources valorisation (ALNAFT) will draw up an updated ten year sliding plan, comprising :

- the developed gas reserves,
- the as yet untapped gas reserves,
- the domestic market's gas needs,
- the gas requirements for enhanced recovery and cycling,
- the quantities of gas available for export.

Article 63

• The price of the gas intended to be used in the domestic market is fixed as stipulated in article 10 above.

• Sonatrach S.P.A must continue to ensure the domestic market's gas needs which it ensured before the publication of this law.

Article 64

1. One hundred and eighty (180) days at least before the start of each calendar year, the electricity and gas regulation committee (C.R.E.G.) must provide, in writing, the national agency for hydrocarbons resources valorisation (ALNAFT) with :

- a) A ten year programme reflecting, on a yearly basis, the estimated quantities to satisfy the domestic market's needs,
- b) The quantities necessary to satisfy the domestic market, for the following year, which exceed the quantities to be provided by Sonatrach S.P.A. in accordance with article 63 above,
- c) The quantities of gas already contracted and which are part of this surplus,
- d) The quantities of gas which are part of this surplus, but not yet contracted, and which require recourse by the national

agency for hydrocarbons resources valorisation (ALNAFT) to the application of article 51 above.

The bases and methodology for calculating the estimated quantities required to satisfy the domestic market's requirements will be fixed through legal procedures.

2. In the event the information defined in point 1 above is not provided within the stipulated time frames, the national agency for hydrocarbons resources valorisation (ALNAFT) shall use the information contained in the previous ten year programme.

3. In order that such requirements specified in sub-paragraph 1.d- here above be met, the national Agency for hydrocarbons resources valorisation (ALNAFT) shall determine and keep each contracting party informed of the allowed gas quantity, calculated in proportion to its annual production; it is entitled to directly take out with the entity (entities) in charge of the gas distribution activity, no later than fourteen (14) days after the receipt of the information defined in point 1 above.

4. Within a period not exceeding sixty (60) days after the receipt of a notification made by the national Agency for hydrocarbons resources valorisation (ALNAFT), the entity (entities) in charge of the gas distribution activity shall, as defined in point 3 above, enter into a gas buying contract with each contracting party as specified by the national Agency for hydrocarbons resources valorisation (ALNAFT).

The gas sale price will be the price at the point of delivery, ex pipeline, defined in articles 09 and 10 above, adjusted periodically through regulations.

The contract, entered into by and between the company or companies in charge of gas distribution and the contracting party or parties, and to which reference is made in point-4 above shall comprise a "take or pay" clause covering an obligation to lift a gas contracted quantity, that cannot be lower than eighty-five (85%) percent.

Article 65

Except those amounts meant for re-injection and cycling needs, any gas production carried out from a contracting perimeter dedicated to market supply shall be compliant with Algerian sale gas specifications fixed through a bylaw by the Minister in charge of hydrocarbons.

Article 66

To satisfy the needs of the domestic market as best as possible, a Swap procedure may be freely negotiated and applied between the different suppliers.

This procedure must not in any case negatively impact the level of tax proceeds. The national agency for hydrocarbons resources valorisation (ALNAFT) will receive a copy of each Swap contract which it will keep strictly confidential.

Article 67

Any credit use, transfer or assignment related to greenhouse gas emissions shall be approved by a joint bylaw of the Ministers in charge of Hydrocarbons and of the environment.

● ● ● This approval will give rise to the payment of a specific tax to be paid to the Public Treasury by the contracting party, and which corresponds to the credit this latter might secure on the international market. The methods and procedures for calculating this tax are defined through legal procedures.

CHAPTER IV

TRANSPORTATION BY PIPELINE

Article 68

1. All requests for transportation by pipeline assignments will be submitted to the Hydrocarbons regulation authority which will formulate a recommendation sent to the Minister in charge of Hydrocarbons.

2. In the case of an application expressed by a contracting party in order to evacuate its hydrocarbons production, the Hydrocarbons regulation authority will formulate a recommendation to the Minister in charge of Hydrocarbons with the aim of granting the assignment to said contracting party.

3. In the case of other assignment applications, the Hydrocarbons regulation authority will formulate a recommendation sent to the Minister in charge of Hydrocarbons :

- either to grant said assignment to the person who has requested it,
- or to issue a competitive tender for the purpose of awarding this assignment.

4. Under the national infrastructures development plan, the Hydrocarbons regulation Authority shall propose to the Minister in charge of Hydrocarbons to appeal for competitive tendering for all such Assignments not subject to an application.

5. For all assignments granted, the assignor must make use of an appeal for competitive tenders to award the completion of the infrastructure in question.

6. A bylaw by the Minister in charge of Hydrocarbons will define the gaseous hydrocarbons pipelines pertaining to the hydrocarbons sector and the pipelines that are part of the gas grid exclusively dedicated to the domestic market.

Article 70

1. For the purpose of granting any transportation by pipeline assignment, in the cases set out in paragraphs 3 and 4 of article 69 below where an appeal for competitive tenders is required, the Hydrocarbons regulation authority will launch an appeal for competitive tenders whose sole selection criteria is the pricing of the transportation on the basis of the reasonable return on the investment required by the regulation authority provided that the technical provisions of the brief are respected.

2. The appeal for competitive tenders for awarding the completion of the infrastructure concerned by the Assignment will take place in two (2) phases :

■ a first so-called technical phase meant to define the standard technical tender that will serve as a basis for the economical ten-

der and which should be compliant with the specifications stated by the Hydrocarbons regulation Authority and, in particular :

- the capacities of the transportation by pipeline installations,
- the necessary investment completion time frames,
- the continuity of the service,
- the fuel gas consumption.

■ A second so-called economic phase, meant to select one of the tenderers. The selection criterion used will be the Transportation tariff on the basis on a reasonable return on the investment required by the regulation authority.

Tender opening concerning the economic phase shall be public and the contract concluded forthwith with the highest bidder.

The Minister in charge of Hydrocarbons may, upon a justified and detailed report, enable Sonatrach S.P.A. to take an interest when it is not a contracting party, in any hydrocarbons transportation by pipeline assignment which is granted.

Article 71

The assignments stipulated above are granted for a maximum period of fifty (50) years.

Article 72

The right of use of the transportation by pipeline infrastructures is guaranteed, on the basis of the third party free access principle, in exchange for the payment of a non discriminatory tariff per zone.

For this, a transportation by pipeline fund is created, put in place and managed by the Hydrocarbons regulation authority.

This fund is responsible for the equalisation of the transportation by pipeline tariffs per transportation area.

The third party free access principle, the methodology for calculating the transportation by pipeline tariff per zone, the organisation of the transportation by pipeline fund and its operating, will be specified through legal regulations.

Article 73

For the international pipelines arriving from outside the national territory in order to cross it and the international pipelines whose origin is on the national territory, the Minister in charge of Hydrocarbons grants the transportation assignment after receiving the opinion of the Hydrocarbons regulation authority. This assignment defines to what extent, potentially, part of the capacity of these pipelines will be the subject of the third party free access principle.

The Minister in charge of Hydrocarbons may, upon a justified and detailed report, enable Sonatrach S.P.A. to take an interest when it is not a contracting party, in any hydrocarbons transportation by pipeline assignment which is granted.

Article 74

The principles for determining the pricing of the transportation by pipeline must take account of the following criteria :

- offering the lowest tariff possible for the users of the transportation by pipeline infrastructures whilst respecting the regulations in force and ensuring the continuity of service,

- improving the efficiency of the operations,
- reducing the operating costs,
- based on a rational and prudent management, enabling the assignee to cover his operation costs, settle his taxes and duties, depreciate his investments, financial fees and benefit from a reasonable rate of profitability.

Article 75

For the transportation by pipeline activities, the following are established by regulations :

- the pre-qualification criteria and rules, including the human resources and equipment necessary to ensure the industrial safety of the installations and operations,
- the application procedures for a transportation by pipeline assignment,
- the competitive tender procedures,
- the procedures for obtaining construction and operation permits,
- the pricing,
- the third party free access principle's regulations,
- the technical norms and standards,
- the industrial safety standards,
- the protection of the environment measures,
- the penalties and fines set out in article 13 above,
- the provisions for repairs and overhauls.

Article 76

With the exception of force majeure, the assignee cannot suspend his activity. He must ensure the continuity of service within the framework set out by article 75 above, without prejudice to the provisions set out by the legislation in force in this domain.

CHAPTER V

HYDROCARBONS REFINING AND PROCESSING

Article 77

The hydrocarbons refining and processing activities may be carried out by anyone.

The procedures for obtaining the required authorisations for the works construction and for their exploitation shall be defined through regulations.

CHAPTER VI

OIL PRODUCTS STORAGE AND DISTRIBUTION

Article 78

The transportation by pipeline, storage and distribution of oil products activities may be carried out by anyone. The procedures for obtaining the required authorisations for the works construction and for their exploitation shall be defined through regulations.

Article 79

Based on the third parties free access principle and in return for a non-discriminatory fee payment, any person may use the transportation by pipeline and the oil products storage infrastructures. The tariff for the use of the storage infrastructures is defined through regulations according to the same methodolo-

gy used to determine the transportation tariff set out in article 74 above.

The rules relating to the transportation of oil products by pipeline and the storage of oil products activities will be set out through regulations and will be administered by the Hydrocarbons regulation authority.

CHAPTER VII

TRANSFER OF OWNERSHIP UPON END OF CONTRACT OR ASSIGNMENT

Article 80

At the end of the duration of a research and/or exploitation contract, the ownership of all the works enabling the pursuit of the activities, will be transferred in favour of the State. The national agency for hydrocarbons resources valorisation (ALNAFT) shall notify the contracting party with a list of facilities and works for which the state propriety interest is to be disposed of within a period of time not exceeding three (03) years before the end of the research and/or exploitation Contract. This transfer of ownership will be done without any cost for the State.

At the time of the transfer, the works to be transferred by the contracting party must be operational and in good working order.

Pursuant to the contract provisions, especially those related to industrial safety and environment, all site relinquishment and/or restoration costs that become due with regard to any work whose ownership transfer is not contemplated by the state shall be borne by the contracting party.

Article 81

At the end of the duration of the transportation by pipeline assignment, the ownership of all the works and installations enabling the exercise of operations, will be returned to the State free of any cost or expense.

The Hydrocarbons regulation Authority shall notify the assignee with a list of facilities and works for which the state propriety interest is to be disposed of within a period of time not exceeding three (03) years before the end of such assignment. At the time of the transfer, the works to be transferred by the assignee must be operational and in good working order.

Pursuant to the contract provisions, especially those related to industrial safety and environment, all site relinquishment and/or restoration costs that become due with regard to any work whose ownership transfer is not contemplated by the state shall be borne by the contracting party.

Article 82

The contract or assignment shall set out the terms and conditions enabling the contracting party or the assignee to collect provisions before the end of said contract or assignment, in order that he may answer the site relinquishment and/or restoration costs in compliance with Articles 80 and 81 here above

To bear the costs of the site relinquishment and/or restoration which must be carried out at the end of the exploitation, the

● ● ● contracting party must pay, each calendar year, a provision into an escrow account. This provision is considered as an operating cost which can be deducted from the taxable profits for the financial year. This operating cost is fixed per production unit on the basis of the recoverable reserves remaining at the start of each calendar year.

The relinquishment and restoration programme for the sites as well as the related budget must be an integral part of the development plan for the research and/or exploitation contracts. The amount of this provision is defined by ALNAFT on the basis of an expert report. ALNAFT must ensure that its payment has been credited to the escrow account.

The site relinquishment and restoration audit will be carried out by ALNAFT in collaboration with the Hydrocarbons regulation authority and the Ministry of the Environment.

With regard to the hydrocarbons transportation by pipeline and the related installations, and in order to bear the costs of the site relinquishment and/or restoration which must be carried out at the end of the exploitation, the assignee must pay, each calendar year, a provision into an escrow account.

This provision is considered as an operating cost which can be deducted from the taxable profits for the financial year. At the start of each calendar year, the transportation tariff for each product unit transported must include this operating cost.

The site relinquishment and restoration programme as well as the related budget must be an integral part of the hydrocarbons transportation by pipeline exploitation and development plan and of the related installations.

The amount of this provision is defined by the Hydrocarbons regulation authority on the basis of an expert report. The Hydrocarbons regulation authority must ensure its payment has

Years	Research period			Restraint period defined article 42+ exception period defined article 37	Exploitation period
	1 to 3 inclusive	4 and 5	6 and 7		
Zone A	4 000	6000	8 000	400 000	16 000
Zone B	4 800	8000	12 000	560 000	24 000
Zone C	6 000	10 000	14 000	720 000	28 000
Zone D	8 000	12 000	16 000	800 000	32 000

been credited to the escrow account.

The site relinquishment and restoration audit will be carried out by the Hydrocarbons regulation authority in collaboration with the Ministry of the Environment.

CHAPTER VIII

TAX SYSTEM APPLICABLE TO THE RESEARCH AND/OR EXPLOITATION ACTIVITIES

Article 83

The tax system applicable to the research and/or exploitation activities defined by the provisions of the law herein consists of :

- a non-deductible area (land) tax to be paid on a yearly basis to the Public Treasury,
- a royalty payable on a monthly basis to the national agency for hydrocarbons resources valorisation (ALNAFT) as provided for in Article 25 and 26 above,
- an oil income tax (T.R.P) payable monthly to the Public Treasury,
- an additional tax on the profits (I.C.R) payable annually to the Public Treasury,
- a land tax on the properties other than the exploitation ones, such as fixed by the general tax legislation and regulations in force,

As well as the duties and taxes stipulated in articles 31, 52, 53 and 67 of the law herein.

Article 84

The area tax is payable by the operator annually in Algerian Dinars or in U.S. Dollars at the foreign currencies purchase rate fixed by the Bank of Algeria on the day of settlement, such as defined by Article 55 of the law herein, as the contract comes into force.

This tax is calculated on the basis of the perimeter area on the due date of each payment. The amount in Algerian Dinars of the area tax per square kilometre (km²) is fixed as follows:

These amounts shall be updated according to the following formula :

Average foreign exchange sale rate of the US dollar into dinars, of the calendar month preceding each payment, published by the Bank of Algeria (Algeria's central bank) divided by eighty (80) and multiplied by the amount of the tax set above. Cost indexing will be applied on the first of January each year, to the amount of the tax due. ALNAFT will ensure that the tax is paid to the Public Treasury.

Article 85

All quantities of hydrocarbons extracted from each exploitation perimeter and determined in accordance with article 26 above are subject to royalties.

The royalty amount for a given month will be equal to the sum of the values of each production tranche of said month, multiplied by the royalty rate applicable to said tranche.

The production value is calculated as stipulated in articles 90 and 91 below, and the royalty rates applicable will be the ones contained in each contract.

Royalties shall be determined on a monthly basis on hydrocarbons quantities extracted from the exploitation perimeter and measured by the basic price monthly average such as provided for in article 26 here above, and processed as defined by Articles 90 and 91 hereinunder.

When the hydrocarbons quantities extracted from the exploitation perimeter, expressed in barrel oil equivalent (b.o.e.), are lesser than or equal to 100,000 b.o.e /day, calculated on a monthly average, the royalties rates per production bracket contained in each contract cannot be lower than the levels shown in the table below :

Zone	A	B	C	D
00 à 20 000 b.o.e/day	5,5 %	8 %	11 %	12,5 %
20 001 à 50 000 b.o.e/day	10,5 %	13 %	16 %	20 %
50 001 à 100 000 b.o.e/day	15,5 %	18 %	20 %	23 %

For the hydrocarbons quantities greater than 100,000 b.o.e. per day determined on a monthly average, the royalties rate applicable to the whole production and specified in each Contract cannot be lower than the levels shown in the table below :

Zone	A	B	C	D
	12 %	14,5 %	17 %	20 %

Pursuant to Article 29 herewith, in the event the contracting party is more than one person, the operator or Sonatrach S.P.A., when the latter is the sole operator on an exploitation perimeter, shall pay the amount of the royalties for the whole production to the national Agency for Hydrocarbons resources valorisation (ALNAFT) in accordance with the provisions of article 55 of the law herein.

The royalties are costs which can be deducted from the tax basis for the purposes of calculating the I.C.R.

Article 86

The oil income tax (T.R.P.) will be paid on a monthly basis by the operator. This oil income is equal to the annual hydrocarbons production value of each exploitation perimeter, calculated in accordance with Article 91 hereunder, minus the annually authorised deductions.

Pursuant to Article 26 herein above, the Hydrocarbons production cumulative value (PV), since the exploitation start-up, is equal to the hydrocarbons quantities proceeds extracted from the exploitation perimeter subject to royalties by the price used for the calculation of royalties.

The deductions authorised are composed of the following elements :

- the royalties,
- the annual development investment tranches, by applying the Uplift rules defined in article 87 below. These investments must only concern the exploitation perimeter and must be approved in the annual budgets,

- the annual research investment tranches, by applying the Uplift rules defined in article 87 below, and where appropriate,
- the provisions to meet the relinquishment and/or restoration costs in accordance with article 82 above.
- the national human resources training costs for the activities governed by the present law,
- the enhanced recovery gas price cost.

The nature of the investments to be taken into consideration is defined through legal procedures. In no event shall these investments include the interest and general costs.

The national Agency for hydrocarbons resources valorisation (ALNAFT) shall see to it that the operator, such as defined in article 29 above, has settled the oil income tax due to him pursuant to provisions of article 55 herein above

The T.R.P. is a cost which can be deducted from the tax basis for the purposes of calculating the I.C.R.

Article 87

The rates fixed in the following table will be used to calculate the T.R.P. :

P.V. expressed in DZD 109 such as defined in article 86 above	First threshold S1	70
	Second threshold S2	385
T.R.P.	First level	30 %
	Second level	70%
Rates		

The T.R.P. will be calculated by applying the rates above to the oil income defined in article 86 above. The thresholds S1 and S2 listed in the table above and in the formula below will be updated according to the following formula :

$$\text{Percentage (\% TRP)} = \frac{40}{S_2 - S_1} (PV - S_1) + 30$$

Average foreign exchange sale rate of the US dollar into dinars, of the calendar month preceding each payment, published by the Bank of Algeria (Algeria's central bank) divided by seventy (70) and multiplied by the amount of the each threshold listed in the table above. When the P.V. is less than or equal to the threshold S1, the T.R.P. is calculated using the rate relating to the first level.

When the P.V. is greater than the threshold S2, the T.R.P. is calculated using the rate relating to the second level.

When the P.V. is greater than the threshold S1 and less than or equal to the threshold S2, we will use the following formula to calculate the tax rate on the oil income :

The annual research and development tranches, apart from those concerning the enhanced recovery, will benefit from an Uplift fixed as follows :



Zone A and Zone B	Uplift Rate 15 % Annual investment tranche: 20% corresponding to a duration of five (05) years.
Zone C and Zone D	Uplift Rate 20 % Annual investment tranche: 12.5 % corresponding to a duration of eight (08) years.

For enhanced recovery investments, a twenty (20%) percent annual investment trench corresponding to a five (05) years depreciation period and a twenty (20%) percent Up lift rate shall be applied to all Zones.

The gas cost price meant to cover gas re-injection and cycling operations, training costs for national human resources and, should the case arise, relinquishment costs shall be deductible for TRP calculation considerations, at no Up lift.

Article 88

Each Person party to a contract is liable to an I.C.R. processed on the IBS corporate tax rate according to the prevailing terms and conditions, and the depreciation rates attached in the appendix of the present law. For this purpose, each person may consolidate the profits from all its activities in Algeria, subject of the law herein. The list of these activities is defined by regulations.

Each person, investing in the activities covered by the aforementioned law relating to electricity and the distribution of gas may benefit from the reduced I.B.S. corporate tax in force for calculating the I.C.R. The implementation terms and conditions of the reduced tax stipulated in article 88 of the law herein are fixed by regulations.

Article 89

The research and/or exploitation activities governed by the law herein are exempt from :

- the value added tax (V.A.T.) on goods and services related to the research and/or exploitation activities,
- the professional activity tax (T.A.P),
- the customs taxes, fees, royalties and duties on imports of capital goods, materials and products intended to be assigned and used in the research and/or exploitation activities of the hydrocarbons fields,
- any current or future tax or duty, other than those described in herein above articles 31, 52, 53 and 67 under this chapter, imposed on the operation proceeds and set for the benefit of the state, public bodies and any legal entity of public right.

The capital goods, services, materials and products specified in this article are those in the list set up through legal procedures.

Article 90

The base prices, used for royalties, taxes and duties calculation and specified in Article 91 hereafter are the average amounts of the calendar month prior to the one for which they are due :

- FOB prices published by an established specialised review, for the oil, LPG, butane and propane produced in Algeria.
- FOB prices for the condensate produced in Algeria, such as published by an established specialised review, or if such publication is not available, those prices notified by the national

Agency for hydrocarbons resources valorisation (ALNAFT). These reviews will be specified in the contract.

Failing such availability of publication for any of the defined products above, the national Agency for hydrocarbons resources valorisation (ALNAFT) shall see to it that the current prices of these same at the nearest delivery points shall be used through a countdown calculation process, or any other method the national Agency for hydrocarbons resources valorisation (ALNAFT) deemed necessary to identify said FOB prices.

However, for domestic market needs, the base price used for liquid hydrocarbons and oil products shall be the price in force during the calendar year in consideration as defined by articles 8 and 9 of the law herein.

For gas, the base price used to calculate the royalties, taxes and duties will be the price defined as follows :

- In the case of an export gas sale contract.
- The price listed in the contract, if this price is greater than or equal to the benchmark price defined in article 61 above, or otherwise the base price will be equal to the benchmark price.
- In the case of a domestic gas sale contract.
- The gas sale price applied on the domestic market will be the price in force in the calendar year in question, in accordance with the provisions of articles 8 and 10 of the law herein at the delivery point, ex gas pipeline.
- In the case of gas purchase for the needs of enhanced recovery, the base price will be price freely negotiated between the vendor and the buyer.

When the base prices are expressed in US dollars, the rate used to convert them into dinars is the average sale exchange rate of the month to which they refer, published by the Bank of Algeria. The conversion rates into b.o.e. will be notified by ALNAFT.

Article 91

The value of hydrocarbons production extracted from the field(s) contained within the exploitation perimeter, is equal to the product of hydrocarbons quantities which are liable to royalties by the basic prices, defined in Article 90 here above, minus the transportation by pipeline tariff between the point of measurement and the Algerian port of loading or the Algerian export border, and should this be the case, between the point of measurement and the point of sale in Algeria.

In the specific case of gas sold in liquefied form and of LPG sold in the form of butane and propane, a workmanship cost processed on investments only shall be deducted. The annual investment tranches will benefit from an Uplift fixed as follows :

- Uplift rate: twenty (20) percent.
- Annual investment tranche : ten (10) percent corresponding to a duration of ten (10) years.

Article 92

Royalties payments shall be made monthly before the tenth (10th) of the month which follows the production month, to the national agency for hydrocarbons resources valorisation (ALNAFT).

Should a delay in payment occur, the amounts due shall be increased by one per thousand (1 0/000) per day late.

Article 93

The duration of the financial year cannot exceed twelve (12) months. If this period is twelve (12) months, the financial year must coincide with the calendar year. If it is less than twelve (12) months, the financial year must be comprised in the same calendar year.

Article 94

The T.R.P. of a financial year is paid in twelve (12) provisional payments or instalments on tax due in this financial year. The calculation methods for settling the provisional monthly amounts will be defined through regulations.

The instalments are paid without notice before the 25th of the month following the one for which they are due.

Before the I.C.R. has been determined, the liquidation of the tax on the oil income is made by the operator and its amount paid by him, after deducting the instalments already paid, at the latest on the expiry date of the period fixed for returning the annual income return for the financial year.

Should a delay in payment occur, the amounts due shall be increased by one per thousand (1 0/000) per day late.

Article 95

The supplementary income tax shall be settled at the latest on the expiry day of the period fixed for filing the annual income return for the financial year.

The methodology for calculating the amount of the supplementary tax on the profits will be defined through the regulations. Should a delay in payment occur, the amounts due shall be increased by one per thousand (1 0/000) per day late.

Article 96

The tax system applicable in the domain of Hydrocarbons to activities other than the research and/or exploitation activities is the one enacted by the common law in force.

The Persons are authorised to consolidate the profits from their activities subject of the present law and the law related to energy and gas distribution by pipeline, as provided for by the Article 88 here above.

The terms and conditions for implementing the aforementioned profit consolidation are defined by regulations.

Article 97

The activities relating to hydrocarbons transportation by pipeline, liquefaction of gas and liquefied gases separation, are exempt from :

- the value added tax (VAT) on goods and services exclusively related to the aforementioned activities.
- the customs taxes, fees, royalties and duties on imports of capital goods, materials and products intended to be assigned and used exclusively for the aforementioned activities.

The capital goods, services, materials and products specified in this article are those in the list set up through legal procedures.

Article 98

Salaries and wages related to foreign oil corporations or companies employees shall be exempt from national workers' insurance contributions when any such employees are still depending on the social insurance foreign body they subscribed to before they came to Algeria.

Article 99

The following are considered as buildings: machines, equipment, materials and tools for drilling and other works fixed permanently and used for the exploitation of fields, storage and the transportation of the extracted products.

Also considered as buildings are the machines, engines, materials and tools directly related to the exploitation of the hydrocarbons fields.

Considered as personal estate are the extracted or produced materials, supplies and other furniture, as well as, shares, stake holdings and interests in a corporation, a company or a joint-venture or partnership for the activities of research, exploitation, transportation by pipeline, refining, transformation of hydrocarbons and oil products distribution.

CHAPTER IX

INTERIM PROVISIONS

Article 100

Pursuant to the provisions of hereby law, Sonatrach S.P.A. shall, upon the demand of the national Agency for hydrocarbons resources valorisation (ALNAFT) assign part or whole of the elements constituting the data banks it detains, and the technical data related to the activities of research and exploitation of hydrocarbons over the national mining estate

This assignment, for the national Agency for hydrocarbons resources valorisation (ALNAFT), shall be completed no later than six (06) months after the establishment of the ALNAFT Agency.

Sonatrach S.P.A. may retain a copy of all or part of the information concerned by this assignment.

Article 101

The association contracts entered into prior to the date of publication of the present law, as well as, said contracts' riders entered into prior to same date shall remain in full force and effective until their expiry date.

The law herein safeguards the free will of the parties to the association contract.

Article 102

For each of the association contracts mentioned in Article 101 above, and in compliance with Article 23 above, within a time

frame not exceeding ninety (90) Days after the ALNAFT Agency has been established, a parallel contract shall be entered into by and between the national Agency for hydrocarbons resources valorisation (ALNAFT) and Sonatrach S.P.A. Until the parallel contract has been signed, Sonatrach S.P.A. shall continue to ensure the same prerogatives within the framework of the law 86-14, amended and supplemented by the law 91-21. Once said contract has been signed, Sonatrach S.P.A. shall return to the Ministry in charge of Hydrocarbons such mining titles in its possession to the effect of allocating them to the national Agency for hydrocarbons resources valorisation..

The duration of this parallel contract is equal to the remaining duration of the association contract.

This parallel contract will particularly set out the terms and conditions of the payment by bank cheque or any other authorised instrument of payment and may be done by electronic funds transfer by Sonatrach S.P.A.:

1. For the case of production sharing contracts and services at risk contracts :

- to the national agency for hydrocarbons resources valorisation (ALNAFT), the royalties on the whole production, calculated in conformity to article 85 above,
- of the land area tax, calculated in conformity to article 84 above,
- of the oil income tax (T.R.P.) according to the rates provided in article 87 when Sonatrach S.P.A. is involved in investments financing or at the maximum rate i.e. seventy percent (70 %) when Sonatrach S.P.A. is not involved in investments financing.

Oil income is the production value calculated in accordance with article 91 above, from which is deducted :

- the value of the royalties,
- the Uplifted research and development investment tranches,
- the value, calculated by application of the base price defined in article 90 above, of the part of the production due to the foreign partner as remuneration,
- the tax on the remuneration paid by Sonatrach S.P.A. on behalf of its foreign partner, in accordance with the aforementioned law no. 86-14 and, where appropriate :
 - the costs for training national human resources,
 - the enhanced recovery gas price cost,
 - the provisions to meet the relinquishment and/or restoration costs in accordance with article 82 above.

In addition to the deductions authorised in accordance with articles 85 and 87 above, the following will also be deductible for the purposes of calculating the supplementary tax on the profit (I.C.R.) :

- The value, calculated by application of the base price defined in article 90 above, of the part of the production due to the foreign partner as remuneration,
- The tax on the remuneration paid by Sonatrach S.P.A. on behalf of its foreign partner, in accordance with the aforementioned law no. 86-14,

2. For the case of particular partnerships :

- only the percentage of production pertaining to Sonatrach SPA will be subject to the tax system of the law herein.

- the percentage of production pertaining to the foreign partner remains subject to the tax conditions set out in the association contract.

Article 103

Within a period of thirty (30) Days after the ALNAFT Agency has been set up, Sonatrach S.P.A. must provide the national agency for hydrocarbon resources valorisation (ALNAFT) with the following :

1. the demarcation of the research perimeters made on this date by Sonatrach S.P.A. and which it wishes to keep,
 2. the demarcation of the exploitation perimeters made on this date by Sonatrach S.P.A. and which it wishes to keep,
- This demarcation must conform to the provisions of the law herein.

Article 104

The research perimeters which Sonatrach S.P.A. wishes to dispose of shall be subject to competitive tendering in view of concluding a research and/or exploitation contract.

The exploitation perimeters which Sonatrach S.P.A. wishes to dispose of shall be subject to competitive tendering in view of concluding an Exploitation contract. Sonatrach S.P.A. will continue to operate these perimeters until its activities have been assigned to the new contracting party.

If the competitive tendering does not allow it to attain a new exploitation contract, the national Agency for hydrocarbons resources valorisation (ALNAFT) will decide to relinquish the perimeter(s) concerned. In this case, Sonatrach S.P.A. must take responsibility for all the operations necessary to the relinquishment in accordance with article 82 above.

In any case, Sonatrach S.P.A. shall return to the Ministry in charge of Hydrocarbons such mining titles in its possession related to these perimeters over which it detains a property interest, to the effect of allocating them to the national Agency for hydrocarbons resources valorisation (ALNAFT) pursuant to Article 23 above.

Article 105

Within a period of ninety (90) Days after the elements mentioned in article 103 above have been received :

1. For each research perimeter specified above in sub-paragraph-1 of Article 103, a research and exploitation contract shall be entered into by and between the national agency for hydrocarbons resources valorisation (ALNAFT) and Sonatrach S.P.A., or any of its subsidiaries it chooses to appoint pursuant to the provisions of herein, and including, in particular, the minimum work programme to achieve during each research phase prior to the conclusion of said contract, the contracting party shall, in respect of its commitments, benefit for a period of three (03) years from a credit corresponding to the works already completed.

2. For each exploitation perimeter mentioned in Article 103.2 above, an exploitation contract shall be entered into by and between the national Agency for hydrocarbons resources valorisation (ALNAFT) and Sonatrach S.P.A., or any of its subsidiaries

it chooses to appoint pursuant to the provisions of the law herein. This contract will, in particular, define the threshold to take into account for calculating the T.R.P. in order to enable it to continue the exploitation, whilst provisioning for the costs of relinquishment and restoration of the site, where appropriate.

Upon the signing of the contracts mentioned above, Sonatrach S.P.A. shall return to the Ministry in charge of hydrocarbons the mining titles it holds in its possession and related to these parameters subject of the contracts mentioned herewith, and which shall be handed over to the national Agency for hydrocarbons resources valorisation (ALNAFT) pursuant to article 23 here above.

Article 106

For each of the exploitation contracts mentioned in paragraph 2 of Article 105 herein above, Sonatrach S.P.A. shall, within a time-frame not exceeding one hundred and eighty (180) days from the effective date of said contract, submit to the approval of the national Agency for hydrocarbons resources valorisation (ALNAFT), a development plan such as defined in the contract, along with the financial estimates required for its implementation, in due compliance with the provisions of Article 3 above.

Should Sonatrach S.P.A. and the national Agency for hydrocarbons resources valorisation (ALNAFT) not agree on said plan within a time-frame not exceeding 360 days after said contract comes into force, the Minister in charge of Hydrocarbons shall decide which plan Sonatrach S.P.A. shall carry out to conform with Article 3 of the law herein, after consulting an expert chosen by the mutual agreement of both parties.

Article 107

During the interim period, in between the date of publication of this law and the effective date of the contracts as defined in Articles 102 and 105 above, Sonatrach S.P.A. shall still be subject to the taxation system prevailing before the publication of the law herein

All corresponding down payments will be considered as instalments. Once the contracts come into force, the tax system defined in this law will be applied, taking account of the amounts already paid by Sonatrach S.P.A. as instalments.

Article 108

Within a period of ninety (90) days after the establishment of the Hydrocarbons regulation authority, an assignment for the transportation by pipeline for each of the transportation by pipeline systems will be allocated by the Minister in charge of Hydrocarbons to Sonatrach S.P.A. or any of its subsidiaries this latter chooses to appoint, pursuant to the provisions of the present law and regulations contained in the chapter IV herein.

Sonatrach S.P.A. must keep distinct profit and loss accounts for each of the transportation by pipeline systems, as well as for each hydrocarbons processing and refining facility.

Article 109

A maximum period of seven (07) years of conformance starting from the publication date of hereby law shall be granted so as the activities, subject of the present law, be in keeping with the

legal procedures which provide for technical specifications and standards related to the industrial safety and protection of the environment.

Furthermore and in derogation with Article 58 above, whenever Sonatrach S.P.A. is the sole contracting party or assignee, any dispute arising from the interpretation and/or execution of any contract or assignment deed shall be settled through the arbitration of the Minister in charge of Hydrocarbons, in the absence of any amicable settlement.

CHAPTER X

SPECIFIC PROVISIONS

Article 110

Any authorisation or consent application made by the contracting party or the assignee, for its own benefit and in accordance with the present law and/or the texts provided for its application, and which is necessary for the execution of the contract or the assignment, shall be subject to an approval decision or justified rejection, once the filing documents related to it are completed.

This approval or rejection decision must be notified in a period not exceeding ninety (90) days.

Article 111

For all the missions of the national agency for hydrocarbons resources valorisation (ALNAFT) and the Hydrocarbons regulation authority for which a verification of the application and confirmation is required against the decreed rules, particularly the auditing of the accounts of the contracting parties or assignees, these agencies may call upon established national or international professional firms.

The costs of these firms will be paid by the Agency concerned. The costs of the expert reports carried out within the framework of the settlement of disputes on the audit or on the determination, by ALNAFT, of the amount of the provision set out in article 82 of the law herein are payable by the contracting parties or the assignees concerned.

Article 112

The provisions set out by the law herein are applicable as of the date of its publication in the Official Journal of the Algerian Democratic People's Republic.

Article 113

The application terms and conditions of the present law will be defined by legal procedures, as and when needed.

Article 114

All provisions contrary to the present law shall be cancelled, in particular the aforementioned law no. 86-14, subject to the provisions of article 101 above.

Article 115

The present law will be published in the Official Journal of the Algerian Democratic People's Republic.



APPENDICES

Depreciation rates for calculating the supplementary tax on profits and for calculating the company profit tax

Type of the Fixed Asset	Rates
Research fixed asset other than drilling	100
Improductive drilling	
Research drilling	100
Development drilling	100
Productive drilling	
Research drilling	12,5
Development drilling	12,5
	or the amount of costs to be depreciated at the time these drillings are abandoned
Other drilling, particularly drilling used for the enhanced recovery and the underground storage	12,5
	or the amount of costs to be depreciated at the time these drillings are abandoned
Buildings	
Buildings on solid ground	5
Removable buildings on blocks	15
Transportation routes and infrastructure work	
Transportation route and road	25
Aerodromes	20
Water wells	15
Hydrocarbon exploitation facility	
Extraction facility	10
Enhanced recovery facility	10
Collection network	10
Primary processing and separation facility	10
Storage and connection facility	10
Crude product processing facility	10
Drainage pipeline and facility	10
Related exploitation facility	10
Plant and machinery	
Lodging and camp equipment	33
Derrick / substruction and equipment	10
Other plant and machinery	15
Transport equipment	
Automobile equipment assigned to the Wilayas of the South	50
Automobile equipment allocated to other Wilayas :	
• Light vehicles	20
• Trucks	25
Aerial equipment	25
Other non specific tangible fixed assets	
Bond furniture	5
Office furniture and other furniture	15
Layout, arrangement of land and buildings	15
Communications and other IT means	25
Other general installations	20
Specific installation and hydrocarbons transport by pipeline	
Main pipelines	7,5
Other pipelines	10
General intangible installation	
Preliminary costs	100
General studies and research	100
(with the exception of all tangible investment)	

Reconciling the imperatives of national development and the stakes of globalisation

This modest contribution is proposed to make an objective analysis of the hydrocarbons law (LRH) by setting it both in the context of the reforms initiated by the country and the new global changes with regard to the energy sector, and, above all, to moderate some hasty ideological judgements which have distorted the scope of the LRH. As this means, for ideological reasons, avoiding dangerous comparisons, the reasoning of those against the APC is based on two main axes : one political argument and one argument hidden under a dialectically technical term which enable them to conclude the pointlessness of the hydrocarbons bill.

By
Abderrahmane Mebtoul

The political arguments are that the implementation of this law would be the same as cheaply selling off the public heritage by privatising this sector and that this law would be anti-constitutional.

Algeria would lose its national sovereignty, due to that fact that its policies would be dictated by the IMF, the World Bank and the large international companies, but without defining what we mean by sovereignty within this ever-changing inter-dependent world. The technical arguments are that the hydrocarbons bill does not respond to an optimal organisation – what we have now is good – and that it would cause huge redundancies whilst not enabling the surplus of the benefit to be maximised in favour of the State.

The conclusion is obvious : the status quo is preferable given that, with the current prices, Sonatrach's income is insufficient, with some authors invoking the experience of Venezuela and that of Argentina which have not been conclusive.



I will also focus my demonstration on three inter-dependent parts :

- The social and economic context of drawing up the LRH
- the basis of the LRH

- raising certain misunderstandings by gratuitous affirmations or dangerous comparisons

The social and economic context of drawing up the LRH : the adaptations to the imperatives of national development and the stakes of globalisation

Energy will remain at the centre of our development, encouraging partnership and national and international private investment.

But income from oil must be used advisedly for the development. Thanks to a rational management of human resources – a central concern of all development processes – men will remain the guarantors of this success.

The strategic positioning of the country, both in the context of association with the European Union and in the UMA (Arab Maghreb Union), should arise from the importance which this asset represents in our negotiations. The last Euro-Mediterranean Forum did, however, do a great job of formalising the priorities, namely : integrating the networks, supporting energy exchanges and promoting the renewable energies.

Once again, gas will be an important factor in formulating our economic strategy. Its role should far exceed our expectations, by integrating gas going to Europe and coming from Nigeria. The NEPAD should see the achievement of certain objectives which underly its creation.

Hence, first of all, this bill cannot be isolated from all internal reforms – particularly those of the financial, administrative system (assuming a re-establishment of the new role of the State in the economic and social development as a regulating agent), of the socio-educational system, of the customs, tax and state-owned system and, finally, of

a new policy of social regulation aiming at the most disadvantaged, avoiding the implosion of the social security funds (tens of billions of dinars of unpaid debts with a reduction in social security contributions due to the economic recession) with the social partners being social partners, no longer having to manage these funds if we want to avoid a situation of millions of pensioners not being paid in the future. It is time to define, in this new context, the new role of the social partner – in a market economy (the political choice of Algeria) – which cannot set itself up as a co-manager, or impose the economic policy, insofar as all economic policies pertain to the Government's prerogatives whose mission is to optimise the overall function of social welfare by listening to all segments of society.

As is generally recognised, about 26 billion US dollars, i.e. approximately 2,018 million dinars only for the period 1991-2004 was used to make the public companies healthy, which returning to the initial case, were spent to make the public companies healthy in this ten year period in order to create over 500,000 jobs, about 1.4 million F3 type apartments for an average unit cost of 1.5 million dinars. If we continue along this path it will be economic and social suicide for Algeria.

As a reminder, the recent re-capitalisation of the public banks over these last three years (bad debts, the public sector and the administration representing over 80%, 20% on average for the private sector) required billions of US dollars and currently the public banks are sick of their clients who are mostly public companies.

Secondly, linked to the previous actions, we need to adapt to the irreversible global changes with the consolidation of these great areas – ALENA in America having to extend to the entire continent – APEC in Asia, the recent decision of the African Union and the new partnership plan for Africa (NEPAD), the European construction which has just enlarged whose gas directive mainly poses the case of destination clauses. We have not negotiated our entrance for a trade free area with Europe or with the World Trade Organisation (WTO) just by pure chance.

This implies a profound reorganisation of the entire Algerian economy. For the hydrocarbons sector, the liberalisation will concern, by 2010, all downstream with the problem of the prohibition of quantitative restrictions and the duality of the prices as well as the norms and the taking account of the environment in spite of, currently, divergences between the USA and Europe (Kyoto agreement which the bill includes).

We must take into account the specificity of this sector, particularly to have an energy strategy which takes account of the world energy strategy – the nuclear replaceable economies, but also taking account of the breakthrough of the ecologists, solar energy, the more intensive use of gas as a “clean” energy compared to oil and coal and, above all, hydrogen which should progressively replace hydrocarbons in 20 to 30 years' time, with the USA recently releasing several billion US dollars for this research.

Furthermore, we should take account of the different competi-





tion and strategies of the large companies which we have seen re-established due to the large amount of fields discovered in the world, particularly in the oceans (3 and 4 D method), with the importance of the new technological discoveries, as, having raw materials in the 21st century – the era of knowing - is no longer a condition of prosperity, an era in which salaries are paid without anything productive in exchange for a fictitious social peace. These do not, paradoxically, increase unemployment and slow down economic growth.

Hence the global data is fundamental for this sector and it is time to take account of the essential elements which influence and which will influence the sale price both of oil and gas :

- The evolution of the growth rate of the global economy and particularly China and India and specifically of the energy strategy of the United States of America for which 50% of their supplies currently depend on exports, explaining the active presence of the USA in the Middle East, in the Caspian sea, its strategic alliance with Iran and their presence in Iraq.
- The different concentrations of the large companies, particularly the latest mergers taking account of the control of different segments of genealogical trees of oil and gas, a source of high added value, and the control by the companies of the services and downstream which will, by 2009, be subject to the rules of the World Trade Organisation (WTO).
- The new global organisations where we have seen for over two decades the substitution of hierar-

chical organisations of traditional military types with organisations in flexible networks, taking account of the segmentation of the market and of the personalised demands : Sonatrach having to evolve in terms of management, with the transfer prices within the group (consolidation of the balance sheet) not enabling the previsionsal management to be controlled.

- The percentage of the non OPEC countries which represents 67% of the production sold (OPEC representing about 33%).
- Colossal investments in the Caspian sea which constitutes, with a cost lower than 3 US dollars, important reserves, with Asia and particularly Japan and China having to get their supplies from this region.
- The competition of the countries such as the ex-Soviet Republics and Iran (respectively the world's no. 1 and no. 2 gas producer powers) with large investments such as in Qatar (LNG), without forgetting Egypt and other African countries.
- The entrance of Iraq which is currently the world's number two exporting power in terms of oil reserves and cost less than 2 dollars open cast with the raising of the embargo.
- The soon-to-be liberalisation both upstream and downstream of Libya which will constitute a very serious competitor.
- It is also appropriate to take into account, in addition to the volume, the fluctuations of the dollar and the euro which have direct repercussions on the monetary value

given that we know that in 2003, the dollar depreciated by about 25% against the euro, with Algeria exporting its oil and gas in dollars (over 95% of its exports) and importing from Europe about 2/3 in euros.

Which leads me on to examining the basis of the LRH.

The basis of the LRH

A bill which enables good governance by a clear separation of the functions and the institutionalisation of open and transparent appeals for tenders.

Hence, it is planned in the LRH to have bodies, namely the regulation authority and ALNAFT which are not private entities but are powerful public State entities in order to better clarify the functions to attain management transparency, with the State shareholder acting on behalf of the Algerian population. This new structuring enables us to have a clear vision in the future of the function of the commercial company which Sonatrach is. As currently, and this is not a reproach, although all Sonatrach's executives and workers have accomplished remarkable work, they have been concerned above all with increasing the level of production; but this organisation has reached its limits. We have to go beyond the current situation if we want to avoid, in the event of an abrupt fall in the price of oil, causing a very serious crisis within the company and, consequently, at the country level due to the fact that this income which is the property of the entire national collective procures over 95% of our currency receipts.

Currently, the company Sonatrach, accumulating the function of public



authority and commercial entity, is seeing its negotiating abilities weakened, often explaining the periods of negotiation which are far from the national norms, with time being money in this era of globalisation. We could justify this in the past where the primordial action was only to produce without worrying about efficiency, or the costs of production; a vision of an entire so-called socialist system which has historically shown its limitations. How can we achieve the transition to the market economy with these different functions which prevents it from fulfilling its main mission which is to be a commercial company just like all the oil and gas

companies in the world where competitiveness must become the rule if we want to gain market share - as some missions devolved to the Ministry are transferred to agencies insofar as the the role of the State through its ministerial departments – in a competitive economy – far from any monopoly whether public or private, would not be able to interfere in the current management but be an essential guidance regulation and monitoring element of the government's policy. As was planned in this period of transition, a system of equalisation of prices in order to protect the most impoverished, particularly in the disadvantaged regions due to

the cost of transportation; as in the end the competition should enable both the quality to be improved and the prices to be reduced. This separation of functions of the Regulating State from the economic missions devolved to any company, will, for the first time, enable the costs to be known. This implies the rewriting of the current inadequate national accounting plan, in order to have real time and not historic analytic accountancy enable us to control both the short term management but, above all, to be able to plan in the medium and long term taking account of this specific fluctuating market.



Currently, with the consolidation of the balance sheets and the transfer accounts, it is impossible to know both the prospecting and the exploitation costs which also harms any reliable contract with the partners which seem to know them better in relation to certain international standards and norms which may entail losses of tens or even hundreds of millions of US dollars annually.

This will mean maximising the profits and, consequently, the remunerations which, in the future, should be linked to performance contracts (the job exchange initiated at the MEM having enabled the emergence of valuable executives) with the managers whose remuneration should be linked to the company's results.

To support good governance, the LHR also plans de-monopolisation, competition and transparency - the basis of all efficiency - with any monopoly inducing surcharges entailing the wastage of rare resources, the generalisation of the appeals for tenders, which will be institutionalised, the negotiations may lead to occult practices particularly for such a strategic sector for the country. For this transparency, it is the ALNAFT's obligation to launch competitive tendering in two phases - a technical phase and an economic phase (article 30) whose tender opening will be public and the contract awarded forthwith to the highest bidder - as this practice, which was started 4 years ago now at the MEM through regulations, saw the arrival of numerous investors, some of which had never submitted tenders.

The objectives are technical and economic-political: on the one

hand, to achieve production of 1.5 million barrels a day in 2005 and over 2 million by 2008-2010, enabling us to negotiate better the increase of our quota with regard to OPEC, and on the other hand to democratise the management of the income linked, furthermore, to the political and economic democratisation of the country. It would be desirable for this transparency to now be generalised to the management of all the Ministries, administration, EPIC and public companies.

The LRH provides for a tax system enabling income to be optimised

The different simulations at the Ministry of Energy and Mines and the Sonatrach's General Management clearly show an increase with variations depending on the cost of Brent, the dollar and volume.

If we tabulate between a range of 20 to 24 dollars - in view of the income on an average of over 5 years - the new project for 2010 will enable us to increase the current income by over 50%, being aware that a doubling of production in physical volume is not proportional to its value, the current situation enables all the more a stabilisation in value in case of stabilisation of the prices and the parity of the dollar.

This is even more important given that in case the price of Brent falls below 12 to 15 US dollars, the 1986 scenario and the 1994 cease in payment would be likely to be reproduced and in this case the demands of the International Monetary Fund would be catastrophic for the country.

And then what about national sovereignty or sacrifices of future generations ?

The objective, through the LRH, is to encourage national and international investment, and to avoid tax evasion by the over-invoicing of some operators. This is because the current tax system and its limitations, which hardly encourage investment, with the reduction of costs since they are reimbursed in the year under the form of costoil (cost of investment and exploitation) regardless of their costs because the oil income tax does not take account of the exploitation costs by deducting them from the calculation basis but only from the investment costs.

In return for its expenses, the foreign partner receives part of the production at the unloading part net of any tax charge. The portion of the foreign partner's profit is net of tax, with Sonatrach paying on behalf of the foreign partner a remuneration tax whose rate is that of the IBS. For the services contract, in return for its expenses, the foreign partner receives a payment in kind or in cash net of any tax charge, with the payment depending on the risks taken by the partner. But when the risks are taken by the partner, the service contract becomes the equivalent of a production sharing contract.

Therefore, the tax system hardly encourages the foreign companies to get involved in making the national economy more dynamic insofar as there are few companies which have chosen to share involvement; with Sonatrach being a compulsory route, acting as a tax intermediary between the administration and the foreign partner - thus making its management more opaque. Still with this idea in mind, it is a system which enables the foreign company to stay offshore since all its tax obli-

gations are settled by the national company, i.e. Sonatrach.

This raises the constraint which Sonatrach imposes - to allocate a large portion to the transportation investments which are less profitable than the exploration/production reducing its self-financing capacities and its room for manoeuvre.

The LRH is part of the framework of the Constitution and does anywhere plan the privatisation of Sonatrach, or redundancies

In this context, the application of this new law falls within the framework of the Constitution and should favour the maximisation of the income in favour of the State and the creation of jobs.

The strategic objective is to enable Sonatrach to maximise the income receipts in favour of the State by reinforcing it and it has never been a question in this bill to privatise it. Sonatrach remains a State company, supporting the public authorities. The new decree relating to stake holdings and privatisation does not mention it anywhere.

As articles 23 and 24 of this bill are clear in conformity with the fundamental principles of the Constitution and stipulate : the research or exploitation contract does not give right of ownership on the soil defined by said contract (art 23) – The hydrocarbons fields are buildings and are not eligible for mortgages (art. 24).

On the contrary, this bill will reinforce the prospecting and exploitation capacities. In fact, the number of contracts initiated by Sonatrach, in the framework of the hydrocarbons law in force, law 86/14 amended by the law no. 91/21, is four (04) a year which is done through

long and painful negotiations between the two partners, whereas the objective is to reach 15/20 research-exploitation contracts a year on the basis of open and transparent appeals for tenders.

In this context, it is fitting to remind you that the average for the exploitation wells in Algeria is eight (08) wells per 10,000km² whereas it is one hundred (100) wells as a world average and five hundred (500) wells in Texas for the United States of America.

It is undisputable that the cited laws have enabled the production level to be maintained and even to increase it: did we not predict in 1975 that Algeria would become an importer of oil by 2000 ? But they have reached their limits in view of the acerbic international competition and limited financing means. As Sonatrach's financing requirement for the next decade will exceed 25 billion US dollars in order to maintain the existing capacity (over 12 billion US dollars for Sonelgaz explaining the adoption of the important law on electricity and gas transportation by pipeline in 2002).

As our developed gas reserves have practically all been the subject of export contracts until 2015-2020 - it is therefore deemed necessary to develop the existing reserves and to discover new ones to make the most, over time, of the new opportunities offered in particular by the European market which is opening up and becoming liberalised and by the American market which is procuring attractive prices, whilst guaranteeing the domestic market's needs are covered.

Also, this new law will support the extension of the prospecting being done, due to the fact of the mining

potentials in Algeria – in relation to training adapting to the requirements of the hour – (new technologies).

It is the first time that a chapter has been devoted to the compulsory training in this sector – extensively dealing with the aspect of the most effective and safest social protection - a legitimate concern for workers – which will enable both keeping existing jobs but also to create thousands of others whilst, as previously noted, enabling management economies which will increase the financial potentials of the country.

As to the idea that Sonatrach would lose all right of first refusal with the implementation of this law – you just have to carefully read this text. Careful reading of this law will put this judgement into perspective. Article 98 is very explicit : “the contracts entered into prior to the date of publication of the present law, as well as, the contracts' riders entered into prior to same date shall remain in full force and effective until their expiry date”. And, above all, article 100 eliminates the fears of Sonatrach losing its right of first refusal by stipulating:

“Within a period of 30 days after the law herein has been published the company Sonatrach must provide the following :

- the demarcation of the research perimeters made on this date which it wishes to keep,
- the demarcation of the exploitation perimeters made on this date which Sonatrach wishes to keep.”

This, therefore, reinforces the central idea which is the efficiency of Sonatrach which may relinquish the perimeters which it does not feel profitable and which the State, in the past, imposed on it, in order

to concentrate on its core businesses. As stipulated in article 44 “each research and exploitation contract – in addition to the current exploitation blocks and perimeters devolved to Sonatrach – will contain a clause giving Sonatrach, when it is not a contracting party, an option to participate in the Exploitation which may be a maximum of thirty per cent (30%)”.

This is important with regard to its current financial and technological capacities, especially given that Sonatrach will not take any financial risk, unlike its competitors.

As to the argument that the imposed timeframe of thirty (30) days is relatively short and will put Sonatrach at a disadvantage compared to its competitors, the bill, which the President of the Republic has recently given directives for its examination by the government, is specific insofar as it stipulates that the option to participate is given after the development plan is adopted by ALNAFT.

The time needed to study the development plans and for the field demarcation works may require six months to one year, and sometimes more. This period should be made the most of by Sonatrach which will have data to carry out its evaluation studies and decide whether or not to exercise the option depending on its perception of the report. This clearly shows that Sonatrach has 7 months to one year to exercise the option and not 30 days.

Which leads me onto the third part of my report.

Avoiding dangerous comparisons

Initially, an inflationist pressure is invoked, penalising the consumers further to the application of the

LRH, particularly with regard to the price of fuels. Although the laws which underlie the content of the LRH may be found in that of Brazil and, to a lesser extent taking account of the experience of Norway, the unfortunate experiences of Venezuela and Argentina are invoked.

If we accept the Argentinean case whose drift is explained by an inconsistency of the overall economic policy and generalised corruption (Algeria must of course greatly consider this experience) which has nothing to do with the hydrocarbons policy due to the fact that it is a very marginal producer; it is fitting to dwell on the liberalisation of the prices of the oil products and on the Venezuelan case whose comparison does not rely on any solid argument in order to avoid dangerous comparisons.

This project falls within the framework of controlled liberalisation

To proclaim that with the application of this law, the price of petrol would immediately double, does this argument rely on a scientific basis? An audit recently initiated by the Ministry of Energy and Mines which has just been completed after two years of intense work which saw the cooperation of the executives of Sonatrach, the Ministry of Energy and Mines supported by the international consultancy firm Ernst and Young and national experts on the theme – the simulation between 2004-2010, taking account of the national and international environment of the price of oil products in a competitive environment, contradicts all the speculations that the price of a litre of petrol in the event of liberalisation would mechanically double. The simulations clearly show that between 2004-2010, to the contrary, it almost avoided an application of

the euro exchange rate because the end price to the European consumer sometimes contains over 70% of tax on oils.

Other than that, the LRH stipulates 5 years for the liberalisation of the price of products made from oil and 10 years for gas - the period required to push forward the reforms – the competition by de-monopolisation will enable the future stabilisation of the prices, even their reduction, dynamically, taking account of the future structure of the growth rate, the exchange rate as well as the national distribution of income.

Furthermore, as a factor of stabilisation, these simulations show that if the consumer has a choice between several options between traditional fuels (2 star petrol, 4 star petrol, diesel) or the gaseous fuels (LPG fuel particularly or GNW in some large agglomerations as a substitute particularly for diesel, provided the distribution network is improved and there is a more attractive tax policy), he would choose the gaseous fuels due to the relatively lower price.

A reorientation of the oil product consumption policy would favour this choice, especially given that Algeria risks being an importer of diesel by 2010 or building a refinery which, with the same capacity as the Skikda refinery, would require about 1.5 billion US dollars – as Algeria is endowed in terms of comparative advantages with natural gas.

As the audit shows, a low price discourages the investors which cannot reconstitute the capital in advance like NAFTAL, due to low margin, entails both leaks outside the borders and wastage as the experience of the Indian company IPSAT in Annaba has shown which with the same volume of electricity has doubled its capa-

city. Even more so that, technically, these less polluting products with the concern of protecting the environment, concerns taken into account recently even by the WTO, tend to be generalised in the developed countries where anti-pollution taxes are applied on the traditional polluting fuels (Kyoto agreement).

This does not mean during this transition period ending all the subsidies, but, as stipulated in the 2005 Finance law, these must no longer be given to support companies whose sole aim is to produce wealth, but budgeted at the government level by the APN which must target the disadvantaged layers and the sectors who are creating growth.

To give more precision solely for natural gas, Sonatrach subsidises about 1.5 billion US dollars a year.

Furthermore, tax incentives are planned to develop the downstream, through the consolidation of the activities for the payment of the supplementary income tax (ICR) is authorised to encourage the operators to invest both in the research-development of fields but also in downstream activities – a growth vector which creates jobs particularly in refining, distribution, storage, petrochemistry and transportation by pipelines.

But it is still the case of encouraging the national and international private sector or in partnership not to renew the negative experiences of the past where the public company did not master the costs or the progressive technology in this sector, or the world trade circuits which have an increasingly oligopolistic characteristic at the global level.

To compare the Venezuelan experience to the contents of the LRH does not rely on any serious grounds

A diversified portfolio in Algeria and American concentration in Venezuela

To unfairly assimilate Venezuela and Algeria, some people state the primacy of American companies both in Venezuela and Algeria.

Now, the portfolio in our country, unlike Venezuela's, is diversified. In fact, whilst the primacy in Venezuela is given to American companies at over 80% (being four countries who supply the USA with the receipts – its hydrocarbons exports of about 80% and 20% for aluminium) it is not the same in Algeria where the portfolio is diversified : BP (English), AGIP (Italian), Repsol (Spain), Andarko (American), Maerck (Danish), BHP (Australian) and recently Chinese, Vietnamese and even Tunisian companies. Thanks to the new provisions, the research and/or exploitation contracts concluded in partnership by Sonatrach with foreign companies have enabled us to rebuild our reserves, bringing them back to their 1971 level. The discoveries made and already being exploited will very soon contribute with a contribution of 50%.

The reduction in tax revenue in Venezuela is due to the confusion between the owner State and the commercial function of the Venezuelan oil company which the new Algerian hydrocarbons law to be avoided

To explain the reduction in tax revenue in Venezuela (paradoxical increase in exports in value and reduction in tax revenue), it is time to take account of the specificity of the national Venezuela company PDV (Sonatrach's equivalent) which should adopt an accounting system which would consolidate all losses and profits, as the losses coming from its results in the overseas subsidiaries have affected its

results. In fact, as PDV was hit by a tax on profits of 67.7% in Venezuela and only 34% in the USA, it preferred the foreign market and therefore PDV did in fact see its overall results improve although PDV Venezuela suffered losses and likewise reduced the country's tax revenue.

Furthermore, PDV charged in Venezuela the financial costs of a debt of 9 billion US dollars which was in favour of its overseas activities. In fact, from 1983 further to PDV's internationalisation strategy, the company used its overseas subsidiaries to export its profits through transfer prices.

This transfer has reached 500 million US dollars a year. Profiting from the negative experiences both in Venezuela and in Argentina, Algeria's strategy concerning the International Holding company is different. The Sonatrach international holding company, unlike Venezuela's, has to finance itself, thus avoiding the internal revenue transfer abroad.

The concept of marginality contained in the LRH is different in Algeria and in Venezuela thus enabling tax evasion to be avoided

In fact, there is a difference in size between Venezuela and Algeria relating to the marginal deposits and to the corresponding tax system. For Venezuela, the country has opened up marginal deposits to private investors, with some fields producing over 500,000 barrels a day.

The Venezuelan 1993 finance law exempted these contracts from 67.7% tax on profits to apply only the 37.7% devolved only to the non petroleum sector (legal device for supposedly service contracts and not production ones) and PDV

convinced the Congress to abolish the export customs duties of 59% to an average of 43% between 1993 and 2000.

Furthermore, the Venezuelan oil law sets down a minimum tax system in the form of royalties of 30% of the volumes extracted in oil and 20% of the volumes extracted in gas, without distinguishing the size of the fields and their location.

In the case of Algeria – unlike Venezuela which does not limit the ceiling – the marginality is applied to small sized fields – depending on the geographic remoteness, in order to enable their exploitation which was not possible in the former law.

Confusion of roles in Venezuela and transparency in the LRH

The drifts in Venezuela through the speculative movement of capital through an oil company playing the roles both of a public authority and a commercial company enabling the resources to be diverted to the costs of the development of this country are due to the confusion of the roles between public authority and the commercial entity.

This is a notable difference where articles 51 and 52 of the Venezuelan law attributed the regulation body to the Ministry of Energy whereas, in Algeria, this was attributed to an independent institution, as well as the issuing of authorisations for the operators, from licences by the same Ministry, as some client relations reinforce occult practices, as in the former planned economies.

It is precisely to avoid this confusion of roles which could entail insider trading, the non-transparency in the management and the reduction in tax revenue that the

hydrocarbons bill clearly demarcated the role of the ALNAFT responsible for generating the income in favour of the State and Sonatrach which becomes a commercial entity subject to international competition in order to make it more competitive.

Conclusion

Real nationalism is the future for all of us to contribute to increasing our added value within the global economy by reconciling economic efficiency and a fair redistribution of the national income, without harming creative energies. If we agree on the strategic objectives, it is obvious that the centralised bureaucratic diktats ignoring the decentralised networks are largely overcome. This assumes, as this falls within the report on the report of the State, a more participative and citizen company.

It is in this framework of sustained effort and dialogue, that the bill has already been subjected for more than two years to a large debate at the civil society level to have the most diverse opinions – hoping for the involvement of the economic and social partners, other segments of society and the university to submit concrete proposals.

To summarise, other than the aspect of mobilisation of the financial surplus for development purposes, the LRH enters within the framework of the transition from a highly centralised economy to a competitive market economy in the context of global inter-dependence, linking economic efficiency and social cohesion.

The fundamental axis after the improvement of the security axis is to solidify the micro-economic and institutional reforms – the current macro-economic stability may be

ephemeral as realised by exogenous factors – if we want to return to sustainable growth.

This law – thanks to the permanent and responsible dialogue – will reinforce the potentials and the efficiency of Sonatrach in favour both of the workers and the entire national collective and, in close relation with the political, economic and social reforms, will enable all Algeria to take up the challenges of this new millennium.

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