

Petroleum Law 1990

OFFICIAL GAZETTE Of the REPUBLIC OF SURINAME (1991 no. 7)

(Unofficial Translation)

Law of 6 March, 1991 containing further regulations for the exploration and exploitation of hydrocarbons (“Petroleum Law 1990“)

THE PRESIDENT OF THE REPUBLIC OF SURINAME

Whereas - in connection with the provisions of the “Mining Decree” (Official Gazette 1986, no. 28) concerning the exploration and exploitation of hydrocarbons - it is desirable to lay down the following Law.

Has, upon having heard the State Advisory Board, and after approval by the National Assembly, ratified the following Law:

CHAPTER I GENERAL PROVISIONS

Article 1

For the application of or in virtue of this Law, the following terms shall have the following meanings:

Natural gas: all hydrocarbons which, under normal atmospheric conditions, occur in a gaseous state, including wet gas, dry gas and the residual gas remaining after the removal of liquid hydrocarbons from wet gas;

Contractor: a third party with whom a State Enterprise concludes a petroleum agreement;

Associated gas: natural gas which is produced with crude oil from the same oil well;

Unassociated gas: natural gas produced from an oil well other than in association with crude oil;

The Minister: the Minister in charge of mining affairs;

Petroleum: crude oil or natural gas, or a combination thereof;

Petroleum agreement: a contract entered into by a State Enterprise and a contractor for the prospecting, exploration and exploitation of petroleum in an area for which the right to prospect, to explore and to exploit has been granted;

Petroleum field: one or more petroleum accumulations within a described geological area;

Petroleum activities: the prospecting, exploration, development, production, transport, processing, refining liquefaction, trading, import and export of petroleum or petroleum products;

Crude oil: hydrocarbons which, under normal atmospheric conditions, occur in solid or liquid form, including condensates and distillates from natural gas;

State Enterprise: a company or other legal entity in which the State itself and/or by means of State Institutions, exercise management control and whose main purpose is the exploration, exploitation and processing of hydrocarbons.

Article 2

The “Mining Decree” shall apply to the prospecting, exploration and exploitation of hydrocarbons, in so far as this Law does not deviate therefrom.

Article 3

The regulations concerning the application to obtain mineral prospecting, exploration and exploitation rights in accordance with Articles 21, 25 and 30 of the “Mining Decree”, with respect to the geographical indication of the area to which the application refers, may be deviated from with regard to hydrocarbons, by the body which, in pursuance of Article 6, paragraphs 3 and 4 of the “Mining Decree”, is competent to grant such rights.

Article 4

The regulations concerning the duration and the size of the area for which the mineral prospecting, exploration and exploitation rights in pursuance of Articles 22, 27 and 33 of the “Mining Decree” are granted, can, if necessary, be deviated from with regard to hydrocarbons, by the body which, in pursuance of Article 6, paragraphs 3 and 4 of the “Mining Decree”, is competent to grant such rights.

CHAPTER II STATE ENTERPRISES

Article 5

With due consideration for the provisions in the “Mining Decree” and in this Law, State Enterprises shall be entitled to, upon the approval of the Minister, conclude agreements with third parties as referred to in Article 1 sub g of this Law. The Minister shall only give his approval after having received the permission to do so from the Government.

Article 6

In view of their purpose, State Enterprises should, among other things when concluding petroleum agreements with third parties:

- a. encourage the exploration and rational development of the petroleum occurrences in Suriname in the most efficient manner and in accordance with the best international techniques and practices;

- b. encourage that the State has the best possible advantages from the development of its petroleum occurrences;
- c. encourage the transfer of petroleum-related technology to Suriname;
- d. encourage the training of Surinamese experts in petroleum activities;
- e. see to it that petroleum activities are performed in such a manner as to prevent adverse consequences for the environment and the natural resources.

Article 7

1. At the request of a State Enterprise, the State shall, for the benefit of and in connection with the performance of petroleum activities, but with due account for the prevailing legal regulations and provisions, grant licenses and give its approval, in order to enable a State Enterprise to build, establish, maintain and use all facilities that are necessary or advantageous for the proper performance of the petroleum activities including - though not restricted to - harbours and terminals, communications and transportation means between harbours and terminals and the appropriate part or parts of the terrain to which the mining right refers, as well as to and from locations outside Suriname, houses, fences, machines, furnaces, buildings, pipelines, storage tanks, compressor stations, processing installations and field roads.
2. In so far as State Enterprises require state land for use in connection with the performance of the petroleum activities, the State can make available the proper land therefor free of costs. Upon termination of the petroleum activities on state land, the State Enterprise shall notify the State thereof in writing, and return the land to its original condition insofar as reasonably possible.
3. If State Enterprises do not succeed within a reasonable time and on reasonable conditions, to acquire servitudes, rights of way or other rights that are necessary to perform petroleum activities, the State can make available proper state land or take such measures that are necessary or will be necessary in order to enable the State Enterprises to acquire such land and rights. State Enterprises shall make available the necessary funds for the acquisition.

Article 8

1. The State will do everything necessary to permit State Enterprises to exercise the rights granted to them.
2. The State shall lend its cooperation as much as possible in giving power of attorney, approval, permission and licenses to State Enterprises, which are required in pursuance of the law, in connection with and for the promotion of their activities in connection with a petroleum agreement.

CHAPTER III TAXES AND FOREIGN CURRENCY

Article 9

1. State Enterprises and contractors shall be subject to the valid taxation laws, unless otherwise provided by this Law or the “Mining Decree”.
2. In connection with hydrocarbons, total or partial exemption of the provisions in Article 63 of the “Mining Decree” with regard to the surface area right, can be granted by state decree.
3. State Enterprises and contractors will be exempt from import and export duties on imported and exported industrial means, materials, goods or equipment of whatever nature, which are used for petroleum activities. If these goods are imported by the contractor, the exemption shall only be applicable if goods that are not the property of a State Enterprise, either become the property of a State Enterprise or are exported from Suriname, after termination of the petroleum activities.
4. The household goods belonging to the personnel of a contractor shall be exempt from import duties on their import into Suriname, provided that these articles have been used previous to their import and have been imported within six months after the arrival of the person concerned.
5. The exemptions mentioned in paragraphs 3 and 4 of this Article shall not apply to goods, which are excluded therefrom by means of a state decree.
6. State Enterprises and contractors shall be subject to the legal regulations concerning the statistics and consent duties for the import and export of goods on the proviso that the statistics and consent duties due in any calendar year shall not exceed an amount to be determined further by state decree.
7. With the exception of statistics and consent duties, no further export duties, stamp duty or other provision, fee or tax will be levied or due in the export of petroleum. However, State Enterprises or contractors can be granted, by state decree, partial or complete exemption of the statistics or consent duties in connection with the export of petroleum.

Article 10

1. With due consideration for the existing legal provisions:

- a. The State shall cooperate as much as possible that transactions in foreign currency of or for the benefit of State Enterprises or contractors will be realized by granting general and special licenses;
 - b. State Enterprises and their contractors shall be entitled to purchase goods and to make use of services in and outside Suriname, and will be entitled to make payments in foreign currency abroad for that purpose;
 - c. State Enterprises and their contractors shall furthermore be entitled to sell petroleum for other currency than Surinamese guilders and to receive and keep the returns of such sales in foreign accounts.
2. State Enterprises shall have the right to acquire funds, including funds in foreign currency, outside Suriname in order to finance petroleum activities, including by contracting loans, with or without interest, or by receiving advances. In so far as these funds are acquired, kept and spent abroad, for the benefit of or in the interest of petroleum activities, they will fall outside the foreign currency provisions of Suriname and no exchange rate correction fee will be owed for these amounts, although they will be registered. For the provisions of the first sentence of this paragraph, the written permission of the Minister concerned with foreign currency affairs shall be required.
 3. The exchange rate correction fee owed by a State Enterprise for payments in foreign currency will never exceed a certain amount per calendar year, to be laid down further by state decree. This maximum amount of exchange rate correction fee will also apply to contractors with respect to payment in foreign currency from the compensation they receive.
 4. Contractors are entitled to transfer profits and repay the principal sum and interest on advances and loans in foreign currency.
 5. Contractors should pay all taxes in a foreign currency to be approved by the Government.

CHAPTER IV PETROLEUM AGREEMENTS

Article 11

The provisions of this chapter shall apply to every petroleum agreement.

Article 12

Petroleum agreements shall contain provisions with regard to acquisition of ownership by State Enterprises and secrecy to be maintained by State Enterprises and contractors of technical, financial and economic data, obtained within the framework of a petroleum agreement.

Article 13

A contractor shall give the State Enterprise with which a contract has been concluded the opportunity to meet its obligations emanating from the "Mining Decree", with regard to giving information, making reports, keeping and inspecting files.

Article 14

The accountants and representatives of a State Enterprise shall at all times have access to the facilities, equipment, activities, accounts, files and registers of a contractor with respect to a petroleum agreement concluded with him, as well as the right to inspect, supervise and investigate these.

Article 15

A contractor who has concluded a petroleum agreement with a State Enterprise shall guarantee the latter in accordance with the provisions of the petroleum agreement concerned, in order to ensure fulfillment of the contractor's obligations.

Article 16

Contractors may directly or indirectly, transfer all or part of the rights emanating from a petroleum agreement to a third party in accordance with the provisions of said petroleum agreement only.

Article 17

1. A contractor shall, in accordance with the legal regulations and the provisions of the petroleum agreement concerned, see to it that employment of foreign personnel is strictly limited to functions for which there are no experienced and qualified Surinamese nationals available, and shall utilize all possibilities so that Surinamese nationals can gain expertise in and acquire responsible positions in the activities within the framework of the petroleum agreement.
2. A contractor shall, in performing the activities with respect to the petroleum agreement, give preference to goods and services produced and/or available in Suriname instead of foreign goods and services, if these can be acquired on conditions that are not less favourable.

Article 18

Every transaction between a contractor and an affiliated company resulting from a petroleum agreement, shall be concluded on the basis of valid competitive international prices and other conditions which would be reasonable and fair if the transaction would take place between non-affiliated parties.

Article 19

A contractor shall have his office in Paramaribo, in order to perform the activities resulting from a petroleum agreement.

The office established in pursuance of paragraph 1, shall be registered in accordance with the legal provisions thereto.

Article 20

Areas to which petroleum agreements refer will be defined as much as possible in terms of numbered blocks, indicated on a reference map, made by or on behalf of the State, of the area over which the Republic of Suriname exercises sovereign rights.

Article 21

A petroleum agreement shall contain provisions for periodically disposing of parts of the area to which the agreement refers.

Each area disposed of in pursuance of a petroleum agreement shall, in so far as possible, lie adjoining and be continuous and shall be of such a size and shape that a proper performance of petroleum activities is possible in the disposed area.

Article 22

A petroleum agreement shall comprise provisions with regard to movable and immovable goods, which will become the property of the State Enterprise to which the rights mentioned in Article 2 have been granted.

Article 23

In the framework of a petroleum agreement, a development plan will be designed for each petroleum field to be developed.

Such a development plan will be submitted for approval to the State Enterprise to which the rights referred to in Article 2 have been granted, before the activities to carry out this plan will begin.

Article 24

If a petroleum field extends beyond the boundaries of an area for which a single petroleum agreement is in force, the State Enterprise to which the rights referred to in Article 2 have been granted, will take measures to develop the whole petroleum field as one unit and shall give appropriate instructions in that regard to the contractors concerned.

Article 25

A petroleum agreement shall contain provisions for natural gas produced together with crude oil to be used for petroleum activities, as required by the preservation methods which are customary in the oil industry and in accordance with approved production plans.

In case of discovery of unassociated gas and associated gas which are available in larger amounts than necessary for the petroleum activities, the State Enterprise and the contractor will take measures within agreed term in order to determine whether the extraction of the natural gas accumulation is economically feasible.

In case of discovery of economically extractable natural gas, the State Enterprise and the contractor will begin consultations as soon as possible, in order to conclude a supplementary agreement for the utilization of such gas. If the State Enterprise and the contractor do not succeed in concluding such an agreement within a set term, the contractor will dispose of the natural gas accumulation in the contracted area and cannot lay any claim to such natural gas.

Article 26

A petroleum agreement shall contain provisions with respect to the provision for local supply demand, which is the State's final demand for petroleum for domestic use.

Article 27

A contractor may export all petroleum to which he is entitled under a petroleum agreement, subject to any restrictions laid down thereto in the petroleum agreement.

CHAPTER V

TRANSITORY AND FINAL PROVISIONS

Article 28

Further rules may be laid down by means of State Decree with respect to:

- a. determination of measures for petroleum and the transportation thereof;
- b. the preservation of petroleum and the prevention of unnecessary spillage;
- c. protection of fisheries, navigation and other activities within or near the areas where petroleum activities are performed.

Article 29

1. The following shall be withdrawn:

- a. **the Law of 30 May, 1932 containing provisions for the exploration and exploitation of petroleum (1932 Petroleum Law, Official Gazette 1932, no.55, valid text of Official Gazette 1953 no. 3, as last amended by Official Gazette 1968 no. 100).;**
- b. **the Decree of 3 December 1980 concerning the granting to Staatsolie Maatschappij Suriname N.V. (State Oil Company of Suriname) of a license for the exploration of and a concession for the exploitation of hydrocarbons, as well as the enactment of legal regulations with respect thereto (Decree E-8, Official Gazette 1980 no. 128, as last amended by Official Gazette 1981 no. 37 and by Official Gazette 1985 no. 66).**

2. The Decree of 11 May 1981 concerning power of attorney to grant Staatsolie Maatschappij Suriname N.V. a license for the exploration of and a concession for the exploitation of hydrocarbons (Decree E-88 1981, Official Gazette no.59) shall remain in force until a date to be determined later by law.

Article 30

1. This law, which may be referred to as the Petroleum Law 1990, shall be published in the Official Gazette of the Republic of Suriname.

2. It shall become effective on the day following its promulgation.

Given in Paramaribo, this 6th March 1991
J.S.P. KRAAG

The Vice President,
Chairman of the Council of Ministers,
J.A. WIJDENBOSCH

The Minister of Natural Resources,
E.J. VAN VARSSEVELD

Issued in Paramaribo on 6th March, 1991
The Minister of Home Affairs,
J. BREEVELD

3. Law of 2 October 2001, amending the Petroleum Law 1990

OFFICIAL GAZETTE
of the

REPUBLIC OF SURINAME (2001 no. 58)

(Unofficial Translation)

THE PRESIDENT OF THE REPUBLIC OF SURINAME

Taking into consideration that it is desirable to amend the Petroleum Law of March 6, 1991 (Official Gazette 1991 no. 7);

After having heard the State Council and after approval by the National Assembly, ratified the Law hereunder:

Article 1

In the Petroleum Law of March 6, 1991 (Official Gazette 1991 no. 7) the following amendments shall be made:

In Article 1, after item “k” a new item “l” shall be inserted, which shall read as follows:

L. Sub-contractor: a natural person or legal entity, directly or indirectly, providing services to a contractor in connection with and characteristic to petroleum activities in accordance with common practice in the international petroleum industry.

Article 9 paragraph 1 shall be replaced as follows:

State enterprises as well as contractors shall be subject to all applicable tax laws, stamp duties, levies, and all other costs of a general nature that are non-discriminative towards the contractor. The previous is not applicable in case provided otherwise in this Law or in the Mining Decree, or if exemption is granted.

In Article 9, after paragraph 7, a new paragraph 8 shall be inserted, which shall read as follows:

A contractor, pursuant to the Income Tax Law of 1922 (Government Gazette 1921 no. 112, as lastly amended by Official Gazette 2000 no. 123), shall be subject to income tax pursuant to the rates applicable on the date that the petroleum agreement enters into force. In case the tax rates are adjusted, such adjustment shall not be applicable to the contractor and shall have no influence on his liability to pay taxes pursuant to the Income Tax Law of 1922.

In Article 15, under insertion of the number "1" before the existing sentence, two new paragraphs 2 and 3 shall be inserted, which shall read as follows:

On written request by the state enterprise that has entered into a petroleum agreement with a contractor, the Government may issue to contractor concerned, by State Decree, a guarantee with regard to:

Safeguarding the rights and claims of the contractor under the petroleum agreement and the interests concerned of the contractor in the execution thereof, to the extent that the Government is authorized thereto.

Stabilizing the fiscal position of the contractor at the time the petroleum agreement comes into effect pursuant to the provisions of the Constitution on this matter.

2. Guarantees already issued by the Government to contractors before this Law enters into force shall be considered to be issued on the basis of this Law.

After Article 27 a new Article 27a shall be inserted, which shall read as follows:

All rights, obligations, privileges and exemptions that are applicable to the contractor pursuant to this Law shall also be applicable to their sub-contractors, not including the provisions of Article 9 paragraph 8.

Article 2

This Law shall be promulgated in the Official Gazette of the Republic of Suriname.

This Law shall enter into force on the day following its promulgation.

The Minister in charge of the national policy on natural resources shall be responsible for the execution of this Law.

Done in Paramaribo on October 2, 2001

R.R. Venetiaan

Issued in Paramaribo on this 16th october 2001

The Minister of Home Affairs

U. Joella-Sewnundun