

Law N° 2011/025 of 14 December 2011 On The Development Of Associated Gas

The National Assembly deliberated and adopted, the President of the Republic hereby enacts the law set out below:

CHAPTER 1: GENERAL PROVISIONS

SECTION 1 - This law relates to the development of associated gas.

SECTION 2 - The purpose of developing associated gas is to:

- Foster the recovery of flared or released gas for commercialization;
- create attractive contractual and tax conditions for oil contract holders to develop associated gas; contribute to the reduction of greenhouse gas emissions and environmental protection.

SECTION 3 – For the purposes of this law and its implementing instruments, the following definitions shall apply:

- Authorized official:** any official who can grant an administrative deed in his sphere of competence for the enforcement of the current law and its implementation;
- Exploitation permit:** administrative act whereby an oil company or a group of oil companies is granted the right to produce or develop hydrocarbons;
- Flaring permit:** administrative act whereby the operator is specially allowed to flare associated gas;
- Oil contract:** production sharing or concession contract as defined by Petroleum Code;
- Carbon credit:** tradable credit to emit or reduce one tonne of carbon dioxide equivalent;
- Ecosystem:** a dynamic complex community of plants, animals, micro-organisms and their living environment which, by interacting, form a functional unit;
- Associated gas:** gas found in the form of solutions in crude oil and separated from it during extraction;
- Greenhouse gases:** atmospheric gaseous components, which are natural of due to human activities and which absorb infrared radiation emitted by the Earth's surface;

-Hydrocarbons: liquid and gaseous components existing in their natural state, otherwise known as crude oil or natural gas as the case may be, and all related products and substances extracted in association with the said components;

-Installation: any facility or any fixed or mobile unit used in associated gas production;

-Flaring standard: all rules with which the operator must comply during useful flaring or in case of special flaring permit;

-Operator: oil company, that is a permit holder or co-holder entrusted with conducting petroleum operations in accordance with the oil contract provisions;

-Exchange rate regime: terms and conditions governing local currency exchange;

-Release: dissemination into the atmosphere of the gas that escapes from hydrocarbons exploitation;

-Upstream oil sector: sector bearing exploration and exploitation activities of raw liquid and gas hydrocarbons;

-Downstream oil sector: sector bearing activities of processing, transporting, distribution stocking, importing, exporting, selling liquid and gas hydrocarbons;

-Exploitation site: location where the operator conducts hydrocarbons exploitation activities;

-Government monitoring: check by the Government of the operator's activities;

-Third party: natural or legal person not party to the oil contract, but having concluded with the operator an agreement for exploitation of associated gas in lieu of the operator;

-Flaring: any operation consisting in burning gas from oil production.

CHAPTER II: LEGAL STATUS OF ASSOCIATED GAS-RELATED ACTIVITIES

1-EXPLOITATION OF ASSOCIATED GAS

SECTION 4 – (1) Associated gas comprises:

-Gas used for on-site petroleum operations and released into the open or flared during crude oil extraction;

-The gas transferred from operator to operator for oil exploitation purposes.

(2) The exploitation of the associated gas referred to in this law is an activity related to crude oil production.

SECTION 5 – (1) The exploitation of associated gas shall be subject to the licensing regime as defined in the Petroleum Code.

(2) The exploitation permit shall give its holder the exclusive right to conduct at its own risk, within the perimeter of the oil contract to which it relates, all associated gas development operations.

SECTION 6 – (1) All associated gas shall be the exclusive property of the State of Cameroon.

(2) It may be used by:

-Companies holding establishment conventions, partnership contracts or petroleum activities contracts on the exploitation of hydrocarbons;

-A third party having concluded an agreement to that effect with the holder of an oil contract prior to the approval by the Minister in charge of the upstream oil sector;

-The state of Cameroon or any duly authorized public institution.

(3) The agreement between the oil contractor and the third party shall specify the procedures for transfer of gas, the sharing of legal and contractual obligations related to installation and site restoration, investment cost sharing covering some common facilities, as well as take into account the cost of downtime during the installation of new equipment, sharing of risks and responsibilities in the event of technical failure or accident, and the terms of dispute resolution.

(4) Where a public establishment is authorized by the State, the authorization shall be granted for no consideration.

SECTION 7 - (1) The holder of petroleum contract shall notify the Minister in charge of the upstream petroleum sector, as prescribed by the Petroleum Code, of any discovery of commercially exploitable liquid hydrocarbon and the associated gas development project related thereto.

(2) After approval of the development plan for liquid hydrocarbon discovery and the development project by the Minister in charge of upstream petroleum sector, the operator shall be authorized to undertake the exploitation of associated gas under the conditions prescribed by the Petroleum Code.

(3) The holder of petroleum contract may be exempted from the associated gas development requirement only after having provided technical evidence, accepted by the Minister in charge of the upstream petroleum sector that the said gas is not available in commercial quantities.

II-FLARING OF ASSOCIATED GAS

SECTION 8 - (1) The flaring permit may be granted as a special measure by the Minister in charge of upstream oil sector at the request of the operator, subject to security-related provisions and where the technical or economic factors warrant, for a period not exceeding 60 days renewable.

(2) The flaring permit shall take into account the conditions and characteristics of the underground gas tanks and how they operate.

(3) The conditions for implementing the provisions concerning the flaring of associated gas shall be laid down by regulation.

SECTION 9 - (1) The quantities of associated gas flared shall be reported at the expiration of license period. The said report shall be addressed to the Minister in charge of the upstream petroleum sector for assessment of compliance with the flare standard.

(2) The flaring standard shall be set by regulation.

SECTION 10 – Any operator operating in the upstream petroleum sector shall be required to comply with the associated gas flaring and discharge standards.

CHAPTER III: ENVIRONMENTAL PROTECTION AND SAFETY MEASURES

SECTION 11- (1) The operator shall carry out its activities while preserving the safety of persons and property as well as the environment and ecosystems.

(2) It shall be required to apply the standards of hygiene, safety and environmental protection, in accordance with laws and regulations, oil industry practices, as well as international treaties signed and ratified by Cameroon on greenhouse gas emissions.

SECTION 12– (1) The operator shall be bound to ensure compliance of the facilities necessary for associated gas exploitation, during the transitional period referred to in Section 25 below.

(2) The compliance conditions shall be laid down by regulation.

SECTION 13- The operator may request from the Minister in charge of environmental issues to benefit from the Clean Development Mechanism or other similar mechanism in order to obtain carbon credits.

CHAPTER IV: ADMINISTRATIVE AND TECHNICAL MONITORING

SECTION 14- The Minister in charge of the upstream petroleum sector shall be responsible for administrative and technical monitoring of associated gas related activities in conjunction with all other relevant government services.

SECTION 15- (1) Administrative and technical monitoring shall include:

-assessment of compliance with standards of flaring;

-verification of volumes of gas flared;

Upkeep of equipment and facilities;

-safety of persons and property

-environmental protection;

(2) The conditions for implementing the provisions of Subsection I above shall be laid down by regulation.

CHAPTER V: ACCOUNTING, TAX, CUSTOMS AND EXCHANGE SYSTEM PROVISIONS

I-ACCOUNTING

SECTION 16- Associated gas exploitation accounts shall be governed by the laws applicable to oil contracts.

SECTION 17- (1) The operator shall keep separate accounts for its liquid hydrocarbons and associated gas exploitation operations.

(2) Without prejudice to the tax provisions in force, audited accounts shall be filed with the competent authority within no more than three (3) months of the close of fiscal year, subject to penalties provided for in Section 22 below.

II-TAX AND CUSTOMS PROVISIONS AND EXCHANGE REGIME

SECTION 18- The operator shall be subject to the tax system provided for by the Petroleum Code.

SECTION 19- Notwithstanding the provisions of Section 18 above, associated gas exploitation activities shall enjoy the following tax benefits:

-Exemption from company tax for the first 5 (five) years of operation. At the end of the said period, the associated gas operator shall be liable to company tax at the reduced rate of 35 % (thirty-five percent);

-Exemption from registration fees for buildings leased solely for professional use as an integral part of the investment programme;

-Exemption from transfer fees on the acquisition of property, land and buildings essential to the implementation of the investment programme;

-Exemption from the graduated tax on production as provided for in the Petroleum Code;

-For the first 10 (ten) years of associated gas exploitation, deduction of depreciation normally recorded during the first 3 (three) fiscal years on taxable income from the next 5 (five) fiscal years.

SECTION 20- The operator shall be subject to the customs and foreign exchange regimes provided for under the Petroleum Code.

CHAPTER VI: OFFENCES AND PENALTIES

I-OFFENCES

SECTION 21- The following shall be considered offences within the meaning of this law;:

-flaring without authorization;

-flaring contrary to the provisions hereunder;

-non-compliance with standards of flaring;

-non-compliance with technical, safety and health regulations on flaring operations;

-non-compliance with environmental regulations;

-non-maintenance;

-non-compliance with accounting standards hereunder;

-concealment of information and communication which the Minister in charge of the upstream petroleum sector is responsible for monitoring;

-obstruction of control by sworn officers.

II-PENALTIES

SECTION 22- (1) In case of violation, the Minister in charge of the upstream petroleum sector shall pronounce against the operator, one of the following sanctions:

- fine;
- suspension of the flaring permit;
- withdrawal of flaring approval.

(2) The penalties referred to in subsection (1) above shall take effect only where a notice served on the operator is not acted upon within thirty (30) days.

SECTION 23- The fines shall be as follows:

- flaring without a permit: 250,000,000 (two hundred and fifty million) CFA francs;
- violation of the standards of flaring: 100,000,000 (one hundred million) CFA francs;
- non-compliance with technical, safety and health-related flaring regulations: 50,000,000 (fifty million) CFA francs;
- non-compliance with the environmental rules: 20,000,000 (twenty million) CFA francs;
- non-maintenance of facilities: 50,000,000(fifty million) CFA francs;
- non-compliance with accounting standards prescribed here above: 50,000,000 (fifty million) CFA francs;
- concealment of information and communications: 50,000,000 (fifty million) CFA francs;
- Obstruction of control by authorized sworn officers: 100,000,000 (one hundred million) CFA francs;
- failure to pay fines: increase of 10 % (ten percent) per month.

SECTION 24- (1) The penalties referred to in Section 22 above shall be inflicted by the Minister in charge of the upstream petroleum sector or any public establishment authorized to do so, without prejudice to other penalties provided by the laws and regulations in force.

(2) The conditions for implementing the provisions of subsection (1) above shall be laid down by regulation.

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

SECTION 25- The transitional period for compliance of associated gas exploitation facilities shall be 3 (three) years with effect from the date of enactment of this law.

SECTION 26- This law shall be registered, published according to the procedure of urgency and inserted in the Official Gazette in English and French./-