

[PRESIDENTIAL DECREE NO. 87, December 31, 1972]

AMENDING PRESIDENTIAL DECREE NO. 8 ISSUED ON OCTOBER 2, 1972 AND PROMULGATING AN AMENDED ACT TO PROMOTE THE DISCOVERY AND PRODUCTION OF INDIGENOUS PETROLEUM AND APPROPRIATE FUNDS THEREFOR.

WHEREAS, Presidential Decree No. 8, dated October 2, 1972, was issued to promote the discovery and development of the country's indigenous petroleum resources and adopting therefore as part of the law of the land the provisions of Senate Bill No. 531 (An Act to Promote the Discovery, Production of Indigenous Petroleum and Appropriate Funds Therefor);

WHEREAS, it was found necessary for the national interest to amend Senate Bill No. 531 among other things to provide more meaningful incentives to prospective service contractors;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the

Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby amend Presidential Decree No. 8 as follows:

AN ACT TO PROMOTE THE DISCOVERY AND PRODUCTION OF INDIGENOUS PETROLEUM, AND APPROPRIATING FUNDS THEREFOR.

SECTION 1. *Short title.* — This Act shall be known and may be cited as "THE OIL EXPLORATION AND DEVELOPMENT ACT OF 1972."

SEC. 2. *Declaration of policy.* — It is hereby declared to be the policy of the State to hasten the discovery and production of indigenous petroleum through the utilization of government and/or private resources, local and foreign, under the arrangements embodied in this Act which are calculated to yield the maximum benefit to the Filipino people and the revenues to the Philippine Government for use in furtherance of national economic development, and to assure just returns to participating private enterprises, particularly those that will provide the necessary services, financing and technology and fully assume all exploration risks.

SEC. 3. *Definition of terms.* — As used in this Act, the following terms shall have the following respective meanings:

- a. "Petroleum" shall include any mineral oil, hydrocarbon gas, bitumen, asphalt, mineral gas and all other similar or naturally associated substances with the exception of coal, peat, bituminous shale and/or other stratified mineral fuel deposits.
- b. "Crude oil" or "crude" means oil in its natural state before the same has been refined or otherwise treated. It does not include oil produced through destructive distillation of coal, bituminous shales or other stratified deposits, either in its natural state or after the extraction of water, and sand or other foreign substances therefrom.

- c. "Natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons.
- d. "Petroleum operations" means searching for and obtaining petroleum within the Philippines through drilling and pressure or suction or the like, and all other operations incidental thereto. It includes the transportation, storage, handling and sale (whether for export or for domestic consumption) of petroleum so obtained but does not include any: (1) transportation of petroleum outside the Philippines; (2) processing or refining at a refinery; or (3) any transactions in the products so refined.
- e. "Petroleum in commercial quantity" means petroleum in such quantities which will permit its being economically developed as determined by the contractor after taking into consideration the location of the reserves, the depths and number of wells required to be drilled and the transport and terminal facilities needed to exploit the reserves which have been discovered.
- f. "Posted price" refers to the FOB price established by the Contractor in consultation with the Petroleum Board for each grade, gravity and quality of crude oil offered for sale to buyers generally for export at the particular point of export, which price shall be based upon geographical location, and the fair market export values for crude oil of comparable grade, gravity and quality.
- g. "Market price" shall mean the price which would be realized for petroleum produced under a contract as hereinafter defined if sold in a transaction between independent persons dealing at arm's length in a free market.
- h. "Barrel" means 42 U.S. gallons or 9702 cubic inches at a temperature of 60° Fahrenheit.

Any reference in this Act to the value of any crude oil at the posted price or market price shall be construed as a reference to the amount obtained by multiplying the number of barrels of that crude oil by the posted price or market price per barrel applicable to that crude oil.

- i. "Crude oil exported" shall include not only crude oil exported as such but also indigenous crude oil refined in the Philippines for export.
- j. "Government" means the Government of the Republic of the Philippines.
- k. "Contractor" means the contractor in a service contract whether acting alone or in consortium with others.
- l. "Contract" refers to a service contract.
- m. "Filipino participation incentive" means the allowance which may be given the Contractor with Filipino participation as *provided* in Section 28 hereof.
- n. "Philippine corporation" means a corporation organized under Philippine laws at least sixty per cent of the capital of which is owned and held by citizens of the Philippines.
- o. "Affiliate" means (a) a company in which a contractor holds directly or indirectly at least fifty per cent of its outstanding shares entitled to vote; (b) a company which holds directly or indirectly at least fifty per cent of the contractor's outstanding shares entitled to vote; or (c) a company in which at least fifty per cent of its share outstanding and entitled to vote are owned by a company which owns directly or indirectly at least fifty per cent of the shares outstanding and entitled to vote of the contractor.
- p. "Gross income" means the gross proceeds from the sale of crude, natural gas or casinghead petroleum spirit produced under the contract and sold during the taxable year at posted or market price, as the case may be, and such

other income which are incidental to and arising from any one or more of the petroleum operations of the contractor.

- q. "Taxable net income" means the gross income less the deductions allowed in this Act.
- r. "Taxable year" means the calendar or fiscal year of the contractor.
- s. "Casinghead petroleum spirit" means any liquid hydrocarbon obtained from natural gas by separation or by any chemical or physical process.
- t. "Petroleum Board" refers to the Petroleum Board created in Section seventeen of this Act.
- u. "Operating Expenses" means the total expenditures for petroleum operations made by the Contractor both within and without the Philippines as *provided* in a service contract.

SEC. 4. *Government may undertake petroleum exploration and production.* —

Subject to the existing private rights, the Government may directly explore for and produce indigenous petroleum. It may also indirectly undertake the same under service contracts as hereafter *provided*. These contracts may cover free areas, national reserve areas and/or petroleum reservations, as *provided* for in the Petroleum Act of 1949, whether on-shore or off-shore. In every case, however, the Contractor must be technically competent and financially capable as determined by the Board to undertake the operations required in the contract.

SEC. 5. *Execution of contract authorized in this Act.* — Every contract herein authorized shall, subject to the approval of the President, be executed by the Petroleum Board created in this Act, after due public notice pre-qualification and public bidding or concluded through negotiations. In case bids are requested or if requested no bid is submitted or the bids submitted are rejected by the Petroleum Board for being disadvantageous to the Government, the contract may be concluded through negotiation.

In opening contract areas and in selecting the best offer for petroleum operations, any of the following alternative procedures may be resorted to by the Petroleum Board, subject to prior approval of the President:

- (a) The Petroleum Board may select an area or areas and offer it for bid, specifying the minimum requirements and conditions; or
- (b) The Petroleum Board may open for bidding a large area wherein bidders may select integral areas not larger than the maximum *provided* in this Act. Only the best offer shall be accepted and the selection thereon shall be made by a weighted system of evaluating the different aspects of each bid; or
- (c) An area may be selected by an interested party who shall negotiate with the Petroleum Board for a contract under the terms and conditions *provided* in this Act.

SEC. 6. *Nature of service contract.* — In a service contract, service and technology are furnished by the service contractor for which it shall be entitled to the stipulated service fee while financing is *provided* by the Government to which all petroleum produced shall belong.

SEC. 7. *Special stipulation in service contract.* — Where the Government is unable to finance petroleum exploration operations or in order to induce the Contractor to exert the maximum efforts to discover and produce petroleum as soon as possible,

the service contract shall stipulate that if the contractor shall furnish services, technology and financing the proceeds of sale of the petroleum produced under the contract shall be the source of funds for payment of the service fee and the operating expenses due the Contractor.

SEC. 8. *Obligations of contractor in service contract.* — The arrangement pursuant to the preceding Section seven shall be such that the contractor, which may be a consortium, shall undertake, manage and execute petroleum operations. The contract may authorize the Contractor to take and dispose of and market either domestically or for export all petroleum produced under the contract subject to supplying the domestic requirements of the Republic of the Philippines, on a pro-rata basis. The Government shall oversee the management of the operations contemplated in the contract and in this connection shall require the contractor to —

- a. Provide all necessary services and technology;
- b. Provide the requisite financing;
- c. Perform the exploration work obligations and program prescribed in the agreement between the Government and the Contractor, which may be more but shall not be less than the obligations prescribed in this Act;
- d. Once petroleum in commercial quantity is discovered, operate the field on behalf of the Government in accordance with accepted good oil field practices using modern and scientific methods to enable maximum economic production of petroleum; avoiding hazards to life, health and property; avoiding pollution of air, land and waters; and pursuant to an efficient and economic program of operation.
- e. Assume all exploration risks such that if no petroleum in commercial quantity is discovered and produced, it will not be entitled to reimbursement;
- f. Furnish the Petroleum Board promptly with geological and other information, data and reports which it may require;
- g. Maintain detailed technical records and accounts of its operations;
- h. Conform to regulations regarding, among others, safety, demarcation of agreement acreage and work areas, non-interference with the rights of other petroleum, mineral and natural resources operators;
- i. Maintain all meters and measuring equipment in good order and allow access to these as well as to the exploration and production sites and operations to inspectors authorized by the Petroleum Board;
- j. Allow examiners of the Bureau of Internal Revenue and other representatives authorized by the Petroleum Board full access to their accounts, books and records, for tax and other fiscal purposes; and
- k. Be subject to Philippine income tax.

On the other hand, the Petroleum Board shall —

(1) On behalf of the Government, reimburse the Contractor for all operating expenses not exceeding seventy per cent of the gross proceeds from production in any year: *Provided*, That if in any year the operating expenses exceeds seventy per cent of gross proceeds from production, then the unrecovered expenses shall be recovered from the operations of succeeding years.

(2) Pay the Contractor a service fee the net amount of which shall not exceed forty per cent of the balance of the gross income after deducting

the Filipino participation incentive, if any, and all operating expenses recovered pursuant to Section 8 (1) above.

(3) Reimbursement of operating expenses and payment of the service fee shall be in such form and manner as *provided* for in the contract.

SEC. 9. Minimum terms and conditions. — In addition to those elsewhere *provided* in this Act, every contract executed in pursuance hereof shall contain the following minimum terms and conditions:

(a) Every contractor shall be obliged to spend in direct prosecution of exploration work and in delineation and development following the discovery of oil in commercial quantity not less than the amounts *provided* for in the contract between the Government and the Contractor and these amounts shall not be less than the total obtained by multiplying the number of hectares covered by the contract by the following amounts per hectare:

Period	On-shore	Off-shore
Year 1	P 3.00	P 3.00
Year 2	3.00	3.00
Year 3	3.00	6.00
Year 4	3.00	6.00
Year 5	3.00	6.00
Year 6	9.00	18.00
Year 7	9.00	18.00
Year 8	9.00	18.00
Year 9	9.00	18.00
Year 10	9.00	18.00

Provided, That if during any contract year the Contractor shall spend more than the amount of money required to be spent, the excess may be credited against the money required to be spent by the Contractor during succeeding contract: years: *Provided, further*, That in case the same Contractor holds two or more areas under different contracts of service, the total amount of work obligations for exploration required for the initial term of all the contracts may be spent within any one or more of them as if they are covered by a single contract of service: *Provided, further*, That should the Contractor fail to comply with the work obligations *provided* for in the contract, it shall pay to the Government the amount it should have spent but did not in direct prosecution of its work obligations: *Provided, finally*. That the Contractor shall drill a minimum footage of test wells before the end of periods of time as may be specified in the contract with the Petroleum Board in order to be entitled to the extension of the exploration period for 3 years as *provided* for in paragraph (e) herein.

(b) In case the Contractor renounces or abandons wholly or partly the area covered by his contract within two years from its effective date, it shall in respect of the abandoned area pay the Government the amount it