

**Hydrocarbons Code under Law**

**No. 99-93, 17 August 1999**

**And**

**Amendements**

**Unofficial Translation**

**July 2003**

**Hydrocarbons Code under Law No. 99-93, 17 August 1999**

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In the name of people,

The Members of Parliament having adopted.

The President of the Republic promulgates the following law:

**Article 1.**

Are promulgated by the present law under the title "Hydrocarbons Code", the legislative provisions, relative to the hydrocarbons prospecting, exploration and exploitation activities.

**Article 2.**

The provisions of the Hydrocarbons Code are applicable to hydrocarbons titles granted after its entry into vigor.

Are excluded from the field of application of the hydrocarbons code provisions and from the regulating texts taking for its application the exploitation concessions instituted and developed prior to the entry into vigor of the present hydrocarbons code.

However, upon a request presented to the granting authority within the delays foreseen in article 3 hereinafter, the holders of the said concessions may benefit from the following provisions of the hydrocarbons code:

- the provisions of the article 66.3 sub-paragraph "b" relative to the award of a electricity production concession to the holders of exploitation concessions,
- the provisions of articles 118 to 123 relative to the constitution of an allowance for the site abandonment and restoration costs,
- the provisions of article 100 sub-paragraph "f" and the provisions of the article 116.1 relative to the royalty for customs services,
- the provisions of article 113.3 sub-paragraph "a" relative to the constitution of a reserve for reinvestment.

### **Article 3**

At the entry into vigor of the hydrocarbons code, the holders of prospecting permits or exploration permits in course of validity and/or exploitation concessions instituted but not yet developed, have the possibility to opt, with regard to the said permits and concessions, for the application of the present hydrocarbons code and the regulating texts taken for its application

The exercise of the option foreseen above shall be subject to a notification in writing prepared on tax stamped paper and signed by the holder of the permit and/or the exploitation concession or by a representative duly mandated to that effect.

Each hydrocarbons title shall be subject to a separate notification within a maximum period of six months as from the entry in vigor of the hydrocarbons code. This notification shall be addressed by registered mail with knowledge of receipt to be requested from the administration in charge of hydrocarbons or deposited directly at the said administration for a knowledge of receipt.

Failing to exercise the above mentioned option by the holder of a hydrocarbon title, the said title shall remain governed till its expiry by the legislative and regulating provisions and by the particular convention applicable thereto.

### **Article 4.**

At the expiry of the aforementioned delay of six months, the Minister in charge of energy shall set by an arrêté published in the Official Gazette of the Republic of Tunisia, the list of the permits and exploitation concessions admitted to benefit from the provisions of the present hydrocarbons code.

The admission of hydrocarbons title holder to benefit from the provisions of the hydrocarbons code and the regulating texts taking for its application, following the exercise of the option mentioned in article 3 above, shall result in the application for the holder of the said provisions as soon as the mentioned in the aforementioned paragraph is published.

The juridical texts anterior to the present law notably the decree of 1<sup>st</sup> January 1953 relative to mines, the texts mentioned in the article 5 hereinafter, as well as the provisions of the particular convention shall be no more applicable to the holder insofar as they are contrary to, or incompatible with the provisions of the present hydrocarbons code and the regulating texts taken for its application.

#### **Article 5.**

Notwithstanding the transitory regime mentioned in articles 3 and 4 above, the judicial texts mentioned hereinafter shall be abrogated as from the entry in to vigor of the hydrocarbons code. However, the validity of the previsions of these texts shall remain in vigor till the expiry of the hydrocarbons titles and the exploitation concessions developed prior to the entry into vigor of the present code for which their respective holders did not exercise the option offered by the present law

1. The decree dated 13 December 1948, holding institution of special provisions for the encouragement of the exploration and the exploitation of the mineral substances of second group.
2. The law n° 58-36 dated 15 March 1958, modifying the decree dated 13 December 1948, holding institution of special provisions for the encouragement of the exploration and the exploitation of the mineral substances of second group.
3. The decree-law n° 85-9 dated 14 September 1985, ratified by law n° 85-93 dated 22 November 85 holding institution of special provisions for the exploration and production of liquid and gaseous hydrocarbons.
4. The law n° 87-9 dated 6 March 1987, modifying the above mentioned decree-law n° 85-9 dated 8 September 1985.
5. The law n° 90-56 dated 18 June 1990, holding encouragement of the exploration and the production of liquid and gaseous hydrocarbons.

#### **Article 6.**

The hydrocarbons code shall be effective 6 months after the publication date of the present law.

As from the entry into vigor of the code, the petitioners of hydrocarbons titles can no longer ask for the application of the provisions of the decree dated 1st January 1953 relative to mines with the exception of the petitioners of exploitation concession derived from an exploration permit granted prior to the entry into vigor of the code for which the holder did not exercise the option mentioned in article 3 above.

The present law shall be published in the Official Gazette of the Republic of Tunisia and executed as law of the State.

Tunis, August 17, 1999

**Zine El Abidine Ben Ali**

# HYDROCARBONS CODE

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## TITLE I

### DEFINITIONS AND GENERAL PROVISIONS

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#### **Article 1.**

The subject of the present code is to define the legal regime applicable to the preliminary prospecting, exploration and exploitation of hydrocarbons, as well as to the constructions and facilities allowing the accomplishment of these activities.

#### **Article 2.**

The following expressions used in the code have the following meanings:

- a. Preliminary prospecting works: the works aiming at the detection of hydrocarbon's existence by the use of geological techniques other than seismic shooting and drillings.
- b. Prospecting works: the works aimed at the detection of hydrocarbons existence by the use of geological and geophysical techniques other than drillings pursuant to the provisions foreseen in article 10 paragraph 5 herein.
- c. Exploration activities: the works and/or studies, notably but not limited to, geological, geophysical and drilling works, and production costs not exceeding 7 days each, aiming at discovering hydrocarbon Gelds and at appreciating the importance of the existing recoverable reserves and generally speaking all operations connected with these ones and aiming at the same objectives.
- d. Exploitation activities: the works and studies notably, wells drying and completion as well as installing facilities in order to develop and put the hydrocarbon held into production, the preliminary treatment of the hydrocarbons produced in order to make them marketable, the hydrocarbons transportation, including by pipeline, the hydrocarbons

commercialization and generally speaking, all operations connected with the precedent ones and aiming at the same objectives.

- e. Hydrocarbons: liquid or gaseous hydrocarbons, solid hydrocarbons, bitumen, asphalt, helium and other rare gases.

Other mineral substances may be considered hydrocarbons by an arrêté of the Minister in Charge of Hydrocarbons upon a conform opinion of the hydrocarbon consulting committee, and be subject to the present code.

- f. Liquid hydrocarbons: crude oil and natural gas condensate.
- g. Natural gas: hydrocarbon blend existing in the reservoir in a gaseous state or at a solution state in the hydrocarbons under reservoir conditions. The natural gas includes the gas associated to the hydrocarbons, the gas dissolved in the hydrocarbons and the gas non associated to the hydrocarbons.
- h. Commercial gas: natural gas from which some liquids and eventually gas of non hydrocarbons nature are extracted in order to make it suitable for consumption, according to the specifications agreed upon by the seller and the buyer of the commercial gas.
- i. Hydrocarbons field: natural accumulation of hydrocarbons.
- j. Maritime spaces: the sea and any portion of it under the jurisdiction of the Tunisian State.
- k. National Enterprise: State owned enterprise wholly controlled and designated by the Tunisian State.
- l. Contractor: the company performing for the account of the National Enterprise within a Production Sharing Agreement, the execution and the supervision of the hydrocarbons prospecting, exploration and exploitation activities.
- m. Particular Convention: the hydrocarbons exploration and exploitation convention.
- n. Holder: the title owner of a prospecting permit, Exploration permit, or Exploitation Concession or the title owners. In case the said permit and/or concession is jointly attributed to in any title owners. The said title owners are designated collectively owned and separately co-owners.
- o. Affiliated companies means:
  - 1. Any company or organisation in which the co-Holder have directly or indirectly more than 50% of the voting rights in the shareholders meetings.

2. Any company, organisation or public owned agency owning directly or indirectly more than 50% of the voting rights in the shareholders meetings of a CO-Holder.
  3. Any company or organisation in which, more than 50% of the voting rights in the shareholders meetings are owned directly or indirectly by a Co-Holder, in compliance with subparagraph 1 and 2 above jointly or separately.
- p. Granting Authority: the Tunisian State represented by the Minister in Charge of Hydrocarbons or any other Administration Competent in the matters mentioned by the present code.
- q. Environment: the physical works including the ground, the air, the sea, the underground and the surface water, water stream, lake, lagoon, sebkha and assimilated, as well as the spaces, the landscapes, the natural sites, the animal and vegetal species in their diversity and generally speaking all the elements of the nation's natural legacy.
- r. Impact: any derangement, material or not, suffered directly or indirectly because of human acts on the environment, whether on a short or a long term basis.

### **Article 3.**

The provisions of the present code, excluding those exclusively applicable to the activities of the Holder, are applicable to every working and/or service contractors acting as a substitute of the Holder in performing and supervising the hydrocarbons prospecting, exploration and/or exploitation activities.

### **Article 4.**

Hydrocarbons fields located underground the Tunisian territory and within the Tunisian maritime space are, as national wealth, legally considered part of the Tunisian State public domain.

### **Article 5.**

Hydrocarbons prospecting, exploration and exploitation activities are considered commercial acts.

### **Article 6.**

**6.1.** Hydrocarbons prospecting, expiration and exploitation activities shall only be performed by virtue of a hydrocarbons title delivered by the Minister in Charge of Hydrocarbons.

**6.2** The hydrocarbons titles are:

- a. Prospecting Authorization.
- b. Prospecting Permit.
- c. Exploration Permit.
- d. Exploitation Concession.

**Article 7.**

Hydrocarbons prospecting exploration and exploitation activities shall only be executed by:

- a. The Tunisian State under modalities to be fixed for every particular case.
- b. Public or private companies whether Tunisia or foreign having sufficient financial resources and technical capability to carry out the said activities in the best conditions.

To this effect the Granting Authority may, at any time, ask for an execution warranty covering the obligations relative to the minimum expenses and/or works to be performed, delivered by an organism agreed upon.

**Article 8.**

**8.1** It is created a Hydrocarbons Consulting Committee whose opinion is imperatively requested in all the cases foreseen by the provision of the present code. The Minister in Charge of Hydrocarbons may also, require the opinion of this Committee on any other question relative to hydrocarbons.

**8. 2.** The Hydrocarbons Consulting Committee's composition and the functioning modalities are defined by decree.

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**TITLE II**

**THE PROSPECTING ACTIVITY**

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**CHAPTER I**

**THE PROSPECTING AUTHORIZATION**

**Article 9.**

**9.1.** The Prospecting Authorization is granted by a decision of the Minister in Charge of Hydrocarbons for a maximum period of one year. It can be granted to many petitioners for the same zone.

**9.2.** The Prospecting Authorization can be granted for an area covered by a Prospecting Permit or an Exploration Permit.

In such a case, the rights of the permit Holder remain completely protected and they prevail on the lights of the Prospecting Authorization's Holder obtained by virtue of this article, notably when the activities of the Prospecting Authorization's Holder are causing a direct and physical trouble to the permits Holder.

**9.3.** The Prospecting Authorization's Holder may perform, within the perimeter defined by the authorization, the preliminary prospecting works, with the exception of any seismic shootings and wells drilling.

The Granting Authority may designate a representative to participate to the these tasks.

**9.4.** The Prospecting Authorization may be canceled in case the Holder performs some works other than the ones foreseen in paragraph 3 of this article.

**9.5.** By the Prospecting Authorization expiry date, the Holder shall have delivered to the Granting Authority one copy of the realized studies and the information collected during the performance of his works.

**9.6.** The Holder of a Prospecting Authorization who does not fulfil the obligations stated by paragraph 5 of the present article, can not be authorized to obtain neither a Prospecting or Exploration Permit, nor acquire interests in existing valid permits or concessions.

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## **CHAPTER II**

### **THE PROSPECTING PERMIT**

#### **Article 10.**

**10.1.** The Prospecting Permit is granted by an arrêté of the Minister in Charge of Hydrocarbons upon a conform opinion of the Hydrocarbons Consulting Committee, for a 2 years period to any person fulfilling the conditions stated in article 7 herein.

Extensions of Prospecting Permit's validity may be granted upon a motivated request presented by the Holder for a total period not to exceed 12 months. The extension of the Prospecting Permit validity is granted by an arrêté of the Minister in Charge of Hydrocarbons upon a conform opinion of the Hydrocarbons Consulting Committee.

**10.2** The Prospecting Permit can not be granted for a zone already covered at that date, by another Prospecting Permit, an Exploration Permit and/or a Exploitation Concession In case of straddle recognized after the award of the Prospecting Permit, the limits of the latter is rectified by an arrêté taken by the Minister in Charge of Hydrocarbons upon his automatic intervention or a request filed by any interested person.

**10.3.** An application for a Prospecting Permit is only acceptable when the subject surface is constituted by an full number of elementary perimeters defined in article 13.2 of the present code.

However, an application for Prospecting Permit delimited by an international frontier resulting in portions of elementary perimeter is acceptable.

**10.4.** The Holder of a Prospecting Permit is obliged to pay the fixed tax stated by article 101.1.1. herein. He is obliged to take commitments for expenditures and to realize geological and geophysical works within the conditions stated by paragraph 5 of the present article.

**10.5.** The Prospecting Permit entitles the Holder with the exclusive right to perform prospecting work in the area defined by the awarding arrêté with the

exclusion of any drilling operations other than the ones not exceeding 300 meters deep destined to geological and seismic coring.

**10.6.** The Minister in Charge of Hydrocarbons may cancel a Prospecting Permit in case the Holder perform some works other than the ones foreseen in paragraph 5 of this article.

The arrêté canceling the prospecting Permit is taken upon an opinion of the Hydrocarbons Consulting Committee, the Holder having been heard on his transgressions before within reasonable time.

**10.7.** By the Prospecting Permit expiry date, the Holder shall have given the Granting Authority one copy of the seismic records, the studies and any other information collected during the performance of his works.

**10. 8.** The Holder of a Prospecting Permit who does not fulfill the obligations stated by paragraph 10.7 above, can not be authorized to obtain neither another prospecting and/or Exploration Permit, nor acquire interests in existing valid permits or concessions.

**10.9.** The Holder of a Prospecting Permit, subject to the fulfillment of the obligations taken by virtue of this article, has the priority right to have his Prospecting Permit transformed into an Exploration Permit on the basis of the conditions initially agreed upon by the Granting Authority and the Holder to exercise his right, the Holder shall request from the Granting Authority the transformation of his Prospecting Permit into an Exploration Permit at least 2 months prior to the expiry of the permit.

**10.10.** For the execution of his prospecting works, the Prospecting Permit's Holder is entitled to benefit from all the incentives and is subject to all the obligations made applicable for an Exploration Permit's Holder by the present code and the regulating texts taken for its application.

**10.11.** The modalities ruling the application for a Prospecting Permit, the application processing as well as the transformation into an Exploration Permit are set by an arrêté of the Minister in Charge of Hydrocarbons.

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**TITLE III**

**THE EXPLORATION FOR HYDROCARBONS**

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**CHAPTER I**

**THE EXPLORATION PERMIT**

**SECTION I**

**The filing and the processing of the application**

**Article 11.**

The modalities ruling the application for an Exploration permit, and the application processing rules are set by an arrêté of the Minister in Charge of Hydrocarbons.

**Article 12.**

The applicant for an Exploration Permit is required to have a physical or elected base in Tunisia. Failing to do so, he is required to designate to the Administration a representative based in Tunisia.

All notifications and notices made by third parties, relative to any procedure concerning the application of the present code are addressed to this base.

Failing to be addressed to this base as foreseen above, these notifications and notices are validly made to the offices of the Governorate of the city of Tunis.

**Article 13.**

**13.1.** To be accepted, the area subject of the application for an Exploration Permit shall consist of a full number of elementary perimeters everyone in one block.

However, the application for Exploration Permit delimited by an international frontier resulting in portions of elementary perimeters is acceptable.

**13.2.** The elementary perimeters, mentioned in the above paragraph, have a square form, each one covering an area of four (4) square kilometers. The edges of these perimeters are actual directions oriented north-south and east-west and are consisting of portions of parallels and meridians. Their summits are defined by geographical coordinates and by reference numbers to be fixed by decree published in the Official Gazette of the Republic of Tunisia.

#### **Article 14**

The applicant for an Exploration Permit is required to take commitments to realize an exploration working program within the requested perimeter during the permit's validity period, this program shall indicate the nature and the importance of the works to be performed, especially the geophysical and the drilling operations as well as the minimum amount of expenditures to be incurred for the realization of this program.

#### **Article 15.**

**15.1.** The Exploration Permit is granted notably on the basis of the technical and financial capacities of the applicant, the importance, the nature and the consistence of the proposed working program as well as the level of participation of the National Enterprise or the conditions ruling the Production Sharing Agreement foreseen in title 6 chapter 2 of the present code.

In all cases, the Exploration Permit is granted at the discretionary preference of the Granting Authority, with no right for the applicant partially or wholly rebuffed, to claim a compensation.

**15.2.** The rejection of the Exploration Permit application is notified to the applicant by the Minister in Charge of Hydrocarbons.

**15.3.** The fixed tax paid to the Tunisian State at the time of the application as foreseen in article 101.1.1 herein, shall not be refunded in case the application is rejected or canceled.

#### **Article 16.**

**16.1.** The award of the Exploration Permit shall not be prejudiced of the rights previously acquired by the Holder of a Prospecting Permit, an Exploration Permit or an Exploitation concession.

**16.2.** In case the Exploration Permit includes a perimeter straddling over an Exploration Permit, a Prospecting Permit or an Exploration Concession, the permit is granted only for the perimeters which are out of the said permits or concessions.

**16.3** If the straddle is established only after the permit is granted, the permit limits rectification is pronounced automatically by an arrêté of the Minister in Charge of Hydrocarbons, or upon the request of the interested person.

**16.4.** In all cases, the Exploration permit is granted subject to the rights previously acquired by the permit's Holders.

## **SECTION II**

### **The award of the exploration permit**

#### **Article 17.**

**17.1.** The Exploration Permit is granted by an arrêté of the Minister in Charge of Hydrocarbons. Upon a conform opinion of the Hydrocarbons Consulting Committee and published in the Official Gazette of the Tunisian Republic.

**17.2** The exploration Permit is granted for an initial period of 5 years maximum renewable within the conditions set by the present code, the regulating texts taken for its application and by the Particular Convention.

#### **Article 18.**

**18.1.** The Exploration Permit entitles the Holder with the exclusive right to realize the exploration activities within the perimeter of the said permit.

**18.2.** It also gives the Holder the exclusive right to obtain concessions within the conditions set by the present code, the regulating texts taken for its application and by the Particular Convention.

## **SECTION III**

### **The Particular Convention**

#### **Article 19.**

**19.1.** The Particular Convention authorizes the exploration and exploitation of hydrocarbon field and sets the rules governing the Holder's direct or indirect operations relative to the exploration and exploitation activities realized within

the area covered by the Exploration Permit and the concessions derived therefrom the said convention is concluded in compliance with the provisions of the present code and the regulating texts taken for its application.

**19.2** The Particular Convention sets notably:

1. The conditions governing the hydrocarbons explorations and exploitation activities, particularly those relative to the application of articles 14, 17, 18, 23, 27, 28, 31, 36, 37, 50, 56, 57, 58, 59, 60, 61, 62, and 108 of the present code.
2. The conditions governing the award of an Exploitation Concession notably:
  - a. the rules to be respected by the concession Holder for the delimitation of the concession perimeter;
  - b. the applicable modalities governing the case where the concession Holder may be obliged to continue the exploration work in his concession.
3. The modalities ruling the election for the perception mode of the royalty in kind or in cash and the conditions of its perception.
4. The conditions ruling the incentives given to the Holder for the realization of the facilities necessitated by its exploration and exploitation activities and for the use of the existing or future public installations.
5. The conditions ruling the way the administration control is exercised and those ruling the transmission of documents and information permitting this control.
6. The conditions ruling the cases where the violation of the Particular Convention is sanctioned by the cancellation of the concession.
7. The conditions ruling the cases where the foreign exchange regulations are applicable to the Holder.

**19.3.** The Particular Convention is signed by the Granting Authority represented by Minister in Charge of Hydrocarbons on one hand, and, on the other hand, the representative(s) of the Holder of the Exploration Permit duly mandated.

**19.4** In case of Production Sharing Agreement mentioned in Title 6, chapter 2 of the present code, the Particular Convention is signed, on the one hand, by the Minister in Charge of Hydrocarbons and, on the other hand, the national

enterprise in its quality of the Holder and the contractor duly represented by mandated representatives.

**19.5.** The Particular Convention is approved by a decree published in the Official Gazette of the Republic of Tunisia.

**Article 20.**

The Particular Convention may stipulate that the rights and obligations of the Holder are those existing from the provisions stated in this code and the regulating texts taken for its application in vigor at the date of the signature.

**Article 21.**

The litigation cases resulting from the application of the provisions of the Particular Convention may be settled by arbitration.

The Particular Convention will set notably, the nature, the mode and the procedure of arbitration as well as the conditions ruling the execution of the arbitrators verdict.

**Article 22.**

The Particular Convention serving as model shall be prepared in compliance with the present code and approved by decree.

## **SECTION IV**

### **The renewal of the Exploration Permit**

**Article 23.**

The Exploration Permit Holder is entitled to renew his permit for 2 successive periods, each one covering a maximum duration of 4 years, provided that he:

- a. fulfills the obligations subject of his commitments which non respect is sanctioned by the foreclosure or cancellation of the permit and particularly these relative of the minimum level of expenditures and works to be carried out within the perimeter covered by the permit, during the expiring validity period;
- b. applies for the renewal at least 2 months before the expiry date of its validity period;

- c. makes the commitment to carry out during the considered renewal period; a minimum exploration program with the associated estimated cost being well considered a minimum expenditures commitment;
- d. provides proof for his sufficient technical and financial capacities to carry out the aforementioned works within the best conditions;
- e. has not committed infringements causing serious troubles to the environment.

#### **Article 24.**

The modalities ruling the application and the processing of the request for renewal relative to the Exploration Permit are set by an arrêté of Minister in Charge of Hydrocarbons.

#### **Article 25.**

The Minister in Charge of Hydrocarbons may, upon a conform and motivated opinion of the Hydrocarbons Consulting Committee authorize the Holder during the renewal of the Exploration Permit to reduce the minimum expenditures commitment initially fixed by the Particular Convention.

#### **Article 26.**

**26.1.** The Exploration Permit area, subject of the renewal, shall not exceed neither 80/100 of the initial total area increased by all extensions of the permit granted during the first renewal, nor 64/100 of the initial total area increased by all extensions of the permit granted during the second renewal.

**26.2.** The Holder sets at his discretion the relinquished areas of the permit which shall be notified in his application for renewal, otherwise, the Granting Authority will determine automatically on its own, the areas to be relinquished.

**26.3.** The renewal of an Exploration Permit originally consisting all in one bloc, may be granted for a maximum of 3 blocs, tied or not. Each bloc shall consist of a full number of elementary perimeters representing a regular geometric form. However, is acceptable the application for renewal, including portions of elementary perimeters in case where one or many of these blocs are delimited by an international frontier.

#### **Article 27.**

In case the Holder does not accomplish the minimum working program and/or the expenditures commitments agreed upon without infringing the provisions stated in article 23 paragraph b, c, d and e herein, he can apply for the renewal of his permit after paying to the Granting Authority the difference between the minimum level of expenditures subject to his financial commitments and the expenditures actually incurred in the permit or the amount needed to conclude the working program agreed upon by the Particular Convention. These payments are mandatory even if the holder relinquishes the Exploration permit and decides not to renew it.

## **Article 28.**

**28.1** In addition to the two renewal foreseen in article 23 herein, the Holder is entitled to a third renewal not to exceed 4 years if, by the expiry of the second renewal period, he has:

- a. discovered a hydrocarbons field entitling him to obtain an Exploitation Concession and presented to that regard an application in compliance with the provisions of the present code and the regulating texts taken for its application;
- b. fulfilled, by the expiry date, all his obligations during the Exploration permit validity period;
- c. applied for the renewal at least two months before the expiry date of the Exploration permit validity period;
- d. taken commitment to carry out, during the renewal period applied for, a minimum working program with the estimated cost to be considered as well as a minimum commitment for expenditures;
- e. demonstrated sufficient technical and financial capacities permitting the accomplishment of the said works in the best conditions;
- f. has not committed infringements causing serious damage to the environment.

**28.2.** The Exploration Permit area, subject of this third renewal, shall not exceed 50% of the permit initial area.

**28.3.** The areas to be relinquished and the notification relating thereto are done within the conditions stated in article 26 herein.

**28.4.** The Holder benefiting from the renewal of his Exploration Permit following a discovery who did not accomplish his commitments for the working program and/or the expenditures, shall pay to the Granting Authority the difference between the minimum level of expenditures subject of his financial commitments and the expenditures actually incurred in the permit or the

amount needed to conclude the working program agreed upon by the Particular Convention.

**Article 29.**

The renewal of the Exploration Permit is effective as from the permit expiry date and is granted by an arrêté of the Minister in Charge of Hydrocarbons upon a conform opinion of the Hydrocarbons Consulting Committee.

However, the Exploration Permit is tacitly prorogated without any formalities in case the administration did not render its decision relative of the renewal prior to the validity period expiry date, until such decision is rendered by the Minister.

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## **CHAPTER II**

### **GENERAL PROVISIONS**

#### **Article 30**

**30.1** The Minister in Charge of Hydrocarbons may, upon a conform opinion of the Hydrocarbons Consulting Committee, extend the validity period and/or the area during the course of validity of an Exploration Permit, within the following conditions:

- a. the application is filed by the I holder at least two months before the expiry date of the exploration Permit validity period;
- b. the extension is granted for an additional period of 2 years and/or an additional area limited to 50% of the initial area of the Exploration Permit;
- c. the expenditures and the working program are adjusted according in the extension of the validity period and/or the area of the Exploration Permit.

**30.2.** The Minister in Charge of Hydrocarbons may as well grant, upon a conform opinion of the Hydrocarbons Consulting Committee, a supplementary extension of one year in addition to the above cited extensions in case of:

- obstructions duly proved by the Holder restraining the normal course of his exploration activities;
- new commitments taken by the Holder to carry out supplementary works in addition of his initial obligations.

**30.3.** The Holder may also be granted an extension of 2 years maximum in case a discovery is made at the end of the validity period of the Exploration Permit and, the appreciation work foreseen in article 40 herein, can not be carried out during the remaining validity period. This extension concerns only the area of the Exploration Permit confining the discovery.

**30.4.** The extension of the validity period and/or the area foreseen in this article is granted by an arrêté of the Minister in Charge of Hydrocarbons upon

a conform and motivated opinion of the Hydrocarbons Consulting Committee. This arrêté is published in Official Gazette of the Tunisian Republic.

**30.5** The procedure for the application and the processing relative thereto are set by an arrêté of the Minister in Charge of Hydrocarbons.

#### **Article 31.**

The Holder is required to start his exploration activities within the 12 months following the award or the renewal of the permit and to regularly carry on his activities during every validity period.

#### **Article 32.**

The Minister in Charge of Hydrocarbons may, upon a conform opinion of the Hydrocarbons Consulting Committee, authorize the Holder to modify his working program in the course of validity of the Exploration Permit.

However, the expenditures commitments relative to the considered period shall remain unchanged, This modification shall not have any impact on the expenditures commitments relative to this validity period.

#### **Article 33.**

The Prospecting Permit and the Exploration Permit are legally considered movables and are indivisible. The sale of a Prospecting or an Exploration Permit is subject to the conditions defined in article 34 herein.

#### **Article 34**

**34.1.** Any partial or total transfer, in whatever form, by a co-Holder of the rights and obligations attached to his prospecting or Exploration Permit, is proscribed without the prior consent of the Granting Authority.

The prospecting or Exploration Permit can only be transferred, partially or wholly, to a company fulfilling the conditions required by the decision granting the permit and after obtaining the authorization of the Minister in Charge of Hydrocarbons upon conform opinion of the Hydrocarbons Consulting Committee.

However, are waived from the said authorization, the sale between affiliated companies. These sales are subject to a notification to be addressed to the Granting Authority. In such a case, the Granting Authority may require from the seller or the parent company a commitment ensuring the fulfillment of the obligations by the buyer, notably the accomplishment of the minimum working program. In all cases, the transaction shall be subject to a sale and purchase agreement signed between the seller and the buyer.

**34.2.** To case the permit is granted to many Co-Holders and subject to the notification to the Granting Authority, the relinquishment of interests made by one or many CO-Holders in the Exploration Permit shall not result in the cancellation of The permit it the remaining CO-Holders accept to assume the rights and obligations of the relinquishing partner(s). In such a case, the relinquishment is assimilated to a renouncement. In case this option is accepted by the remaining CO-Holders, the subject of the transfer shall be the rights and obligations relative to the remaining period.

**34.3.** In case of total or partial sale, the buyer shall, as from the date the sale is effective, assume all the obligations and be entitled of all the rights relative to the acquired interests, as deriving from the present code, the regulating texts taken for its application and the Particular Convention.

**34.4.** Subject to the authorization of the Granting Authority, the sale becomes effective at the date of signature by the two parties of the sale and purchase agreement. In all the cases, the sale shall be subject to an arrêté of the Minister in Charge of Hydrocarbons authorizing the said transaction. This arrêté is published in the Official Gazette of the Tunisian Republic.

**34.5.** The sale of interests to a company having their main office in, or constituted by virtue of the laws of a county not maintaining diplomatic relations with the Republic of Tunisia is prohibited even in case this company is affiliated to the seller.

**34.6.** The procedures for the application and the processing of the sale authorization request relative to an Exploration Permit are set by an arrêté of the Minister in Charge of Hydrocarbons.

## **Article 35.**

**35.1.** The Exploration Permit Holder is entitled at any lime to relinquish some of the area covered by his permit provided that he notifies to the Granting Authority, the elementary perimeters subject of his relinquishments.

In such a case, the areas to be conserved at the occasions of the renewals are not reduced because of these voluntary relinquishments, the commitments for the minimum working program and the associated expenditures shall not be changed.

**35.2.** Subject to a notification to the Granting Authority, the Holder of an Exploration permit is entitled at any time to shorten the validity period of his permit provided that the commitments relative to the minimum working program and/or expenditures for the same validity period are accomplished.

**35.3.** The area to be conserved and/or the remaining validity period are set by an arrêté of the Minister in Charge of Hydrocarbons.

## **Article 36.**

**36.1.** The Holder of an Exploration Permit may at any time relinquish his permit by virtue of a written declaration provided that the minimum commitments relative to the working program and/or the expenditures for that validity period are accomplished.

**36.2.** In case the commitments for the minimum working program and/or expenditures are not accomplished, the Holder may relinquish his permit by paying to the Granting Authority, a compensating indemnity equal to the difference between the minimum expenditures agreed upon and the expenditures incurred or the amount vended to conclude the minimum working program relative to the considered validity period of the Exploration Permit.

## **Article 37.**

**37.1.** The Exploration Permit may be cancelled if the Holder:

- a. does not fulfill the conditions defined in article 7 of the present code relative to the technical and financial capacities required to the award of permit;
- b. has intentionally given false information in order to obtain an Exploration Permit;
- c. does not fulfill the commitments agreed upon by virtue of article 14 herein;
- d. did not respect the obligations stated by articles 31, 34.1, and 61 of the present code;
- e. refused to assume the rights and obligations of the relinquished interests of a CO-Holder who did not sell the said rights and obligations within the conditions foreseen in article 34 herein;
- f. refuses to communicate the information subject to the provisions of article 63 and 64 of the present code, as appended and developed in the Particular Convention;
- g. refuses to follow the instructions prescribed by the hydrocarbons department Head within the conditions defined in articles 133 and 134 of the present code.

**37.2.** The cancellation is pronounced in the same way and forms used for the award of the Exploration Permit, after a warning notice addressed to the Holder by the Minister in Charge of Hydrocarbons.

**37.3.** The Holder of an Exploration Permit cancelled according to the provisions of the first paragraph of the present article is required to pay to the Granting Authority a compensating indemnity as foreseen in article 36.2 herein in case of relinquishment of the permit.

**Article 38.**

The Holder of an Exploration Permit normally expired, cancelled or relinquished shall not hold again participation, directly or indirectly, in the perimeters subject of this permit during a period of three years after the expiry, cancellation or relinquishment date.

However, the Minister in Charge of Hydrocarbons may, upon the Holder's request and a conform opinion of the Hydrocarbons Consulting Committee, shorten this duration to a minimum of 6 months period.

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**TITLE IV**  
**THE HYDROCARBONS EXPLOITATION**

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**CHAPTER I**  
**THE EXPLOITATION CONCESSION**

**SECTION I**

**The conditions governing the award of an Exploitation Concession**

**Article 39.**

**39.1.** The Exploitation Concession is granted to the Holder of an Exploration Permit in course of validity, fulfilling the conditions foreseen in the present code, the regulating texts taken for its application and the Particular Convention, who discovers within the perimeter of his permit, a hydrocarbons field considered economically exploitable.

**39.2.** The Tunisian State may, within the conditions previously agreed upon in the Particular Convention, authorize any company showing the required technical and financial capacities to exploit a rendered, abandoned or foreclosed concession.

In addition, the Tunisian State may, in the same way and within the conditions previously agreed upon, grant to any company having technical and financial capacities, an Exploitation Concession destined to exploit a hydrocarbons field located out of the area covered by a Prospecting Permit an Exploration Permit or an Exploitation Concession.

**Article 40.**

**40.1.** In case the exploration activities of the Holder lead to a potentially exploitable discovery, the Holder is required to realize, before applying for an Exploitation Concession, an appreciation program within a period not exceeding 3 years in case the discovery's nature is liquid hydrocarbons and 4

years in case the discovery's nature is gaseous hydrocarbons, starting from the date when the discovery is considered potentially exploitable. The said date shall be notified by the Holder and agreed upon by the Minister in Charge of Hydrocarbons.

**40.2** According to this article, a liquid or gaseous hydrocarbons discovery is considered potentially exploitable, if the Holder is able to justify to the Granting Authority, the conclusion of a successful production test.

**40.3.** During the appreciation program foreseen in paragraph 40.1 of this article, the Holder may be authorized by the Granting Authority to carry out some production tests required to embrace the conclusions relative the hydrocarbons producing reservoir behavior and the evolution of the wells productivity, in accordance with the conditions previously agreed upon between the Holder and the Granting Authority particularly concerning the tests duration and the production profile.

**40.4.** The expenses relative to the appreciation phase and the production tests, incurred prior to the Exploitation Concession application date, are accounted for as part of the minimum commitments of expenditures relative to the period covering the performance of the said works.

**40.5.** The hydrocarbons produced and sold during the production tests are subject to the conditions applicable to the hydrocarbons produced by an Exploitation Concession with the exception of the proportional royalty to be perceived, in such a case at a rate of 15%.

#### **Article 41.**

**41. 1** At the end of the appreciation phase, if the Holder estimates that the discovery is economically exploitable, he will be entitled to an Exploitation Concession covering his discovery within the conditions set by the present code, the regulating texts taken for its application and the Particular Convention.

**41.2.** In case the Holder establishes that the discovery is economically exploitable without need to any appreciation works, he may be granted an Exploitation Concession within the conditions slated in paragraph one of this article.

#### **Article 42.**

**42.1.** In case the Holder determines that the hydrocarbons discovery is not economically exploitable on a stand alone basis, the Granting Authority may, in order to make the exploitation economically profitable, authorize the joint operation with other discoveries located in one or many of the Holder's permits.

**42.2.** The Granting Authority may, for the same reasons, authorize the joint operations of hydrocarbons discoveries located in permits owned by different Holders.

## **SECTION II**

**The procedure for the application and the processing relative thereon**

### **Article 43.**

The procedures for the application and the processing relative thereto are set by an arrêté of the Minister in Charge of hydrocarbons.

### **Article 44.**

**44.1.** In order to be entitled to The Exploitation Concession foreseen in article 41 herein, the Holder shall present his application for the concession at least 2 months prior to the parent permit's expiry date and within a period of 12 months after the end of the appreciation or exploration works determining that the discovery is economically exploitable.

**44.2.** The Granting Authority may require the holder to surrender an Exploitation Concession considered economically exploitable, in case he does not proceed with the development of the discovery within the maximum period of six years in case of liquid hydrocarbons and eight years in case of gaseous hydrocarbons starting from the date of the discovery.

For the purpose of this article, the discovery date means the end of the production test period foreseen in article 2 of the present code, relative to the well constituting the discovery showing hydrocarbons accumulation.

In all cases, the Granting Authority may, upon a request made by the parent permit's Holder, prorogate the timeframes set by the present article in case it estimates that the economical conditions do not permit to respect the said delays,

### **Article 45.**

The application for an Exploitation Concession can only be accepted for a perimeter consisting of a full number of elementary perimeters each of one bloc, confining the discovery and entirely located in the parent permit perimeter.

However, is acceptable the application for an Exploitation Concession including portions of elementary perimeters in case one or many of these perimeters are delimited by an international frontier.

#### **Article 46.**

To be receivable, the application for an Exploitation Concession shall include:

- a. a commitment to develop the hydrocarbons field covered by the requested perimeter;
- b. a development plan as defined in article 47 of the present code.

#### **Article 47.**

The development plan mentioned in article 46 herein shall particularly include:

- a. a geological and geophysical study of the field including an estimation of the reserves in place and the proven recoverable reserves;
- b. a reservoir study including the envisioned production methods and the estimated production profile;
- c. an exhaustive study detailing the facilities necessitated by the hydrocarbons production, processing, transport and storage;
- d. an economical study including a detailed estimation of the development and exploitation costs, establishing up the field economic value;
- e. a study stating the needs in personnel along with the plan for the recruitment and training of the local personnel;
- f. a study for the valorization of the liquid hydrocarbons associated substances such as the dissolved or associated gas, the liquefied petroleum gas "G. P. L" and the condensates;
- g. a safety and security study relative to the protection of the personnel, the facilities, the population and the environment against fires and explosions in compliance with the relevant Tunisian legislation and in the absence of such legislation, with the generally accepted safety practices and standards in the petroleum industry;
- h. a timetable for the execution of the development work.

## **SECTION III**

### **The award of the Exploitation Concession**

#### **Article 48.**

**48.1.** The Exploitation Concession is granted by an arrêté of the flimsier in Charge of Hydrocarbons. This arrêté is published in the Official Gazette of the Republic of Tunisia.

**48.2.** The Exploitation Concession is granted for a period of 30 years starting from the date of publication of the relating mete in the Official Gazette of the Republic of Tunisia.

#### **Article 49.**

**49.1.** The Exploitation Concession entities its Holder with the exclusive tight to carry out the exploitation activities within the vertical surface limited by the perimeters of the concession In addition, the Holder may carry out exploration activities aiming at geological horizons other than those composing the subject of the Exploitation Concession as well as appreciation works destined to verify the field extension before or after the beginning of the production.

**49.2.** The Holder of an Exploitation Concession is entitled to use the hydrocarbons produced from this concession, notably in order to export it, subject to the fulfillment of his obligations relative to the payment of the proportional royalty, in case this one is perceived in kind, as foreseen in article 101 herein and subject to the contribution to the supply of the local for market within the conditions defined in article 50 of the present code as completed and developed in the Particular Convention.

#### **Article 50.**

**50.1.** In order to satisfy the Tunisian local consumption, the Granting Authority has a priority right to buy a share of the liquid hydrocarbons produced by the holder or for his account in his Tunisian concessions. The quantities destined to the local market subject of this right are prorated at a maximum rate of 20%

of the quantities produced by each concession The applicable price shall be the FOB normal price obtained by the Holder for his other exporting sales discounted by 10%.

**50.2.** If the Granting Authority decides to exercise its priority right, the Holder is obliged to deliver the concerned quantities within the conditions stated in the notification and according to a procedure to be agreed upon in the Particular Convention. The deliveries, so realized, are considered with regard to the exchange regulations as local sales and are paid in Tunisian dinars without prejudice to the Holder's right to transfer the dinar excess foreseen in article 128 of the present code.

### **Article 51**

The award of an Exploration concession shall automatically result in the cancellation of the Exploration permit within the conceded perimeter. The permit's validity is maintained out of this parameter, the award of the concession shall not modify neither the area to be conserved at the occasions of the renewals nor the minimum working and financial commitments agreed upon for every permit's validity period.

### **Article 52.**

The Holder is required to start the concession development works within 2 years after its institution. Failing to do so, the Granting Authority may cancel the Exploitation Concession and recover it without any indemnity to the Holder.

## **SECTION IV**

### **Various Provisions**

#### **Article 53.**

**53.1** The hydrocarbons fields are immovable. Are also considered immovable, the buildings, the machinery, equipment, and materials installed on the sites and used for the exploitation activity. Are immovable by destination, the machinery, equipment and materials directly affected to the aforementioned activities and not installed on the sites.

**53.2** The immovables defined in this article are not subject to the real estate law relative to the registered properties and shall not be subject to pledge.

**53.3** Are considered as movables, the hydrocarbons produced, the consumables and any other materials, as well as the shares and interests of any company operating in the exploitation activities.

#### **Article 54.**

The exploitation Concession is considered movable. It is indivisible. The sale of an Exploitation Concession is subject to the conditions stated in article 55 of the present code.

#### **Article 55.**

**55.1.** The partial or total sale, in any form, of the rights held by every concession Co-Holder, is prohibited without the prior consent of the Granting Authority.

The Exploitation Concession shall only be sold, totally or partially, by virtue of an authorization granted by the Minister in Charge of Hydrocarbons upon a conform opinion of the Hydrocarbons Consulting Committee. However, the sale between affiliated companies is dispensed from the said authorization. These sales are subject to a prior notification to the Granting Authority.

**55.2.** In case the Exploitation Concession is granted jointly to many Co-Holders, the withdrawal of one or many CO-Holders shall not result in the cancellation of the Exploitation Concession, if the other CO-Holders accept to assume the rights and obligation of the retiring one(s) and notifies it to the Granting Authority. However, are excluded from the transfer to the other CO-Holder(s), the rights to the amortization and to the reimbursement by the

National Enterprise, relative to the retiring Holder's share of expenditures. In such a case, the withdrawal is assimilated to a sale between the CO-Holders of the same Exploitation Concession. This sale is subject to the authorization foreseen in the present article.

**55.3.** Any act concluded in violation of the present article is considered null and void and may cause the cancellation of the Exploitation Concession.

**55. 4.** In case of sale subject to an authorization of the Granting Authority, the National Enterprise is entitled to a preemptive right for the acquisition of the interests subject of the transaction within the same terms and conditions obtained by the seller and which shall be notified to the National Enterprise, at least at the same date the application relative to the sale authorization is filed. In such a case, the National Enterprise shall notify its decision whether to exercise this right within 30 days following the application for sale, otherwise its right is foreclosed.

**55.5.** The case of partial or total sale of the Exploitation Concession, the buyer shall assume all the rights and obligations proportionately to his newly acquired shares as foreseen in the present code and the Particular Convention.

**55.6.** The sale becomes effective at the date of signature by the two parties involved of the purchase and sale agreement subject to the Granting Authority authorization. In all cases, the sale is subject to an authorization granted by an arrêté of the Minister in Charge of Hydrocarbons published in the Official Gazette of the Republic of Tunisia.

**55.7.** Any sale to a company constitutes by virtue of the laws of a country not maintaining diplomatic relations with Tunisia or which main offices are located therein, is proscribed even in case the buying company is affiliated to the seller.

**55. 8.** The modalities for the application for the sale of an Exploitation Concession and the preceding relative thereto are set by an arrêté of the Minister in Charge of Hydrocarbons.

## **Article 56**

The Holder of an Exploitation Concession may at any time:

- a. reduce the area of the concession, subject to a notification to the Granting Authority advising the elementary perimeters to be relinquished;

- b. relinquish the Exploitation Concession within the conditions set by the present code, the regulating texts taken for its application and the Particular Convention.

## **Article 57.**

**57.1.** The Exploitation Concession may be cancelled in the Holder:

- a. does not have anymore the capacities required by the article 7 of the present code;
- b. did not pay the production proportional royalty due in compliance with the present code and the Particular Convention;
- c. refused to assume the rights and obligations of a retired Holder within the conditions set by article 55.2. of the present code;
- d. refused to transmit the information relative to the exploitation required by article 63 and 64 of the present code, as set and appended by the Particular Convention;
- e. refused to respect the instructions prescribed by the hydrocarbons department head within the conditions stated in article 131 and 132 of the present code.

**57.2.** The cancellation is pronounced in the same way and form applicable To the award of an Exploitation Concession, after an official warn notified to the Holder by the Minister in Charge of Hydrocarbons.

## **Article 58.**

**58.1.** Once the Exploitation Concession is expired, relinquished or cancelled, it shall go back to the Granting Authority without waiving the Holder from his obligations particularly those foreseen in the articles 118 to 123 of the present code.

The immovables foreseen in article 53.1 of the present code shall also be , sold to the Granting Authority within the conditions set by the Particular Convention.

**58.2.** However, at the expiry of the Exploitation Concession, the Holder is entitled with a preemptive right to continue the exploitation within the same clauses and conditions acceptable to the Granting Authority if it has to contract with a third party.

This preemptive right shall be exercised by the Holder within 60 days after the notification by the Granting Authority of the said clauses and conditions.

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## CHAPTER II

### THE COMMON OBLIGATIONS APPLICABLE TO ALL THE HOLDERS

#### Article 59.

**59.1** The Holder of a Prospecting Permit, an Exploration Permit and/or an Exploitation Concession is required of carry out his exploration and exploitation activities in compliance with the applicable legislation and regulations relative to the technical scope, the security, the protection of the environment, agricultural lands, forests and water of public domain. In the absence of an applicable legislation, the Holder shall comply with the rules, criteria and sound practices in use in the petroleum industry in similar environment.

**59.2** The Holder is also required to:

- a. carry out an environmental impact study in compliance with the application legislation and regulations and which shall be agreed upon, prior to any exploration and exploitation phase.
- b. take all the measures in order to protect the environment and to respect the commitments taken in the impact study as agreed upon by the Granting Authority.
- c. contract insurance policies covering his civil responsibility in case of damages caused to third parties estates because of his activity including notably the risks of damaging the environment.

**59.3.** The Holder is required as well to

- a. take the immediate measures to protect human lives and the environment in case of emergency due to extraordinary circumstances provoked by natural phenomenon or his activities;

Failing to do so, the Granting Authority may take the said measures in lieu and place of the Holder. In such a case, the Holder shall reimburse all the expenditures relative thereto.

- b. In order to face the emergencies:

- to have, in sufficient quantities in place, and pollution and fire fighting products and equipment as well as first care medicines and safety means to be used for accident victims;
- to work out safety and emergency plans covering all the exceptional situations that may arise on the working site or the legal dependencies.

A copy of the said plans shall be provided to the Granting Authority and the Competent Authorities to work out marine and pollution emergency plans in face minor pollution problems occurring within the harbours of the petroleum terminals or in the surrounding areas of the exploration and production platforms in compliance with the applicable regulations.

These plans are submitted for approval to the Competent Authority in charge of Hydrocarbons and the Environment.

**59.4.** The Holder is also required to inform the Department Head in charge of the hydrocarbons and the Competent Authority in charge of the environment and pollution, about any pollution occurring in his working sites or its legal dependencies.

The Holder is required to inform the Fire Department, the department Head in charge of Hydrocarbons, the Competent Authorities in charge of Security, health and working accidents, about any serious accident occurred in his working sites and their legal dependencies.

#### **Article 60.**

Upon the Granting Authority's request, the Holder is required to have his production facilities certified by an independent bureau agreed upon by the Granting Authority, in compliance with the applicable legislation and regulations, the rules, criteria and sound practices in use in the international petroleum industry.

#### **Article 61.**

At the expiry of an Exploration Permit, by maturity of the list validity period, by cancellation, relinquishment or by the discretionary decision of the concession Holder taken in compliance with article 118 herein, the Holder of an Exploration Permit, a Prospecting Permit or an Exploitation Concession is required to restore the rendered area and the working sites to their initial condition and that no prejudice shall occur on short or long term basis to the people's safety, the environment, the resources, in compliance with the applicable legislation and regulations.

The abandonment, dismantlement, and the removal of the offshore facilities as well as the restoration of the marine sites shall comply with the applicable Tunisian legislation and regulations and to the international standards and conventions notified by the Tunisian State.

The Holder is required to present an abandonment plan setting the conditions for the abandonment and the site restoration This plan shall be approved jointly by the Competent Authorities in charge of the Hydrocarbons and the Environment.

## **Article 62.**

**62.1.** The Holder is considered defaulting to the obligations stated by this code in case he is unable to proof that the said default is due to a force majeure case.

The case of a force majeure case, the Holder is entitled to suspend the execution of his obligations during the period when he is partially or totally impeded from the fulfillment of the said obligations. The force majeure cases shall be outlined in the Particular Convention.

## **62.2.**

- a. Insofar as is compatible with the good accomplishment of his activities, the Holder shall hire in priority the Tunisian personnel In case of unavailability of the Tunisian personnel, he may be authorized temporarily by the Granting Authority to hire expatriates.

To this effect the Holder Is required to provide training to the Tunisian personnel in all specialties necessitated by his activities according to The training plan subject to the prior approval of the Granting Authority.

- b. All prices, qualities and delivery times being comparable, the Holder is requited to use in priority, materials and equipment made in Tunisia Tunisian service companies and subcontractors.

## **Article 63.**

The Holder of a Prospecting Permit, Exploration Permit and/or an Exploitation Concession is required to transmit to the Granting Authority all the geological, geophysical, hydrological, drilling and exploration information in his possession.

This information, with the exception of the one pertaining to general statistics, general geology and hydraulic resources inventory shall not be made public or transmitted to third parties without the prior consent of the Holder.

However, this consent ceases to be mandatory in case the information is pertaining to permits and/or concessions rendered to the Granting Authority.

#### **Article 64.**

**64.1.** The Holder is required to provide the Granting Authority according to a format to be agreed upon by the latter, a quarterly report as well as an annual report concerning the activities and the expenditures incurred within the annual programs and budgets transmitted to the Granting Authority.

**64.2.** The Holder is required to transmit all material and service contracts exceeding an amount to be determined by the Particular Convention. The Granting Authority may ask the Holder to provide the supporting documents of the expenditures including those Incurred by the parent company and/or its affiliated companies.

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### **CHAPTER III**

#### **SPECIAL PROVISIONS FOR THE GASEOUS HYDROCARBONS**

##### **SECTION I**

##### **The use of the gas**

#### **Article 65.**

The priority order for the natural gas utilization is as follows:

- a. the Holder's own use on the extraction sites for his processing units and his production and/or re-injection operations in the Holder's fields;
- b. the consumption needs of the local Tunisian market;
- c. the exportation as is, or after transformation into derivative substances.

#### **Article 66**

**66.1** The Holder is free to use his share of the natural gas produced after satisfaction of the needs mentioned in paragraph a) and b) of article 65 of the present code, notably to export it as is or after transformation in derivative substances.

**66.2** The Holder may realize an isolated gas exporting project relative to a gas field, gather in an integrated project all his gas fields destined to the

exportation or enter into an association with other Holders to jointly realize a gas exporting project.

### **66.3.**

- a. The Holder is authorized to use the gas, the crude oil and other byproducts extracted to produce the electricity for the exclusive use of his own working sites. Any excess of energy produced can be sold to a power distribution organism designated by the Granting Authority according to the modalities defined in the Particular Convention.
- b. The Holder of an Exploitation Concession may be authorized to valorize the gas produced by his hydrocarbons fields in view of producing electricity and sale it exclusively to a power distribution organism designated by the Granting Authority.

The conditions and modalities ruling the award of the electricity production concession are set by decree.

### **Article 67.**

**67.1.** The natural gas of national origin is granted a privileged access to the local market insofar as it is permitted by the local demand.

The commercialization in the local market of any gas production produced out of a national field is guaranteed insofar as it is permitted by the local demand.

**67.2.** Any increase in the local demand, which can be economically satisfied by the natural gas, is reserved to the following productions with the following order of priority:

- a. the production of established I holders having a binding program and reciprocal commitments of production and commercialization with the Granting Authority;
- b. the production of the new fields for the determination of the priority right of the local market access. The formal notification date relative to the evaluation of the discovery foreseen in article 63 of the present code is the official one to be considered, within the limits of the quantities so notified.

**67.3.** In case of simultaneous discoveries, the available commercialization possibilities are apportioned between the applicants proportionally to the recoverable reserves, as notified to the Granting Authority, unless one of the applicants desists his application in favor of the other. The desisting Holder shall have a priority order with regard to any new applicant.

## **Article 68.**

**68.1** As soon as the Holder is able to provide a binding evaluation of the reserves in place and the gas production estimates relative to a discovery considered by him potentially exploitable, he shall notify that information to the Granting Authority in view of the determination of the guarantee relative to the quantities to be sold in the local market.

**68.2.** Within 6 months of that notification, the Granting Authority informs the Holder about the quantities guaranteed to be sold in compliance with the conditions defined in the present code, The Granting Authority's commitment is valid only in case the Holder starts his appreciation program foreseen in article 69 within a 6 months period and notifies his development decision within a 4 years period as from the discovery notification date.

**68.3.** In addition, the Holder is required to inform the Granting Authority about any new matter that may have a material impact on the binding evaluation of the reserves in place and the productions estimates, otherwise the commercialization guarantee foreseen in article 68.2 of the present code is null and void. He is required to complete this information, as soon as possible, by a revised notification based on a new binding evaluation, as foreseen in paragraph 68.1 of this article in order to benefit from a commercialization guarantee considering the revised evaluation.

## **Article 69.**

**69.1.** As soon as an agreement on the production and commercialization program foreseen in article 68 of the present code is concluded between the Granting Authority and the Holder, the latter is required to carry out on his account, a complete appreciation program of the gas discovery in the delays foreseen in article 40 of the present code, at the end of which, he shall remit to the Granting Authority a technical and economical report including the items mentioned in the development plan foreseen in article 47 of the present code.

**69.2.** The Granting Authority may have the proven reserves and the projected production profile, certified on its own account, by a bureau of independent consultants of its choice, in which case, the holder is required to provide the bureau elected by the Granting Authority with all the necessary information and the basic documents.

## **SECTION II**

### **The sale to the National Enterprise**

#### **Article 70.**

**70.1.** If, by the 4 years period following the discovery insuring the production of gas quantities economically exploitable, after satisfaction of the Holder's own needs, the development decision is not notified by the Holder, the Granting Authority may require the Holder to transfer the discovery to the National Enterprise.

**70.2.** As compensation, the National Enterprise shall pay the Holder, on an annual basis, 20% of the exploitation net income calculated, for the sales, on the basis of the sale price defined in article 73 of the present code and for the expenses, on the basis of the development and exploitation expenses incurred by the National Enterprise to operate the field.

**70.3.** The National Enterprise is waived from any obligation toward the Holder when these payment reach a maximum of one and a half times the expenses incurred by the Holder which are directly linked to the gaseous discovery, or when these payments do not reach that maximum at the end of the exploitation.

**70.4.** Are considered as expenses directly linked to the discovery:

- a. the appreciation expenses consecutive to the identification of the productive structure;
- b. the costs of the well(s) concluding the identification of the structure and the costs of the well(s) which, although drilled after the first hydrocarbons shows are destined to determine the limits of the considered structure;
- c. a portion of the geological, geophysical or other expenses incurred in the permit This portion is proportional to the number of the wells drilled in connection with the considered structure, with regard to the total number of the exploration wells drilled in the permit by the date of the transfer of the discovery to the National Enterprise.

**70.5.** The Holder has the option to renounce to the reimbursement of the lump sums defined above and elect for the amortization of the whole cost incurred by him against future discoveries.

## **Article 71.**

**71.1.** In case the Holder did not foresee in his development plan, defined in article 47 of the present code, the valorization of the associated gas and the dissolve gas, the Granting Authority may require from the Holder to buy this gas free of charges at the outlet point of the hydrocarbons separation and processing facilities without any additional investment by the holder. Upon request of the Granting Authority, the Holder is required to add to his facilities, some additional equipment allowing the recuperation of the gas. The investment expenses so incurred are for the Granting Authority's account.

**71.2** In case the Holder does foresee in his development plan defined in article 47 of the present code, the valorization of the associated gas and the dissolved gas, but to the contrary to the work calendar foreseen in the same article, does not start the relating work within a 2 years period starting from the date foreseen in the said calendar, the Holder shall be required, upon the Granting Authority's request to sell this gas free of charge to the National Enterprise which, in such a case, shall cover for the costs of the transformations to be made to the Holder's facilities.

## **SECTION III**

### **The local market sales**

#### **Article 72.**

**72.1.** In case the Granting Authority and the Holder agree on the development of a gaseous discovery wholly or partially destined to the local market, a supply contract shall be concluded, under the patronage of the Granting Authority, between the Holder and the gas distribution enterprises(s) designated by the Granting Authority.

**72.1.** The gas supply contract shall define the parties obligations with regard to the commercial gas deliveries and takeoffs. These obligations are concluded between the buyer and the seller on a reciprocity and equity basis.

The contract shall particularly determine, the contract's duration, the quantities, the quality standards and the delivery point of the commercial gas.

In case the contract is concluded for a long term period and the development of the discoveries is mainly destined to the local market, the contract may include, upon the Holder's request, a provision obliging the buyer to pay part of the price in case of short takeoff contractual quantities.

In such a case, the contract shall include a reciprocal obligation to gas supply or payment of a compensation to the buyer in case of short deliveries of the contractual quantities.

This obligation to compensate is limited to 3 consecutive years. In case of persistence of the delivery shortages beyond the 3 years period, the buyer will be waived from the payment of the gas not taken off.

**72.3.** The payment of the local market gas deliveries is made in Tunisian dinars and in foreign currencies in a proportion to be set by the sale and purchase agreements concluded between the Holder and the Tunisian gas distribution enterprise(s)

#### **Article 73.**

**73.1.** The Granting Authority, shall guarantee the sale in the local market of the commercial gas at a price to be set by decree. The said price is determined for a commercial gas delivered at the entry point of the main gas transportation network operated by the Tunisian gas distribution enterprise(s)

designated by the Granting Authority. In case the delivery point is ahead, the sale price is adjusted accordingly.

**73.2.** The price is valid to a combustible gas, however, if the gas is used as raw material, the gas price is determined by a mutual agreement between the Holder and the Granting Authority so that the Holder gets a fair compensation considering the economical constraints of the industry using this gas. The Holder may ask the Granting Authority to set the said price, prior to proceeding with the appreciation and the development of the discovery.

#### **Article 74.**

##### **74.1.**

- a. The Holder may extract the gas derivatives or the associated substances such as the gasoline and the petroleum liquefied gas (G. P. L.), provided that such extraction is compatible with the contractual requirements of the gas buyer permitting a continuous supply and guaranteeing the specifications of the commercial gas.
- b. The execution of each project phase mentioned above shall be subject to an environment impact study agreed upon by the Granting Authority prior to any execution.

**74.2.** The gasoline is considered as liquid hydrocarbon and may be blended with the other liquid hydrocarbons except in case of a motivated interdiction by the Granting Authority.

**74. 3.** The liquefied petroleum gas (G.P.L.) is considered as liquid hydrocarbon and may be sold in the local market. The sale price of the GPL delivered at the earnest Tunisian port is equal to the actual international exporting price applicable in the Mediterranean in case of a F. O. B. exportation In case of delivery ahead, the sale price is adjured accordingly.

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## **CHAPTER IV**

### **THE TRANSPORTATION OF THE HYDROCARBONS BY PIPELINES**

#### **Article 75.**

**75.1** The transportation by pipelines of the gaseous, liquid or pressurized hydrocarbons shall be compliant with the legislation and regulations in vigor applicable to the protection of the environment the resources preservations,

the prevention of accident and to third parties protection as well as with the technical and safety standards applicable to the construction and the exploitation of pipelines and the accessory facilities.

**75.2.** Any construction used for the transport of hydrocarbons for the development or the exploitation of one or many concessions owned by the constructions owners and authorized by the Granting Authority in compliance with the present code, is admitted to benefit from all the provisions applicable in matter of servitude by the applicable legislation and regulations in favor of the constructions of public interest for the hydrocarbons transportation.

#### **Article 76.**

The construction of pipelines destined to the transportation of the hydrocarbons and the exploitation thereof are subject to the Granting Authority's authorization rendered upon the opinion of the concerned Competent Authorities and the approval of the environment impact study by the Environment Competent Authorities, in case of refusal of the authorization, the administration shall notify to the Holder the reasons being of this refusal.

#### **Article 77.**

The Co-Holders of an Exploitation Concession are required to unite in an association to insure jointly the transportation of the hydrocarbons extracted from the same concession.

#### **Article 78.**

The Holders of Exploitation Concessions may unite in an association to insure jointly the transportation of the hydrocarbons extracted from their concessions, within the conditions defined in paragraph 79.1 hereinafter.

#### **Article 79.**

**79.1.** In case of association of Holders as foreseen in article 78 above, the itinerary and the characteristics of the pipeline shall be set to insure the collection, transport and evacuation of the fields' productions within the best technical and economical conditions.

**79.2.** In order to respect the provisions stated in article 79.1 above, it is stipulated the following:

- a. in case two or many discoveries are made in the same geographical area, the Granting Authority may, in the absence of an amicable agreement between the Exploitation Concession Holders, mandate these ones to unite into an association aiming at the joint construction

and the exploitation of pipelines and facilities necessitated to evacuate the productions of such Exploitation Concessions;

- b. in case of discovery made within a geographical with existing pipelines and facilities in operation, the Granting Authority may, in the absence of an amicable agreement between the Exploitation Concessions Holders, mandate these ones to unite into an association aiming to strength the existing pipelines and facilities in order to joint operate them for the evacuation of the totality of the productions of the Exploitation Concessions.

## **Article 80.**

**80.1.** The Holder operating authorized transportation pipelines within the provisions slated in article 76 herein, may, in the absence of an amicable agreement, be obliged by the Granting Authority to accept within the limits and for the duration of his capacity in excess the transportation of hydrocarbons having a quality compatible with his own production, produced from concessions other than the ones instigating the construction of the said pipelines.

**80.2.** This transportation for third party's benefit shall not be subject to any discrimination notably in matter of applicable rates. The Holder shall accomplish this transportation in the same conditions of quality, regularity, and flow as the ones applicable to his own production.

**80.3** The Granting Authority may authorize public or private legal beings to construct and operate storage facilities and hydrocarbons transport pipelines for the account of Holders.

**80.4** The services rendered to exploitation Concession Holders by the operator of storage facilities and hydrocarbons transport pipelines, shall benefit from the exoneration granted to the Holders' subcontracting companies foreseen in the Particular Convent ion and the applicable provisions of the present code.

## **Article 81.**

**81.1.** The transport of hydrocarbons produced from an Exploitation Concession shall not constitute a commercial transaction for the concession Holder. The storage and transport facilities realized by the Holder within or outside his concession's limits for the sake of developing or operating the concession, are deemed to be integral pare of the production facilities. The costs associated with the operating and the maintenance of the facilities and the pipelines as well as the amortization of such facilities and pipelines are considered as current exploitation expenses deductible from the exploitation gross margin generated by the said Exploitation Concession. No profit margin

shall be included in the calculation of the aforementioned current exploitation costs incurred for the Holders account.

**81.2.** In the Production Sharing Agreement regime mentioned in article 97 herein, the repayment of the costs associated with the facilities and the pipelines shall be done in compliance with article 98 paragraph "d" herein.

## **Article 82.**

**82.1.** The transportation rates applicable to the production of fields other than the ones owned by the Holder, are established by the Holder and submitted to the Granting Authority for approval. These rates include notably, for a determined ratio of the facilities utilization, a margin destined to cover the amortization of the facilities and pipelines and a profit margin, comparable to the ones generally accepted in petroleum industry applicable to facilities and pipelines operating in similar conditions.

**82.2.** The rates mentioned in this article shall be transmitted to the administration, at least two months prior to their application. During this period the administration may disapprove the proposed rates. In case of an important variation of the aggregates composing these rates, the Holder is entitled to revise his rates according to these variations and submit them to the administration for approval.

**82.3** The Holder, performing transport operations for the account of other Holders in compliance with the provisions of the present title, is required to treat, for tax purposes, these operations as exploitation activity relative to his Exploitation Concession(s). The fiscal treatment is subject to the Granting Authority approval prior to its application.

## **Article 83.**

The provisions of the present chapter are not applicable to the facilities and pipelines constructed within the perimeter of an Exploitation Concession for its own use.

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## TITLE V

### THE RIGHTS ATTACHED TO THE HYDROCARBONS PROSPECTING, EXPLORATION AND EXPLOITATION ACTIVITIES

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#### **Article 84.**

Subject to the particular legislation and regulations applicable to the matters treated hereinafter, and within the conditions stated by the present code, the Holder of a prospecting or Exploration Permit and/or Exploitation Concession may:

- a. occupy the lands needed for the execution of the works forming part of his exploration and exploitation activities, including the activities mentioned in paragraph b) and c) of this article;
- b. carry out either by himself or by proxy infrastructure works needed for the accomplishment, within normal economical conditions, of the operations associated with the exploration and exploitation activities, notably the transport of materials, equipment and extracted substances, including the transport by pipelines mentioned in chapter four of title four herein;
- c. carry out either by himself or by proxy drillings and works needed to supply water to the personnel, the operations and the facilities;
- d. take and use either by himself or by proxy the substances extracted from the private domain of the state or other local collectivities, which might be needed for the accomplishment of the activities mentioned in this article.

#### **Article 85.**

Private lands can only be occupied by virtue of a written consent of the landowner.

However, failing to reach an amicable agreement, the holder may be authorized, by an arrêté of the Minister in Charge of Hydrocarbons rendered after the audition of the landowner, to occupy temporarily the lands Deeded for the accomplishment of the works mentioned in article 84 herein.

The arrêté subject of the authorization is notified to the landowner upon the Holder's diligence by extra-Judiciary means and becomes immediately executable. However, the occupation of any land confined by walled barriers is imperatively subject to the written consent of the landowner.

### **Article 86.**

**86.1** In case of occupation of private lands as foreseen in article 85 herein the landowner is entitled to a compensation payable in advance, which, failing to reach an amicable agreement, is set annually at twice as much the land's lease value at the time of the occupation.

The objections relative to the amount of such compensation are taken to court which verdicts are always executable notwithstanding appeal. The occupation shall only happen after payment of the compensation of entrusting the amount with the General Treasury.

The Holder is required, in addition, to repair the damages caused to the property or to compensate the landowner for any damage resulting from the accomplishment of his activities.

**86.2** In case the occupation of the lands lasts more than three years, hence impeding the owners from their utilization, these ones may oblige the Holder to buy the concerned lands. The acquisition price shall be, in all cases, set at twofold the market value of the lands at the date of occupation.

The objections relative to the acquisition price are taken to court which verdicts are executable by immediate payment, notwithstanding appeal. The occupation of the lands is permitted only upon payment of the said compensation or its entrustment in the General Treasury.

**86.3.** If, at the end of the activities, the occupied lands are that much damaged or spoiled that they become improper to their use of origin the Holder is required to repair the damage, or to pay to the landowner a compensation destined to cover for the suffered prejudice. This compensation shall not exceed twofold the market value of the said lands, in such a case, any objection relative to the amount of the compensation is taken to court.

**86.4.** In case of public or private works resulting in physical removal or modification of the existing facilities of the Holder, this one is entitled to an indemnity compensating the suffered prejudice. Failing to reach an amicable agreement, this indemnity is assessed by court upon an evaluation made by

an independent expertise mandated to this regard by the competent magistrate.

### **Article 87.**

The wells shall not be drilled at a distance closer than 50 meters from households, buildings or other constructions and from affixed lands confined by walled barriers without the consent of the owners. Failing to reach an amicable agreement, the authorization procedure mentioned in article 85 herein, may be applicable.

However, the Holder is required, prior to the execution of the drilling works to submit to the approval of the Granting Authority the measures taken to ensure the safety of these buildings and their tenants.

### **Article 88.**

Subject to the provisions of the forest code, the special provisions ruling the state owned lands of agricultural vocation, the provisions ruling the maritime public domain and third parties rights, the Holder of a Prospecting Permit or an Exploration Permit and/or an Exploitation Concession may, upon the Granting Authority authorization, occupy for the needs of his activities mentioned in article 84 herein, the state owned lands as well as the maritime public domain according to the general conditions in vigor at the date of occupation.

However, no hydrocarbons prospecting, exploration and exploitation activity shall be earned out in the military public or private domain without the prior authorization of the Minister in Charge of National Defense.

The aforementioned authorization set the specific rules to be observed during the accomplishment of these works.

### **Article 89.**

The Granting Authority is entitled with the right to use, for its public services, all the roads or paths constricted by the Holder for the needs of his own activities.

### **Article 90.**

In case the accomplishment to the Holders operations necessitates a permanent occupation, as foreseen in article 85 herein the lands subject of the said occupation may, failing to reach an amicable agreement, be subject to an expropriation in favor of the Tunisian State and be conceded afterwards to the Holder in compliance with the legislation relative to the expropriation for cause of public utility.

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**TITLE VI**

**THE SPECIAL REGIME OF THE NATIONAL ENTERPRISE  
PARTICIPATION**

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**Article 91.**

Every applicant for a hydrocarbons Exploration Permit in Tunisia shall offer in his application, an option for the National Enterprise to participate in each Exploitation Concession within the conditions set by the present code.

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**CHAPTER I**

**THE PARTICIPATION**

**Article 92.**

An Exploration Permit shall be granted to a company only if the latter is associated with the National Enterprise. The participation interests of the National Enterprise is set in the Particular Convention.

However, the prospecting and exploration activities are realized on the sole account and at the exclusive risk of the partner(s) of the National Enterprise.

**Article 93.**

**93.1.** The participation, mentioned in article 92 herein, may take the form of a participation association or a participation in the capital of a company constituted by virtue of the Tunisian laws having its main offices in Tunisia, or any other form of participation, subject to the provisions of paragraph 93.1 herein.

**93.2.** In all the cases, the agreements relative to the participation form of the National Enterprise and to the conditions and modalities of its application, are submitted to the prior approval of the Granting Authority otherwise they are null and void. These contracts are designated by particular agreements.

**93.3.** The particular agreements are approved upon a decision of the Minister in charge of the hydrocarbons the appending and/or modifying amendments are approved within the same forms.

This decision is simultaneously notified to the National Enterprise and its partners.

#### **Article 94.**

**94.1** The National Enterprise has an option to participate in any Exploitation Concession at a discretionary rate not to exceed the maximum rate agreed upon in the Particular Convention.

**94.2** The participation option is raised by the National Enterprise within the six months period following the application for an Exploitation Concession or any other subsequent date agreed upon in the Particular Agreements.

**94.3** The decision to participate is subject to a written notification addressed by the National Enterprise simultaneously to its partner(s) and the Granting Authority.

#### **Article 95.**

As soon as the decision to participate to an Exploitation Concession is notified, the National Enterprise shall pay its share of the expenditures relative to the exploitation activities, according to its participation percentage in the said Exploitation Concession.

#### **Article 96.**

**96.1.** In case of participation to an exploitation Concession, the National Enterprise shall pay back its share of the expenditures initially incurred by the Holders on its sole risk which are not yet amortized at the date of the notification of the National Enterprise participation.

**96.2.** The concerned expenditures are the sum of:

- a. the expenditures relative to the exploration activity incurred by virtue of the Exploration Permit, increased, if any, by the expenditures relative to the Prospecting Permit incurred in the Prospecting Permit in case this one is transformed in an exploration Permit between the date of institution of the exploration or the Prospecting Permit and the date of

the application for a concession if it is not the first Exploitation Concession and between the date of the application for the precedent concession and the date of application for the concerned Exploitation Concession, if it is not the first Exploitation Concession;

- b. the development expenditures relative to the Exploration Concession since the date of application for the Exploitation Concession until the notification date of the National Enterprise participation.

**96.3.** The exploration and appreciation expenditures incurred in a Exploitation Concession, in which the National Enterprise has elected to participate, are for the account of its partner(s) and the National Enterprise share of the said expenditures shall be reimbursed in case the National Enterprise participates to the complementary development of the considered exploitation Concession in compliance with the conditions and modalities set in the Particular Agreements.

**96.4.** The National Enterprise pays back its share of the aforementioned expenditures by the equivalent value of a percentage of its share of the production in compliance with the modalities set in the Particular Agreements.

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## **CHAPTER II**

### **THE PRODUCTION SHARING AGREEMENT**

#### **Article 97.**

Within the framework of its exploration and exploitation activities, the National Enterprise may enter into service contracts called "Production Sharing Agreement". Each agreement signed with a contractor shall, in order to be valid, be subject to the prior approval of the Granting Authority. The modifying and/or appending amendments shall as well be subject to the approval of the Granting Authority.

#### **Article 98.**

The Production Sharing Agreement, is concluded notably on the basis of the following principles:

- a. the Exploration Permit as well as the Exploitation Concessions deriving therefrom, are granted to the National Enterprise;

- b. the National Enterprise, acting as the Holder, concludes a Production Sharing Agreement with a contractor demonstrating the possession of the financial resources and the technical experience necessitated for the accomplishment of the exploration and exploitation activities. This contractor may be either a company, or a group of companies with one acting as an operator and assuming the related responsibilities;
- c. the contractor finances at his sole risk the totality of the exploration and exploitation activities for the account and under the control of the National Enterprise;
- d. in case of production of hydrocarbons, the National Enterprise transfers to the contractor a portion of the said production to the extent of a percentage limit set by the production Sharing Agreement destined to cover the expenditures incurred by the contractor for the accomplishment of this agreement;
- e. in addition, the National Enterprise transfers to the contractor, as a compensation, a percentage of the remaining production agreed upon in the said agreement.

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## **CHAPTER III**

### **THE REGIME APPLICABLE TO THE NATIONAL ENTERPRISE**

The National Enterprise is entitled for the hydrocarbons prospecting, exploration and/or exploitation activities earned out solely or in association under the special regime or differently to all the rights and is subject to all the obligations set by the present code and by the regulating texts taken for its application.

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**TITLE VII**  
**FISCAL AND CUSTOMS REGIME, EXCHANGE AND FOREIGN TRADE**  
**REGULATION**

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**CHAPTER I**  
**FISCAL AND CUSTOMS REGIME**

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**SECTION I**  
**Fiscal regime of the Holder**  
**Sub-section I**  
**Common taxes, duties, and levies**

**Article 100.**

The Holder of the prospecting permit, the exploration permit and/or the exploitation concession and every contractor and subcontractor hired by the holder either directly by contract or indirectly by subcontract are subject during the execution of their prospecting, exploration and exploitation activities in Tunisia to the following rights, duties and taxes within the following conditions:

- a. Fixed registration tax for the Particular Convention, appendixes, and for the associated amendments, additional acts, particular agreements or Production Sharing Agreements concluded pursuant to the said Particular Conventions.
- b. Fixed registration tax for all the supply, work and service contracts associated with all the activities of the holder exercised within the framework of the said Particular Conventions and dealing with the exploration and exploitation of hydrocarbons.

- c. Payments to the Tunisian State, local collectivities, public agencies, public and private organizations, and concessionaires of public services, in remuneration of the direct or indirect utilization by the Holder of public roads, various networks and other components of the public or private domain, in compliance with the terms and conditions of utilization defined by the Particular Convention.
- d. Tax on industrial, commercial and professional establishments due to the local collectivities commonly known as TCL tax.
- e. Tax on buildings.
- f. Tax on customs services (RPD) and tax on electronic data processing due on imports and taxes. Payments made for tax on customs services (RPD) on exports of hydrocarbons produced by the holder or for his account is considered as an advance on the corporate tax mentioned in paragraph 101.3 of the present code due for the fiscal year of the RPD payment or future fiscal years in case of tax credit.
- g. The duties, taxes and levies paid by the suppliers of services, goods, equipment, materials or finished goods and raw material which are normally included in the purchase price, excluding however, the VAT tax.
- h. Transportation and road taxes.
- i. Tax on the insurance contracts.

### **Article 101.**

The holder of the prospecting permit, the exploration permit and/or the exploitation concession is subject during the execution of their prospecting, exploration and exploitation activities in Tunisia to the following rights duties and taxes.

**101.1.1** A fixed tax equal to the hourly minimum wage (SMIG) applicable to ordinary laborer for every full elementary perimeter included in the holders hydrocarbon title defined in article 13 of this code and payable every time the holder files a request for the institution or the renewal of a hydrocarbon title or for the extension of the area with the exception of the authorization for prospecting.

**101.1.2** A fixed tax by hectare included in the hydrocarbon concession, equal to the hour minimum wage applicable to ordinary laborer, to be paid by June 30 of every year. This tax is multiplied by 5 for inactive or non exploited concession.

The tax stated by this article is set by an arrêté of the Minister in Charge of Hydrocarbons in compliance with the provisions of the 1st paragraph of the present article. The holder of the exploitation concession is required to provide by March 31 of every year, a annual declaration stating all the information covering the production and the sales of hydrocarbons as well as the exploitation expenses relative to the previous year.

The tardy payment of the said tax will result in the application of dilatory interests applicable to the individual income tax and corporate tax code.

**101.2.1** A royalty proportional to the quantities of hydrocarbons produced by the holder, paid in kind or in cash as preferred by the Granting Authority and under the conditions stated by the Particular Convention.

In order to determine the proportional royalty to be paid, are excluded from the annual production, the quantities consumed by the holder for his exploitation's use or injected in the field.

**101.2.2** The methods of measurement of the hydrocarbons to be used as basis for the calculation of the proportional royalty, the perception point and the delivery point are defined in the Particular Convention.

**101.2.3** The proportional royalty is, for every co-holders, function of the ratio (R) of accrued net earnings to total accrued expenditures relative to every exploitation concession and to the parent exploration permit for the application of the present article:

- The term "accrued net earnings" means the sum of the sales of all fiscal years, including the present one, reduced by the amount of tax and levies due or paid during all the fiscal years previous to the present one and relative to the considered concession.
- The term "accrued total expenditures" means the sum of all the expenses relative to the exploration activities performed in the permit in addition to the prospecting expenses if any and all the development and exploitation costs for the considered concession, except for taxes and levies due or paid by the Holder for the exploitation thereof.

However, the exploration expenses incurred pursuant to article 49.1 of the present code are imputable only to the considered concession. The exploration expenses incurred in the permit including the prospecting expenses, if any, considered for the determination of the (R) factor for a given concession shall not be

considered for the determination of the said (R) factor for other concessions.

Any depreciation, depletion and amortization costs shall not be considered for the termination of the aforementioned accrued total expenditures.

**101.2.4** The proportional royalty rate varies according to the (R) factor as follows:

a. for liquid hydrocarbons:

- 2 % for R less than or equal to 0.5
- 5 % for R exceeding 0.5 and less than or equal to 0.8
- 7 % for R exceeding 0.8 and less than or equal to 1.1
- 10 % for R exceeding 1.1 and less than or equal to 1.5
- 12 % for R exceeding 5 and less than or equal to 2.0
- 14 % for R exceeding 2 0 and less than or equal to 2.5
- 15 % for R exceeding 2.5

b. for gaseous hydrocarbons:

- 2 % for R less than or equal to 0.5
- 4 % for R exceeding 0.5 and less than or equal to 0.8
- 6 % for R exceeding 0.8 and less than or equal to 1.1
- 8 % for R exceeding 1.1 and less than or equal to 1.5
- 9 % for R exceeding 5 and less than or equal to 2.0
- 10 % for R exceeding 2 0 and less than or equal to 2.5
- 11 % for R exceeding 2.5 and less than or equal to 3.0
- 13 % for R exceeding 3.0 and less than or equal to 3.5
- 15% for R exceeding 3.5

However, in case the National Enterprise decides not to participate to a given concession, the proportional royalty rate applicable to the considered concession shall not be less than 10% for liquid hydrocarbons and 8% for gaseous hydrocarbons.

**101.3** An income tax function of the aforementioned (R) factor. The income tax rates are the following:

c. for liquid hydrocarbons:

- 50% for R less than or equal to 15
- 55 % for R exceeding 5 and less than or equal to 2.0
- 60 % for R exceeding 2 0 and less than or equal to 2.5
- 65 % for R exceeding 2 5 and less than or equal to 3.0

70 % for R exceeding 3.0 and less than or equal to 3.5  
75% for R exceeding 3.5

d. for gaseous hydrocarbons:

50% for less than or equal to 2.5  
55 % for R exceeding 2.5 and less than or equal 3.0  
60 % for R exceeding 3.0 and less than or equal 3.5  
65% for R exceeding 3.5

However, in case the participation rate of the National Enterprise, in a given concession in accordance with the provisions of title 6 chapter 1, is equal or exceeding 40%, the income tax rate applicable to the considered concession is set at 50%.

**101.4** The modalities of the determination and the application of the (R) factor will be defined by decree.

## **Article 102.**

**102.1.** For concessions mainly covering the exploitation of crude oil with associated or dissolved gas, the income tax due is the one applicable for liquid hydrocarbons. The applicable rates for the proportional royalty are the ones defined in 101.2.4 "a" and "b" of the present code depending on the nature of the hydrocarbons produced (liquid or gaseous).

**102.2.** For concessions covering mainly the exploitation of gas not associated with crude oil, the income Tax due is the one applicable to gaseous hydrocarbons. The applicable rates for the proportional royalty are the ones defined in 101.2.4. "a" and "b" of the present code depending on the nature of the hydrocarbons produced (liquid or gaseous).

## **Article 103**

**103.1.** In case the proportional royalty foreseen in 101.2.4 of the present code is perceived in cash, the money is paid monthly on the basis of a statement of hydrocarbons quantity stated by the Granting Authority, and the value of the hydrocarbons determined in compliance with the conditions stated by the Particular Convention.

The notice slating the proportional royalty to be paid for a considered month will be notified to the holder. The latter shall make the payment to the designated tax collector within 15 days of the reception of the said notification.

The tardy payment of the proportional loyalty shall result, without prior warning, in the application of a dilatory interests calculated on the basis of the monetary market rate applicable the day of payment, incremented by 5 points without prejudice to the other sanctions foreseen in the present code.

**103.2.** For the payment of the income tax foreseen in 101.3. of the present code, the holder shall declare his results and file his quarterly financial statements within three months following the end of the considered quarter.

**103.3.** On the occasion of the every declaration the holder shall pay his income tax on the basis of a temporary balance sheet subject to a final adjustment within six months after the closing of the considered fiscal year.

**103.4.** The fiscal year used for the determination of the taxable profit shall coincide with the calendar year.

**103.5.** The payment of the income tax is exclusive of the payment of any advance due by virtue of the legislation in vigor applicable to the revenue tax due by individuals and corporate taxes, with the exception of withholdings relative to those same taxes which are considered as advances on the income taxes paid quarterly or the final income tax paid annually.

#### **Article 104.**

Notwithstanding the provisions of paragraph 11 of article 45 of the tax code (Code IRPPIS), the parent company of the holder is exonerated from the income tax due for the studies and technical assistance directly realized for the account of the insider.

#### **Article 105.**

**105.1.** The holder of prospecting permit, exploration permit, and/or exploitation concession is exonerated, for his hydrocarbon exploration and exploitation activities, from all direct and indirect levies, taxes, duties already introduced or to be introduced by the Tunisian Government and/or all other organizations or local collectivities with the exception of those foreseen in articles 100 and 101 herein.

**105.2.** In case of modifications of the taxes levies and duties foreseen in article 101 herein, after the signature of the Particular Convention, these modifications shall not be applicable to the exploration and exploitation activity realized in compliance with the convention. These activities shall remain subject to the rules in vigor the date of the signature of the Particular Convention.

**105.3.** The modifications of the rates of the taxes, levies, duties and royalties foreseen in article 100 of the present code shall only be applicable to the

hydrocarbons exploration and exploitation activities in case they are uniformly applicable to the other kind of activities in Tunisia.

## **Sub-section II**

### **Determination of the taxable profit**

#### **Article 106.**

For the determination of the taxable profit, the activities subject to the corporate tax foreseen in article 101.3. herein, shall be processed separately from the holder's other activities in Tunisia.

To achieve that, the holder shall maintain in Tunisia a Tunisian dinar based accounting in compliance with the legislation in vigor relative to his activities subject to the income Tax foreseen in article 101.3. herein.

#### **Article 107.**

**107.1.** The taxable profit is calculated separately for every exploitation concession.

**107.2** Subject to the provisions of the present code, the taxable profit is determined in compliance with the corporate tax rules provided for by the tax code or any other regulations of substitution.

#### **Article 108.**

The hydrocarbon sale price considered for the calculation of the taxable profit is:

- a. the normal sale price, as defined by the Particular Convention, for the exported hydrocarbons;
- b. the actual sale price for the hydrocarbons, sold in the local market.

#### **Article 109.**

For the application of the aforementioned article 107.

**109.1.** Subject to the holder's election, the following expenses incurred for the application of the Particular Convention could be treated either as expenses

deductible from the fiscal year of their occurrence, or as capitalized expenses to be amortized annually at a rate to be determined by the holder within the limits set by article 111 herein:

- a. the prospecting and exploration expenses;
- b. dry hole costs;
- c. well abandonment costs;
- d. drilling cost of wells producing hydrocarbons in non commercial quantities;
- e. preliminary set up cost relative to the organization and the starting of the activities of exploration and exploitation incurred in compliance with the Particular Convention.

**109.2.** For the application of the provisions of the aforementioned paragraph 1, the following expressions are defined as follows:

1. The prospecting and exploration expenses include:
  - a. expenses relative to geological, geophysical and similar works;
  - b. expenses relative to exploratory wells imputable to every hydrocarbon reservoir (liquid or gaseous) and any other non producing wells or dry holes;
  - c. office, general and administrative costs which are not directly imputable to the exploration activities or to the exploitation activities and which, for amortization and tax deduction sake, are allocated between exploration expenses and exploitation expenses.
2. Dry hole costs mean all the costs excluding those correspondent to the installations, equipment or materials which, at the end of a period of one year from their installation or their service starting date, are still usable or have a salvage value.

## **Article 110.**

**110.1** The holder of an exploitation concession is authorized to:

- a. amortize or deplete at his option the expenses incurred by his exploration activities in the permit, incremented if any, by the prospecting expenses incurred in the parent prospecting permit on all the exploitation concessions derived from that same exploration permit;

- b. amortize or deplete the development expenses relative to the exploitation concession which are still unamortized at the date of the cessation of the production on any other concessions derived from that same parent exploration permit.

**110.2.** The holder may be authorized to amortize, on an exploitation concession derived from another permit, the expenses incurred by the exploration activities resulting from new commitments taken in addition to the contractual ones, provided that the discovery that led to the institution of the concession is realized later than the execution of the new commitments.

Are considered new commitments, all the commitments taken by the holder in addition to the contractual ones including when he might have benefited from a reduction of his initial commitments in compliance with article 25 of the present code.

**110.3** The holder may be authorized to amortize or deplete on the concessions deriving from old permits, the exploration expenses incurred on new permits provided that the discoveries relative to those concessions are made after the institutions of the new permits. These provisions are not applicable to the any new permit located in the areas where the holder used to have interests during the last three years preceding the granting date of the new permit.

**110.4.** The annual amount to be amortized or depleted in compliance with the provisions of paragraphs 2 and 3 herein shall not exceed on an annual basis, 50% of the profit made by the holder of the considered concession.

**110.5.** The authorizations foreseen in paragraphs 2 and 3 of the present code are granted by a decision of the Minister in charge of hydrocarbons upon a motivated opinion rendered by the hydrocarbon consulting committee.

#### **Article 111.**

Subject to the provisions of article 110.1. herein, the holder is entitled to calculate an annual amortization deductible from his taxable profit at a maximum rate of 30% concerning the capitalized expenditures, the expenses incurred in compliance with the present code and relative to the producing development wells, the field exploitation facilities and equipment, the storage facilities, and the hydrocarbon transport and loading facilities.

#### **Article 112.**

**112.1.** The Minister in charge of hydrocarbons may, in order to encourage the exploration activities in remote and hardly accessible areas aiming at gaseous objectives or profound geological objectives, grant to the holder of the exploration permit the possibility to benefit from an augmentation by 10 to 30%

of these considered exploration expenses, for the sake of the calculation of fiscal amortization.

However, this incentive shall not be cumulated with the possibility to benefit from the provisions foreseen in Article 110 paragraph 2 and 3 herein.

**112.2.** The criteria for eligibility to this incentive and the definition of the remote and hardly accessible areas together with the level defining a profound drilling are determined by an arrêté of the Minister in charge of hydrocarbons upon a conform opinion rendered by the hydrocarbons consulting committee.

**112.3.** The provisions stated in this article are applicable to the holders of exploration permits granted either prior to or after the promulgation date of this code.

### **Article 113.**

**113.1.** Are considered deductible charges, all taxes, duties, levies, royalties and payments foreseen in articles 100 and 101 of the present code, with the exception of the royalty for customs services (RPD) foreseen in article 100 "f" and the income tax foreseen in article 101 paragraph 3 of the present code.

**113.2.** Only interest charges relative to borrowing and/or debts financing the development investments are considered deductible charges insofar as the amount of the borrowings and the credits does not exceed 70% of the investments value.

The terms and conditions of the debts contracted by the holder or granted to him shall be in compliance with the conditions prevailing in the financial market and agreed upon by the Granting Authority. These debts shall be contracted in compliance with the applicable exchange regulation subject to the provisions foreseen herein.

**113.3.** The holder is entitled to constitute:

- a. a tax deductible reserve limited to 20% of the taxable profit aiming to finance initial capital subscription in newly created companies or in the increase of their capital which, under the same conditions, are admixed to benefit from the fiscal incentives foreseen in the legislation in vigor relative to the investments incentive code. The amount so reinvested is not deductible at the time the subscribed capital is liberated. Exploration expenses to be incurred in the same permit or in other permits of the holder.

However, the amount admitted to benefit from this incentive is limited to 30% of the considered expenses. The exploration expenses financed by this reserve are not admitted to be neither amortized nor deducted from the taxable profit nor to be reimbursed by the National Enterprise. Any reserve allowed for during a given fiscal year which is not wholly or partially invested in the subsequent fiscal year is subject to corporate tax at the rate in vigor at the date the reserve was allowed for, increased by the penalties foreseen by the fiscal legislation in vigor;

- b. an allowance for the restoration costs of the production site in compliance with the provisions of article 118 and the followings of the present code.

An allowance constituted during a given fiscal year which is not used is subject to corporate tax at the rate in vigor at the date of its constitution without any increase for the penalties foreseen in the fiscal legislation in vigor.

**113.4.** Are also deductible from the taxable profit the expenses generated by producing the warranty foreseen in article 123 herein.

## **SECTION II**

### **Fiscal regime in case of production sharing agreement**

#### **Article 114.**

**114.1.** With the payment to the National Enterprise of its production share after deduction of the quantities delivered to the contractor as a reimbursement of the expenses incurred by him and the ones delivered as his compensation in compliance with the provisions of paragraph (d) and (e) of, article 98 herein, the contractor is supposed to have paid his income tax.

This tax is fixed, for every fiscal year, to the value of the production of crude oil and gas taken out by the contractor as a compensation for the considered fiscal year. The production shall be evaluated on the basis of the sale price defined in article 108 herein. However, the contractor shall remain subject to the taxes, duties and levies foreseen by article 100, paragraph b), c) d) e) f) g) h) and i) herein. The taxes, duties and levies foreseen in articles 100, subparagraph a) and 101 paragraph 1 and 2 are for the account of the National Enterprise.

## **114.2.**

- a. The interest charges relative to the debts contracted for the initial development cost and for the complementary development cost of an exploitation concession for debt amounts not exceeding 70% of those expenses, shall be reimbursed by crude oil and/or gas of recovery, within the limits of the rates applicable for that considered concession.
- b. The contractor may constitute the allowance foreseen in article 113.3. (b) herein, aiming to cover the abandonment and restoration costs of the production site and is entitled to make up this allowance within the limits of the crude oil and/or gas of recovery.
- c. The conditions and modalities of the constitution and the treatment of the said provision shall be defined in the Production Sharing Agreement in compliance with articles 118 and ensuing of the present code.
- d. The contractor is entitled to book an allowance for reinvestment aiming to finance the exploration expenses within the conditions foreseen in article 113.3. (a) herein.
- e. The conditions and modalities of the constitution of this allowance are defined in the Production Sluing Agreement.
- f. The recoverable allowance foreseen in paragraph (b) above may be constituted by the National Enterprise on its own or in association with the contractor according to what is convened in the said Production Sharing Agreement.
- g. The exploration expenses incurred in a given exploitation concession, in compliance with provisions of article 49.1. herein, shall be recovered by the contractor in forms of crude oil and/or gas of recovery within the limits of the rates applicable to the considered concession.

**114.3** The provisions of article 110, paragraph 2 and 3 of the present code are not applicable to the recovery of the contractor's expenses.

**114.4** The conditions and modalities of the sale by the contractor of his interests, rights and obligations shall be set by the Particular Convention.

### **SECTION III**

#### **Regime of hydrocarbon storage and transportation for third party's account**

##### **Article 115.**

The profit denying from the exploitation of storage and transportation facilities exclusively used for hydrocarbons for the exclusive account of the holders in application of the provisions of article 80 paragraph 3 herein are subject to the common law fiscal regime.

### **SECTION IV**

#### **Imports and exports special regime**

##### **Article 116.**

**116.1.** The holder and any of his direct or indirect contractor or subcontractor, are entitled to import in franchise of duties and any other taxes, rights and levies due on imports of goods, including the VAT tax with the sole exception of the royalty for customs services (RPD) and the royalty for the electronic data processing:

- all apparatus, tools, equipment, materials and vehicles to be effectively used in his prospecting and exploration activities;
- vehicles for the company's transportation use.

**116.2.** The above cited provisions shall not be applicable to the merchandises and goods available in Tunisia flowing the same suitability and being of comparable price and quality with the ones to be imported.

In this case, the local suppliers are entitled to be reimbursed for taxes and duties due on the goods and merchandises which should have been duty free, if imported. The said reimbursement is made in accordance with the applicable regulations.

## **Article 117.**

In case the holder, the contractor or the subcontractor intend to sell the goods and merchandise which were imported or acquired locally under the regime foreseen in article 116 herein, he is obliged to:

- a. make a declaration of sale to the customs administration, in case the buyer benefits from the same duty free regime as the seller;
- b. accomplish, prior to the sale, imports formalities and pay the taxes and duties due on imports on the basis of the value of the said goods and merchandises in vigor the date of the sale, in case the sale is made to a buyer other than the ones mentioned in paragraph a) of the present article.

## **SECTION V**

### **Constitution of the allowance for the restoration of the exploitation site**

## **Article 118.**

The holder of the exploitation concession is entitled to constitute an allowance aiming to cover the site abandonment and restoration cost.

The allowance shall be constituted during the last 5 fiscal years for exploitation sites located offshore and during the last 3 fiscal years for sites located onshore. The granting authorities may, upon a duly justified request by the holder, authorize this one to constitute the said allowance on longer periods during the last years.

## **Article 119**

**119.1.** At the end of each fiscal year mentioned in article 118 herein, the cumulated allowance "P" to be booked for that considered fiscal year and for prior fiscal years is calculated applying the following formula:

$$P=(a \times c)/b$$

Where

a = cumulated production at the end of each fiscal year during, which the holder is entitled to book the allowance, starting from the first one of these fiscal years.

b = the total hydrocarbon reserves recoverable during all the fiscal years of the constitution of the allowance

c = the estimated restoration cost reduced in case, by any salvage value of the production facilities, equipment and other recoverable devices.

Any variation in the factors "b" and "c" noticed during a given fiscal year, shall be considered for the calculation of the cumulated allowance at the end of the same fiscal year.

**119.2** The aforementioned factors "b" and "c" and their revision shall be approved by the Minister in charge of hydrocarbons prior to their application.

**119.3.** In case of disagreement, the estimation of these factors may be assessed by an independent expert, agreed upon by the Granting Authority.

However, in case of disagreement by one or the other party in regards of the proposed expert, this one shall be designated by a third party renown in the hydrocarbon activity and agreed upon by both parties.

#### **Article 120.**

The allowance booked in a given fiscal year consists of the cumulated allowance calculated at the end of the considered fiscal year in accordance with provisions of article 119 herein and reduced by the amount of the allowance booked for the prior years.

#### **Article 121.**

The amount of the allowance mentioned in article 119 herein, shall be deposited by the holder in a special account opened to that regard in one the banks operating in Tunisia.

These amounts shall only be used to cover the cost for which the allowance was created, subject to the provisions of article 122 herein.

## **Article 122**

After payment of the site restoration costs, the credit balance mentioned in article 121 of the present code is recovered by the holder after payment of the income tax due all the rate in vigor during the fiscal year of the constitution of the allowance.

## **Article 123.**

**123.1.** The holder may be waived from the obligation to restore the site in case he ceases His exploitation activities for cause of renouncement to the concession or for cancellation of the concession for maturity of its term while the remaining profitable exploitation period for the concerned concession is 5 years minimum for an offshore exploitation and 3 years minimum for an onshore one provided that the continuation of the exploitation during that remaining period allows to cover for all the charges including the site restoration costs and to guarantee a reasonable profit.

**123.2.** In case the Granting Authority thinks that these conditions are not met, it can, notwithstanding the contradictory provisions provided for herein, oblige the holder to elect either to contribute to the site restoration costs or to proceed with the field exploitation.

**123.3.** In case the exploitation concession is canceled by virtue of the provisions of article 57 herein whole the Granting Authority thinks the economic conditions stipulated in paragraph 1 of this article are not met, it can enjoin the holder to contribute to the site restoration costs.

In case of disagreement about the amount of the contribution foreseen in paragraph of this article and in this paragraph, the said amount shall be assessed by an independent expert agreed upon by both the Granting Authority and the holder.

**113.4.** In all matter of cases, the Granting Authority may at any moment rejoin the holder to provide a warranty in its favor covering the site abandonment and restoration costs.

This warranty shall remain valid as far as the Granting Authority thinks that the obligations relative to the exploitation site abandonment and restoration work are not completely fulfilled.

It should be known that the warranty does not waive the holder from its obligations to properly abandon and restore the exploitation site.

## **SECTION VI**

### **Provisions applicable to expatriates**

#### **Article 124**

Notwithstanding the provisions of Article 62 paragraph 2 subparagraph (a) of the present code, the holder may hire for his prospecting and exploration activity, expatriate staff to serve in senior positions.

#### **Article 125.**

The expatriate whose status, prior to be hired by the holder or seconded to him in Tunisia to be assigned for his prospecting, exploration and exploitation activities, was non resident have the possibility to:

- a. elect an social security system other than the Tunisian one. In such a case, the expatriate and the employer are not subject to pay any social security contribution in Tunisia;
- b. be exonerated from the income tax due on his salaries, wages and compensation. He shall be subject however, to a fixed income tax payment equal to 20% of his gross income including the value of all advantages in kind.

The application of these provisions is subordinated to a presentation of in attestation delivered by the Minister in charge of hydrocarbons.

- c. import duty free his personnel belongings and a personnel car.

The sale of the car and/or the personnel belongings to a resident, is subject to the accomplishment of the exportation formalities and to the payment of the taxes and duties in vigor the date of the transaction on the basis of the value of the goods sold at that same date.

## **SECTION VII**

### **Litigation procedure and limitation period**

#### **Article 126.**

The fiscal transgressions relative to the taxes, duties and levies foreseen in article 100 herein, are assessed, pursued and recovered according to the procedure applicable in each matter.

The transgressions relative to the proportional royalty, with the exclusion of the tardy interests, and those relative to the corporate tax, are assessed, pursued and recovered in the same procedure applicable to individual income tax and corporate tax.

Any omission, partial or total discovered whether in the basis of the calculation of the proportional royalty and the income tax and/or in the applicable tax rates, shall be pursued for adjustment till the expiry of the fifteenth year following the tax year concentrated by the tax payment.

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## **CHAPTER II**

### **EXCHANGE AND FOREIGN TRADE REGULATIONS**

#### **Article 127.**

The holder or the contractor defined herein is considered either resident or non resident.

The holder or the contractor operating within a company formed by virtue of the Tunisian laws is considered non resident b case the capital of the company is owned by non resident aliens or Tunisians with a participation interests no lesser than 66% and the capital funds raised by convertible hard currency imports.

The participation of residents in the capital of the non resident company owned by the holder or the contractor is subject to the exchange regulation procedure.

The permanent establishment located in Tunisia by companies having their head office abroad are considered non resident with regards to the exchange

regulations. The funds transferred by the head office abroad to the permanent office in Tunisia shall be made in convertible hard currencies.

### **Article 128**

The non resident holder or contractor are obliged to respect the Tunisian exchange regulation foreseen in the Particular Convention and the following provisions:

- a. during the exploitation phase, the holder of the non resident contractor are authorizes to keep abroad the proceeds of their hydrocarbons exports. However, they are obliged to import every month, an amount equivalent to the sum due to the Tunisian government and to face the local operating expenditures, in case they do not have such sufficient funds available in Tunisia;
- b. the non-resident holder or contractor are authorized to freely use the proceeds of the gas sales derived from a concession developed for the local market needs, to pay all kind of expenditures generated by the exploitation of the said concession. To that effect, the intermediate banks are authorized to transfer, upon presentation of the supporting documents, any amount abroad to face any expenditure incurred by the holder or the contractor for the exploitation of the concession;
- a. the credit balance, resulting from the periodic adjustments of the non resident holder's or contractor's liquidity showing excess of Tunisian dinars, shall be transferred b accordance with the provisions of the exchange regulations attached to the Particular Convention. These adjustments are made once every 4 months for concessions producing mainly gaseous hydrocarbons for the local market needs and once every 6 months for all the other concessions.

### **Article 129.**

The resident companies, holder or contractor, are obliged to repatriate the proceeds of their hydrocarbons exports in compliance with the exchange regulation and foreign trade rules They can freely transfer the dividends due to non resident shareholders.

They can freely transfer any amount abroad to face any expenditure incurred by their prospecting, exploration or exploitation activity in compliance with the provisions foreseen by the exchange regulation attached to the Particular Convention.

### **Article 130**

The holder or any contractor or subcontractor hired by him either directly by contract or indirectly by subcontract, are authorized to import without the accomplishment of the importation formalities:

- any apparatus, tools, equipment, materials and vehicles necessitated by the prospecting, exploration or exploitation activities;
- cars for the company's transportation use.

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## TITLE VIII

### CONTROL OF THE ADMINISTRATION OVER THE PROSPECTING, EXPLORATION AND EXPLOITATION ACTIVITIES

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#### **Article 131.**

In addition to the controls exercised by the competent administrative departments and foreseen by the legal and regulatory provisions in vigor, the hydrocarbons prospecting, exploration and exploitation activities, the offices and working sites holding these activities as well as the dependencies attached thereto are subject to the control of the competent administrative departments for all matters concerning the respect of the technical regulation, the field preservation, the safety of the personnel, facilities, habitants, and constrictions.

The control of the Granting Authority is exercised, under the authority of the Minister in Charge of Hydrocarbons, by the head of the departments in charge of the hydrocarbons and his subordinates duly empowered for this purpose.

#### **Article 132.**

The government employees of the departments in charge of hydrocarbons has free access to the offices and working sites of the Holder as well as the dependencies attached thereto. The holder is required to provide them with all information and documents there available relative to the work in progress and to offer them all assistance needed for the accomplishment of their mission. He is required to have them accompanied by the work supervisors whose assistance is essential and whom are requisitioned for that purpose.

#### **Article 133.**

**133.1.** Any work carried out in contravention with the provision of the present code and the regulating texts taken for its application may be proscribed by the Granting Authority, without prejudice to the damage compensations and to the sanctions foreseen in article 138 of the present code.

**133.2.** Without prejudice to the pursuits and sanctions foreseen by the provisions of the present code and by the legislation and regulations in vigor,

the Granting Authority may order the immediate interruption of the works in case of serious infringements affecting third parties safety, the environment and/or the resources and notably those relating to the non respect of the environment protection measures prescribed by the impact study approved by the Granting Authority.

#### **Article 134.**

The Holder is required to comply with the measures prescribed to him by the Granting Authority, in application of the provisions of the present code and the regulating texts taken for its application.

In case of emergency or in case of the Holder's refusal to comply with the injunctions of the Department Head in charge of Hydrocarbons, the necessary measures may be legally executed by the departments in charge of hydrocarbons for the Holder's account.

In case of imminent danger, the employees of the Departments in charge of Hydrocarbons shall immediately take the necessary measures to halt the danger. They may, if it is the case, ask the local authorities to undertake any requisition needed to that effect. The costs incurred for these operations are for the Holder's account.

#### **Article 135.**

Excepting the cases foreseen in article 86.4 of the present code, no compensation is due to the holder for any prejudice resulting from the execution of the measures ordered by the administration in compliance with the provisions of the present code and for the regulating texts taken fur its implication.

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## TITLE IX

### ASSESSMENT OF THE INFRINGEMENTS AND THE SANCTIONS

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#### **Article, 136.**

The infringements to the provisions of the present code and the regulating texts taken for its application are taken to court.

#### **Article 137.**

**137.1.** The infringements to the provisions of the present code and the regulating texts taken for its application are established by minutes prepaid in compliance with the provisions of the penal procedure code, by the judiciary police officers, the employees of the departments in charge of hydrocarbons, and any other employees empowered to that effect

**137.2.** The minutes, prepared in application of article 137.1 of the present code, are considered true and valid till proof of the contrary. They are not subject to the affirmation and are to be registered on account within a period of 6 days from this date otherwise they are null and void.

**137.3.** The minutes prepared by the employees of the department in charge of hydrocarbons are transmitted to the court prosecutor by the department Head accompanied by his opinion.

#### **Article 138.**

**138.1.** Is punished by a fine of 300 to 3 000 dinars, the Holder of a Prospecting or an Exploration Permit or an Exploitation Concession who omits to declare a serious accident occurred on his working sites or does not have thereon and pollution and fire fighting means and first care means to provide work accident victims with first cares in compliance with the provisions of article 59 paragraph 4 of the present code.

**138.2.** Is punished by a fine of 400 to 4 000 dinars, the Holder of a Prospecting or an Exploration Permit or an Exploitation Concession who refuses to transmit to the Granting Authority copy of the documents relative to his works, in compliance with article 9 paragraph 5 and article 10 paragraph 7 of the present code.

**138.3.** Is punished by a fine of 500 to 5 000 dinars and an imprisonment of 16 days to 3 months or only one of the two punishments, anyone who:

- a. purposely provides false information in order to be granted a Prospecting or Exploration Permit;
- b. carry out, illegally, some prospecting, exploration and exploitation activities.

**138. 4.** Is punished by a fine of 1 000 to 10 000 dinars and an imprisonment of 3 months to one year, anyone impeding verbally or by acts, the execution of works legally ordered by the administration in compliance with article 134 of the present code.

#### **Article 139.**

Anyone, who has been condemned for an infringement foreseen in article 128 herein, who commits again the same infringement within the period of 12 months starting from the day the condemnation became definitive, is condemned to the maximum of the punishment foreseen in the said article.

**LAW No. 2002-23 OF 14 FEBRUARY 2002, SUPPLEMENTING LAW No. 99-93 OF 17 AUGUST 1999 PROMULGATING THE HYDROCARBONS CODE AND SUPPLEMENTING AND MODIFYING THE HYDROCARBONS CODE.**

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**LAW No. 2002-23 OF 14 FEBRUARY 2002, SUPPLEMENTING LAW No. 99-93 OF 17 AUGUST 1999 PROMULGATING THE HYDROCARBONS CODE AND SUPPLEMENTING AND MODIFYING THE HYDROCARBONS CODE.**

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In the name of the people, The Members of Parliament having adopted

The President of the Republic promulgates the following law

**Article 1.**

A new fourth paragraph is added to article 2 of Law no. 99-93 of 17 August 1999, concerning the promulgation of the Hydrocarbons Code:

Article 2. (new fourth paragraph):

Also excluded from the field of application of the Hydrocarbons Code are those exploitation concessions derived from exploration permits which are outside the scope of application of the provisions of the Hydrocarbons Code, as opted for by the holders under the provisions of article 3 of the present law. However, the holders of the said concessions can benefit from the provisions of the

Hydrocarbons Code as set out in the third paragraph of the present article, upon a request presented to the Licensing Authority at the latest 3 months following the date of institution of said concessions,

## **Article 2.**

Articles 3, 10, 105, 110, 114, 115 of the Hydrocarbons Code are supplemented as follows:

Article 3. (Second paragraph):

The operator of works and/or services in question, for the sense of the present article, is:

- the contractor in the case of a Production Sharing Contract,
- the company created by the National Enterprise and its associates in the case of a Contract of Association,
- all companies to whom the holder confers, after the agreement of the Licensing Authority, the tasks of the general contractor relating to prospecting, exploration and/or exploitation works.

## **Article 10. (10.9. third paragraph):**

The exploration permit is granted from the day following the expiration of the validity of the prospecting permit. However, if the Licensing Authority does not render a decision on the request for the transformation of the prospecting permit into an exploration permit within the 2 months time period as provided for in the second paragraph of article 10.9. of the present code, the validity of the prospecting permit will be extended for a period of no longer than six months, without other formalities, until the rendering of the decision of the Minister in Charge of Hydrocarbons.

## **Article 105. (105-1. second paragraph):**

In the case of the total or partial transfer of the rights and obligations associated with a prospecting permit, an exploration permit or a hydrocarbons exploitation concession, such a transfer will not negate the requirements for the collection of any existing or future duties, taxes or levies.

**Article 110. ( 110.1. paragraph c):**

In the case of the total or partial transfer of the rights and obligations associated with a prospecting permit, an exploration permit or a hydrocarbons exploitation concession, the transferor can amortize, in conformity with the provisions of the present code, those expenses related to the transfer that have not otherwise been recovered or absorbed.

**Article 114. (114.2. paragraph a) second paragraph):**

The interest charges relative to the debts contracted for the activities related to prospecting and exploration do not constitute costs reimbursable by crude oil and/or gas recovery.

**Article 115. (second paragraph):**

The profits deriving from electricity production activities by public or private legal entities, in application of the provisions of article 66.3.b. of the present code, are subject to the common law fiscal regime.

**Article 115. (third paragraph):**

Notwithstanding the provisions of article 106 of the Hydrocarbons Code, and by virtue of the provisions of article 66.3.b. of the present code, the valorization operations of non commercial gas, originating from the hydrocarbons deposit of the Holder are subject to the fiscal regime as set out in part seven, chapter one, section 1 of the Hydrocarbons Code.

**Article 3.**

Articles 48, 66, 98, 113, 116 and 130 of the Hydrocarbons Code are modified as follows:

**Article 48. (amended article 48.1):**

The exploitation concession is granted by order of the Minister in Charge of Hydrocarbons, upon conformation by the Consultative Committee on

Hydrocarbons. This order is published in the Official Gazette of the Republic of Tunisia.

**Article 66. (amended 66.3.b.):**

The holder of a exploitation concession may be authorised to valorize non commercial gas, originating from his hydrocarbons deposit, for the purpose of the production of electricity and its exclusive sale to a distribution utility designated by the Licensing Authority.

Similarly, the Licensing Authority can authorise a public or private legal entity, possessing the technical capacity and necessary finance, to produce electricity from non-commercial gas issuing from a hydrocarbons exploitation concession for the purpose of its exclusive sale to a distribution utility designated by the Licensing Authority.

The conditions and modalities ruling the award of the electricity production concession are set by decree.

**Article 98. (amended paragraphs c) - d):**

c) The contractor finances, at its sole risk, all prospecting, exploration and exploitation activities on behalf of, and under the control of, the National Enterprise.

d) In the case of hydrocarbons production, the National Enterprise allocates to the contractor a portion of the said production to the extent of a percentage limit set by the Production Sharing Contract, for the purpose of the recovery of expenses incurred in the carrying out of the contract including, if any, the expenses incurred in carrying out the operations under the prospecting permit.

**Article 113. ( 113.2 amended first paragraph):**

Only interest charges relative to borrowing and/or debts financing the development investments are considered deductible charges insofar as the amount of the borrowings and the credits does not exceed 70% of the investments value. The interest charges relative to borrowing and/or debts financing the investments in prospecting and exploration are considered deductible charges for the purposes of the present paragraph.

**Article 113. (113.3. paragraph a) amended second list item):**

- prospecting or exploration expenses incurred on the same permit or on other prospecting or exploration permits granted to the holder. [the remainder of the item is unchanged]

**Article 116.1:**

The holder and any of his direct or indirect contractors or sub-contractors are entitled to import the following, free of customs fees and all duties, taxes and levies due on the importation of goods, including VAT, with the sole exception of the levy on customs services and the levy on electronic data processing:

- all apparatus, tools, equipment, materials and vehicles to be effectively used in prospecting, exploration or exploitation activities; or in the carrying out of the production of electricity under the provisions of article 66.3.b of the present code,
- vehicles necessary for transport operations.

The holder of a electricity production concession as provided for under the provisions of article 66.3.b. of the present code and all direct or indirect contractors or sub-contractors of the holder are to equally benefit from the provisions of this article.

**Article 130:**

The holder and any of his direct or indirect contractors or sub-contractors are entitled to import the following, free of importation formalities:

- all apparatus, tools, equipment, materials and vehicles to be effectively used in prospecting, exploration or exploitation activities; or in the carrying out of the production of electricity under the provisions of article 66.3.b of the present code,
- vehicles necessary for transport operations.

The holder of a electricity production concession as provided for under the provisions of article 66.3.b. of the present code and all direct or indirect contractors or sub-contractors of the holder are to equally benefit from the provisions of this article.

The title of Part Seven, Chapter 1, Section 3 of the Hydrocarbons Code is modified as follows:

Fiscal regime for third parties involved in hydrocarbon storage and transportation and fiscal regime for the production of electricity from gas originating from hydrocarbons exploitation concessions

The present law is to be published in the Official Gazette of the Republic of Tunisia and executed as a law of the State.

**Tunis, 14 February 2002.**

**Zine El Abidine Ben Ali**