

# **LAW N° 2002/013 OF 30 DECEMBER 2002 TO INSTITUTE THE GAS CODE**

## **PART I : GENERAL PROVISIONS**

**Section 1 :** This law and its application instruments shall govern the downstream gas sector comprising transportation, distribution, processing, storage, importation, exportation and marketing of natural gas within the national territory.

Except otherwise provided, this law shall exclude the following :

- ♦ prospecting, exploration, exploitation, transportation, storage and processing activities of liquid or gaseous hydrocarbons as governed by Law n° 99/13 of 22 December 1999 to institute the Petroleum Code ;
- ♦ transportation of liquid and gaseous hydrocarbons from foreign countries through Cameroonian territory as governed by Law n° 96/14 of 5 August 1996 to lay down rules governing the transportation by pipeline of hydrocarbons from foreign countries.

**Section 2 :** The purport of this law is to promote the development of the downstream gas sector in Cameroon.

As such, it is aimed at :

- ♦ putting in place a legal framework conducive to the development of gas resources ;
- ♦ setting up an attractive environment for private national and foreign investors in the gas sector ;
- ♦ laying down principles governing regulation of the sector ;
- ♦ guaranteeing the safety of facilities and environmental protection.

**Section 3 :** Any natural Cameroonian or foreign person residing in the Republic of Cameroon or any corporate body governed by Cameroonian private or public law without discrimination, may undertake on Cameroonian territory, any activity in the downstream gas sector, provided that such person or corporate body has been granted prior authorization in accordance with the laws and regulations in force.

**Section 4 :** For purposes of this law and the regulations resulting therefrom, the terms hereinafter shall have the following meanings :

- « **competent authority** » : the authority in charge of regulating the downstream gas sector ;
- « **authorization** » : an act by which an operator is authorized to carry out the activities referred to in Section 21 of this law ;
- « **customer** » : eligible customer or final customer ;
- « **eligible customer** » : a customer whose annual consumption of gas is above the ceiling fixed by regulation, who has the right to conclude gas purchase contracts with a producer, a transporter or a distributor and, for that reason, is entitled to official access to the transportation and distribution networks ;
- « **final customer** » : natural person or corporate body who purchases gas for his own use, the annual consumption of which is lower than the ceiling fixed by regulation ;
- « **Petroleum code** » : Law n° 99/13 of 22 December 1999 to institute the Petroleum Code ;
- « **concession contract** » : agreement concluded between the State and an operator with a view to constructing, exploiting, maintaining or developing a network for the transportation or distribution of gas on an exclusive basis in a given geographical area, for a fixed duration, on the basis of specifications ;

« **concession** » : act by which an operator is authorized to carry out the activities referred to in Section 8 of this law for a specified duration on the basis of specifications ;

« **cessionnaire** » : a person who is holder of a concession for the transportation or distribution of gas as stipulated by this law ;

« **distribution** » : activity aimed at transporting gas within a distribution network for the purpose of supplying it to customers ;

« **distributeur** » : a person engaged in the distribution of gas in a distribution network granted him by a distribution concession ;

« **exploitation** » : all operations relating to transportation, distribution, processing, storage, importation, exportation and sale of gas on the national territory excluding the rehabilitation of sites at the end of exploitation ;

« **exportation** » : export of gas produced in the Republic of Cameroon and sold in a third country ;

« **gas** » : gaseous hydrocarbons as found in their natural state, otherwise referred to as natural gas or resulting from hydrocarbons refining operations, as well as all related products and substances extracted therefrom, the exhaustive list of which is fixed by regulation ;

« **liquefied petroleum gas** » : hydrocarbons composed essentially of a mixture of butane and propane which is not liquid under normal conditions (0° C, 1 atm) ;

« **hydrocarbons** » : liquid gaseous hydrocarbons as found in their natural state, otherwise referred to as crude oil or natural gas as the case may be, as well as all related products and substances extracted in association with the said hydrocarbons ;

« **importation** » : purchase of gas from a foreign country intended for sale or use in the national territory ;

« **permit** » : act by which an operator is authorized to carry out the activities referred to in Section 14 of this law ;

« **operator** » : any person who has been authorized to carry out an activity governed by the law ;

« **person** » : any national or foreign natural person resident in the Republic of Cameroon or any corporate body governed by Cameroon public or private law ;

« **point of delivery** » : connection point between a transportation network and a distribution network of an eligible customer where the latter is directly connected to the transportation network ;

« **connection point** » : a point at which a customer is connected to a distribution network ;

« **reception point** » : a point linking the pipelines for the transportation of gas extracted from the exploitation sites to a transportation network or point of interconnection with the network of a third country ;

« **producer** » : any person engaged in gas exploitation activities within the meaning of the petroleum code ;

« **petroleum products** » : products derived from the refining of hydrocarbons, in particular petrol, aviation fuels, bunker oils, paraffin and fuel oil ;

« **rehabilitation of sites** » : all the operations intended to restore the exploitation and protection areas at the end of the exploitation thereof ;

« **distribution network** » : all the structures comprising pipelines at a maximum pressure fixed by regulation as well as attachments and auxiliaries thereof used for the distribution of gas, linked from the delivery point to the connection point ;

« **transportation network** » : all the structures comprising pipelines at a pressure above the level fixed by regulation as well as attachments and plants thereof, used for the purpose of transporting gas, linked from the reception point to the delivery point ;

« **storage** » : reception and conservation of quantities of gas for subsequent use, including the use of porous geological formations, natural or artificially created cavities, excluding storage relating to production activities subject to the Petroleum Code ;

« **Cameroonian territory** » : land and maritime area including the exclusive economic zone of the Republic of Cameroon ;

« **processing** » : gas liquefaction, petrochemical and gasochemical operations ;

« **transportation** » : activities relating to transportation of gas within a transportation network which is within the scope of application of this law ;

« **transporter** » : a person transporting gas within the transportation network which he exploits by virtue of a transportation concession ;

« **sale** » : sale of gas intended for final customers.

## PART II REGULATION OF DOWNSTREAM GAS SECTOR

**Section 5 :** The activities referred to in Section 1 above shall fall under the authority of the Minister in charge of hydrocarbons or any public establishment entrusted with the regulation thereof.

**Section 6 : (1)** The regulation of the downstream gas sector shall, in particular concern :

- ◆ control and monitoring of the activities of exploiters and operators of the downstream gas sector ;
- ◆ promotion and rational development of gas supply ;
- ◆ economic and financial balance of gas sector as well as preserving economic conditions necessary for its development ;
- ◆ protection of the rights and interests of the consumer, in particular as concerns price, supply and gas quality ;
- ◆ promotion of competition and private sector participation in the secondary gas sector ;
- ◆ implementation, monitoring and control of the tariff system, as well as ensuring respect of the modalities and procedures in force ;
- ◆ overseeing the implementation of the technical regulations on hygiene, safety and the laws and regulations in force governing environmental protection ;
- ◆ implementation and monitoring of the application of the rules governing access by third parties to gas transportation and distribution networks ;
- ◆ monitoring the implementation of norms and standards by operators in the downstream gas sector ;
- ◆ application of sanctions provided for by the law ;
- ◆ settlement of disputes between operators of the sector.

**(2)** The conditions for the implementation of this section shall be laid down by regulation.

**Section 7 :** Financial resources shall be allocated to ensure the regulation of the downstream gas sector. Such resources shall be public funds. They shall be managed in accordance with the rules laid down by the State financial system.

These resources shall be derived from :

- ◆ proceeds from royalties provided in this law ;
- ◆ gifts and legacies ;
- ◆ fees paid in respect of applications for concessions, permits and authorizations ;
- ◆ proceeds from the fines provided in this law ;
- ◆ loans from public or private fundings agencies ;

- ◆ State subsidies.

## **PART III**

### **RULES AND REGULATIONS GOVERNING DOWNSTREAM GAS ACTIVITIES**

#### **CHAPTER I : CONCESSIONS**

##### **I – PROVISIONS COMMON TO TRANSPORTATION AND DISTRIBUTION CONCESSIONS**

**Section 8 :** (1) Any gas transportation and distribution activity shall be subject to granting of a concession.

(2) The concession shall be granted by the Minister in charge of hydrocarbons for a renewable period of 25 (twenty-five) years.

(3) The concession shall be valid only within the area for which it is granted. It shall define, as the case may be, the rights and obligations of the transporter or distributor, in the management of the network under his responsibility.

**Section 9 :**(1) The concessionaire shall operate under the conditions laid down by his concession contract and the specifications appended thereto.

(2) An order of the Minister in charge of hydrocarbons shall define the standard clauses of a concession contract and, in particular, conditions of review and renewal, as well as the rights and obligations of the concessionaire in case of interruption or abandonment of operation of the transportation or distribution network.

(3) Concession contracts shall also lay down the conditions for suspension and withdrawal thereof by the Minister in charge of hydrocarbons, as well as conditions for the settlement of disputes.

**Section 10 :** (1) The procedure for the grant of a concession shall be laid down by regulation.

(2) The concession shall be granted on the basis of :

- ◆ the applicant's technical and financial resources ;
- ◆ respect by the applicant of the obligations incumbent on him by virtue of this law and its application instruments, especially as concerns environmental protection ;
- ◆ the safety and security of the transportation or distribution networks, as the case may be, for which application has been filed.

(3) Any rejection of an application for a concession shall be accompanied with reasons therefor.

**Section 11 :** The transfer in whole or in part of the rights of a transportation or distribution network shall be subject to the prior approval of the Minister in charge of hydrocarbons and shall comply with conditions laid down by the regulations in force and by the concession contract.

##### **II – SPECIFIC PROVISIONS RELATING TO TRANSPORTATION AND DISTRIBUTION CONCESSIONS**

**Section 12 :** (1) The construction and operation of a transportation network intended to supply distribution networks, other transportation networks, storage facilities or eligible customers shall be subject to a transportation concession.

(2) The design, construction, operation, connection, maintenance and rehabilitation of the sites of a transportation network shall comply with proper procedures, internationally accepted practices and the laws and regulations in force.

**Section 13 :** (1) The construction and operation of a gas distribution network intended to supply gas to final and eligible customers, distributors, transporters and producers at their request shall be subject to a distribution concession.

(2) The design, operation, maintenance and rehabilitation of the sites of a gas distribution network as well as relating to the connection of a distribution network to a transportation network shall comply with proper procedures, internationally accepted practices and the laws and regulations in force.

(3) In addition, the concessionaire of a distribution network shall :

- ◆ maintain enough gas in stock to satisfy demand ;
- ◆ supply gas to final customers in compliance with rates fixed by regulation ;
- ◆ treat information given him by customers in the exercise of his activity with confidentiality.

## **CHAPTER II : LICENCE REGULATIONS**

### **I – GENERAL PROVISIONS**

**Section 14 :** Processing, storage, importation and exportation of gas shall be governed by licence regulations.

**Section 15 :** (1) A licence shall be an instrument by which the Minister in charge of hydrocarbons authorizes an operator to exercise, under transparent and non-discriminatory conditions, any of the activities referred to in Section 14 above.

(2) However, in respect of processing and storage licences, specifications shall define the conditions for and methods of exercising such activity.

(3) A licence shall be granted for a renewable period of :

- ◆ 15 (fifteen) years for processing and storage activities ;
- ◆ 5 (five) years for importation and exportation activities.

**Section 16 :** (1) Applications for licences shall be addressed to the Minister in charge of hydrocarbons or to any other public establishment so empowered.

(2) A licence shall be granted on the basis of the applicant's technical and financial resources.

(3) The procedure for obtaining licences shall be fixed by regulations.

**Section 17 :** The transfer in whole or in part of a licence shall be subject to prior approval by the Minister in charge of hydrocarbons or any other public establishment so empowered. Such transfer shall comply with conditions laid down by regulations.

### **II – PROCESSING LICENCE**

**Section 18 :** The processing licence shall confer upon its holder the right to undertake gas processing activities in accordance with the provisions contained in his licence and the list of specifications.

### **III – STORAGE LICENCE**

**Section 19 :** The storage licence shall confer upon its holder the right to build and operate storage facilities in accordance with the provisions contained in his licence and the list of specifications.

**Section 20 :** Any operator may use the storage facilities of a storage licence holder on the strength of the principle of open access at a transparent and non-discriminatory rate which shall be made public after approval by the competent authority and determined having regard to the quantities handled and the duration of the service.

### **CHAPTER III : AUTHORIZATION**

**Section 21 :** The following activities shall be subject to authorization : sale of gas, importation and installation of material and equipment for setting up gas transportation and distribution networks, gas storage centres, as well as measuring and safety appliances used by operators and customers.

**Section 22 : (1)** An authorization shall be the instrument which the Minister in charge of hydrocarbons or any other public establishment with a mandate to that effect empowers an operator to carry out under transparent and non-discriminatory conditions, one of the activities in Section 21 above.

**(2)** The authorization shall be granted for a renewable period of 3 (three) years.

**Section 23 : (1)** The procedure for obtaining authorization shall be defined by regulations.

**(2)** The operator shall be bound to comply with the financial and technical criteria specific to the activity and defined by separate instruments.

**Section 24 :** The transfer of an authorization shall involve part or all of the activity covered by that licence. All transfers shall be authorized by the authority who granted it.

### **PART IV CONDITIONS FOR CARRYING OUT ACTIVITIES IN THE DOWNSTREAM GAS SECTOR**

**Section 25 : (1)** Any operator in the downstream gas sector shall carry out his activities in compliance with the principles of continuity and quality of service. He shall be bound to maintain the financial and technical conditions applicable to his schedule of activities during the entire period covered by the concession, licence or authorization.

**(2)** An operator who has been granted a concession, licence or authorization shall be bound to inform the Minister in charge of hydrocarbons prior to changes likely to occur in respect of shareholding and the composition of share capital, where such changes are likely to modify the control of the company.

**(3)** In case of changes in the situation at the date of granting the concession, licence or authorization contrary to the financial or technical commitments made by the operator, the schedule he had been granted may be withdrawn by the Minister in charge of hydrocarbons.

**Section 26 : (1)** The operator shall be bound to comply with the laws and regulations in force governing environmental protection and safety, and universally accepted norms of environmental protection and safety.

**(2)** Concessionaires who handle transportation and distribution shall be bound to build, operate, maintain and develop their networks in accordance with the safety norms contained in the legislation governing compressed gas and steam-powered equipment, as well as any other regulations in application of the present law and specific provisions of their

contracts. Moreover, they shall be bound to rehabilitate the sites on which they have winded up operations, in accordance with the rules of the trade and recognized international practice.

(3) The holder of a processing or storage licence shall be bound to comply with the laws and regulations governing establishments classified as dangerous, unhealthy or obnoxious.

**Section 27 :** The technical rules for operating, maintaining, designing and rehabilitating sites for transportation and distribution networks shall be fixed by regulations.

## **PART V ACCESS TO TRANSPORTATION AND DISTRIBUTION NETWORKS AND PRICING OF SERVICES**

### **CHAPTER I OPERATING TRANSPORTATION AND DISTRIBUTION NETWORKS**

**Section 28 :** (1) Every concessionaire shall be responsible for operating and maintaining the structures and other facilities that comprise his network, with a view to permitting the connection and access of users, particularly eligible customers, as well as the interconnection with other transportation and distribution networks in Cameroon.

He shall, in addition, be responsible for rehabilitating the sites he used at the end of his operations.

(2) To ensure access to transportation or distribution networks, the transporter or distributor shall implement programmes for injecting and tapping gas over the network he operates. These programmes shall be established in conjunction with producers and holders of sales licences and authorizations. They shall relate to the quantities of gas that they intend to inject or tap during a given period at reception, delivery and connection points.

**Section 29 :** (1) The transporter or distributor shall, on a permanent basis, ensure the balanced flow of gas over their network within the framework of optimal operation, with due consideration to technical constraints.

(2) The transporter and distributor shall perform the necessary calculations of their operation. They may, in view of the variations observed in respect to the programmes for injecting and tapping gas and the adjustment costs, request or grant a financial compensation to the users concerned, under conditions laid down in the concession contracts, and the pricing regulations in force.

### **CHAPTER II ACCESS TO TRANSPORTATION AND DISTRIBUTION NETWORKS**

**Section 30 :** For purposes of increasing the efficiency of transportation and distribution networks, the organisation of the sector shall be based on the principle of free access of third parties to transportation and distribution networks so as to permit direct supply to eligible customers.

**Section 31 :** Eligible customers shall negotiate with the transporter or the distributor, access to facilities of transportation and distribution networks under conditions of objectivity, transparency and non-discrimination. To this end, concessionaires shall be bound to publish each year the commercial terms for using their network. The competent authority shall publish standard contracts that govern relations between eligible customers and the transporter or distributor.

**Section 32 :** (1) Transporters or distributors may refuse access to their network for the following reasons :

- ◆ inadequate capacity or where access to the network by a third party hinders them from fulfilling the contractual or regulatory obligations ;
- ◆ technical or operational reasons ;
- ◆ serious economic or financial problems arising from the execution of sales contracts stipulating a minimal obligation of supply or payment.

(2) Any refusal shall state the reasons therefor.

(3) Any disagreement between the third party requesting access to the network and the transporter or distributor shall be brought before the competent authority.

### **CHAPTER III : PRICING OF SERVICES**

**Section 33 :** The rates applied to final customers shall be fixed on the basis of a method and parameters adopted beforehand by agreement between the competent authority and operators of the sector.

**Section 34 :** Gas supply activities shall be remunerated and regulated on the basis of mechanisms which enhance optimum management, profitability of activities as well as product quality improvement.

**Section 35 :** (1) Remuneration for the transportation and distribution of gas shall be fixed on the basis of a method and parameters defined by the competent authority in accordance with Section 34 above.

(2) The competent authority shall ensure that rates charged take into account investment, operation and equipment maintenance costs, other costs incurred in the exercise of the activity as well as an equitable reward for the invested capital such as is applied in similar activities and including development costs.

(3) The pricing formula shall include incentives for cost reduction and an improvement of product quality.

(4) Pricing shall be reviewed on a regular basis and applied by the competent authority following a time frame and procedure stipulated in the concession contracts.

### **PART VI**

#### **OCCUPATION OF LANDS FOR GAS TRANSPORTATION AND DISTRIBUTION**

**Section 36 :** (1) Any person wishing to carry out gas transportation and distribution activities can occupy the land required for the realisation of the said activities and execute works both in and out of the perimeter covered by his concession. Such lands can only be given to him for use, in accordance with the provisions of this Law and its implementation instruments as well as the realty and State Land Law in force.

(2) As soon as a concession contract is concluded, the holder shall submit to the competent administrative authorities a land inquiry file which shall enable him to occupy the said land under conditions fixed by the law.

(3) The objectives of such land inquiry are :

- a) to identify the status of the land covered by the concession ;
- b) to make a list of title holders, and owners of property on the said land ;
- c) to inform the persons referred to in paragraph (b) above of the conditions of compensation for loss of their rights ;
- d) to sensitize the population on the gas operations.

**Section 37 :** (1) From the findings of the land inquiry referred to in Section 36 above, the State may decide to set aside plots to be used as right of way for the construction, operation and maintenance of the gas transportation and distribution network.

(2) To this end and in accordance with the provisions of the laws in force governing land ownership and State lands, the State may, depending on the legal status of the relevant lands, either incorporate them into the private property of the State, classify them as public land or expropriate them for public purpose.

(3) The holder of the transportation or distribution concession shall be notified of all decisions taken by the State and shall take into account the rights of way in the course of his operations.

**Section 38 :** (1) Right of way shall be granted by decree temporarily allocating the land for the construction, operation and maintenance of the gas transportation and distribution network. It shall confer on the holder of the transportation or distribution concession the land ownership rights referred to in Section 37 above.

(2) The decree shall, in particular, stipulate the time-limit within which the holder of the transportation or distribution concession must submit to the Minister in charge of hydrocarbons the coordinates of the lands constituting the right of way of the transportation or distribution network.

(3) In constituting the right of way of the gas transportation and distribution network, the decree referred to in Section 38 (2) above may be amended to keep the said land for the operation and maintenance of the gas transportation or distribution network in accordance with the laws in force governing lands.

(4) The decree shall limit the rights of the transporter or distributor to the part of the land not forming part of the right of way of the gas transportation or distribution network and shall attach it to the rights of way used for maintenance works that require excavation.

(5) Lands constituting the right of way are and shall remain the private property of the State. They shall in no way whatsoever be transferred during the period of validity of the transportation or distribution concession or become the property of the holder of the transportation or distribution concession.

(6) After the construction of the gas transportation or distribution network, lands found within the perimeter concession may be used for other purposes, subject to the protection perimeters referred to in Section 48 of this law, and on condition that such use may not hinder or constitute an obstacle to the smooth operation and maintenance of the transportation and distribution network.

**Section 39 :** (1) The decree referred to in Section 38 above shall give the holder of the transportation or distribution concession the right to occupy and use lands in accordance with the objective and purpose stipulated in the concession, and free access to and use of facilities relating to the gas transportation and distribution network.

(2) Piping and attendant facilities relating to the gas transportation or distribution network as defined in the concession contract are and shall remain the property of the concessionaire until expiry of the concession. They shall be transferred to the State under conditions fixed by the concession contract.

**Section 40 :** (1) Costs and compensations for the opening of rights of way, incorporation, assignment and liberation of lands for the construction, operation and maintenance of the transportation or distribution network shall be fixed in accordance with the procedure in force as regards expropriation for public purpose.

(2) The compensation due for the use of the rights of way referred to in Section 40 (1) shall correspond to the value of third party property destroyed in accordance with the provisions of Section 41 below.

(3) The competent authority shall fix the amount of compensation and approve the costs. Its decisions in this regard may be subject to appeal. The appeal may concern only the amount of compensation and costs, and shall not constitute a hindrance to the execution of works on the land.

**Section 41 :** Under pain of prosecution, owners of private lands or their rightful claimants, users of State lands, concessionaires of public utilities or occupants of national lands shall not be permitted to carry out any activities that are likely to jeopardize construction, operation and maintenance work on the transportation or distribution network, if such work is carried out in accordance with the provisions of this law.

**Section 42 : (1)** The holder of the transportation or distribution concession may, where the competent authority deems his application to be justified, be authorized, against due and prior compensation, to temporarily occupy the private lands located outside his concession and that are required for the construction, operation or maintenance of the gas transportation or distribution.

(2) The temporary authorisation to occupy land shall state the reasons of the application, define the lands required and authorize temporary occupation in accordance with the laws governing lands in Cameroon.

**Section 43 : (1)** For purposes of constructing, operating and maintaining the gas transportation and distribution network and related industries, the holder of the transportation or distribution concession may, where his request is deemed justified by the relevant authority, against due prior compensation paid to the owner of the land outside the concession area, dispose of substances not covered in the concession where operations require their felling in accordance with the laws and regulations in force.

(2) Without compensation, the owner of the private lands shall maintain free disposal of substances not covered in the concession and not used by the holder of transportation or distribution concession.

**Section 44 : (1)** Where the gas transportation or distribution network constitutes a permanent obstacle to the use of the lands outside the concession area, the owner of the private lands may seek compensation from the concessionaire.

**Section 45 : (1)** The holder of the transportation or distribution concession may, in accordance with the laws governing lands in force, temporarily occupy national land, public or private property of the state or of regional and local authorities lying outside the concession area.

(2) Such occupation shall be authorized by the Minister in charge of lands after the opinion of the regional and local authorities or public utility services concerned regarding their respective private lands or portions of public land respectively under their charge.

(3) Provided that the authorization to occupy shall not confer ownership of such lands to the holder of the transportation or distribution concession.

(4) The provisions of Section 40 (3) of this law shall apply to occupation of the public and private property referred to in this Section.

**Section 46 :** In case of use of public property and save where provided for by the concession contract, no action may be brought against the State, administrative services or regional and local authorities by the holder of the transportation or distribution concession for damages

that such normal use of the public land may cause to its facilities or for work carried out on public land in the interest of public security.

**Section 47 :** The holder of the transportation or distribution concession shall be subject to :

- ♦ the provision of the laws in force governing land, in respect of the lands and facilities required for constructing, operating and maintaining the transportation or distribution network ;
- ♦ the provisions of the mining law in force, in respect of the quarries required for constructing, operating and maintaining the transportation or distribution network ;
- ♦ the laws and regulations in force and recognized international standards, in respect of the rehabilitation of the sites at the end of the operation.

**Section 48 :** (1) Transportation, distribution, processing and storage operations may entail the setting up of protection areas without compensation to the holder of the concession or licence.

(2) The setting up of the protection area shall seek to protect persons and property such as buildings and built-up areas, water sources, roads, bridges and public interest works as well as any other site where such areas are deemed to be in the general interest.

## **PART VII : ACCOUNTING, FINANCIAL, TAX, AND CUSTOMS PROVISIONS**

### **CHAPTER I : ACCOUNTING, FOREIGN EXCHANGE, CUSTOMS AND TAX REGULATIONS**

**Section 49:** (1) Operators in the downstream gas sector shall keep accounts in accordance with the Uniform Act of the Organization for the Harmonization of Business Law in Africa.

(2) Operators engaged in several of the activities referred to in Section I above shall keep separate accounts for each transportation and/or distribution concession, as well as for any permit or authorization.

(3) In such case, they shall keep in their internal accounting separate accounts for their transportation, distribution, processing, storage, importation, exportation and gas sale activities, and where necessary, separate accounts for their activities outside the downstream gas sector governed by this law, in the same manner as if such activities were carried out by distinct persons.

(4) Without prejudice to the fiscal provisions in force, certified accounts shall be submitted to the competent authority no later than 5 (five) months after the close of the fiscal year under pain of sanctions set forth in Section 56 below.

**Section 50 :** (1) Subject to the provisions of this Section, operators who are holders of a concession, a licence or an authorization shall comply with the regulations governing foreign exchange in the Republic of Cameroon.

(2) During the period of the concession, licence or authorization and subject to compliance with the obligations binding them, notably, the foreign exchange regulations and the Tax Law, holders shall enjoy the following benefits :

- ♦ the right to open in the Republic of Cameroon and abroad, accounts in local and foreign currencies and to use them in carrying out transactions ;
- ♦ the right to encash and freely keep abroad funds acquired or borrowed abroad and freely dispose of same,
- ♦ the right to transfer and freely keep abroad revenue related to gas operations, dividends and any returns on invested capital as well as proceeds from the liquidation or disposal of their assets ;

- ♦ the right to pay directly abroad, non resident suppliers of goods and services required for the carrying out of gas operations.

(3) Expatriate personnel employed by the concessionaire and resident in the Republic of Cameroon, shall enjoy free conversion and transfer to their countries of origin of all or part of their entitlements, subject to prior payment of taxes and sundry levies to which they are liable under the regulations in force.

**Section 51 : (1)** Subject to the provisions of this Section, activities related to the transportation, distribution and sale of gas shall be liable to taxes, duties and royalties laid down by the General Tax Code.

(2) Companies carrying out the activities mentioned in Section 1 above shall enjoy the following benefits.

During the installation phase which may not exceed 5 (five) years with effect from the date of notification, publication of award documents and signing of contracts as the case may be :

- ♦ exemption from registration duties on instruments of capitalization or capital increase ;
- ♦ exemption from registration duties on leases exclusively for professional purposes and forming an integral part of the investment programme ;
- ♦ exemption from transfer charges on acquisition of buildings, land and structures indispensable for the execution of the investment programme ;
- ♦ exemption from registration duties on equipment procurement contracts and constructing of buildings and facilities required for the execution of the investment programme ;
- ♦ exemption from the special registration tax on insurance contracts of the company ;
- ♦ exemption from registration duties on concession contracts.

During the first ten years of operation, the company shall be entitled to deduction of depreciation normally entered for the first three years of operation under taxable revenue for the following five years.

During the same period, persons engaged in transportation, distribution, storage and processing of gas shall be exempted from duties, taxes and customs duties on the importation of capital goods intended for use in the activities cited above.

(3) Notwithstanding the benefits provided for in this Section, operators engaged in the activities cited in Section 1 above shall be liable to royalties, duties and any other charges irrespective of their appellation relating to remuneration of services. Such remuneration of services shall be general in scope and proportionate to the cost of the service provided.

## CHAPTER II FIXED DUTIES AND ROYALTIES

**Section 52 : (1)** Any request for the award, renewal or transfer of a concession, a licence or an authorization in accordance with the provisions of this law, shall be subject to the payment of a fixed fee, whose amounts shall be set as follows :

### Transportation or distribution concession

- ♦ award : 5 000 000 (five million) CFA F
- ♦ renewal : 7 500 000 (seven million five hundred thousand) CFA F
- ♦ transfer : 10 000 000 (ten million) CFA F

### Processing, storage, importation and exportation licence

- ♦ award : 2 000 000 (two million) CFA F

- ♦ renewal : 2 500 000 (two million five hundred thousand) CFA F
- ♦ transfer : 3 000 000 (three million) CFA F

#### Sale authorization

- ♦ award : 300 000 (three hundred thousand) CFA F
- ♦ renewal : 500 000 (five hundred thousand) CFA F
- ♦ transfer : 700 000 (seven hundred thousand) CFA F

The conditions for the implementation of this section shall be laid down by regulation.

**Section 53 : (1)** Any operator of the downstream gas sector shall be liable to a royalty the amount of which shall be specific to each of the schedules provided for in this law. Such royalties as determined below shall be payable annually in accordance with the specific terms applicable to each activity :

- ♦ transportation : 5% of annual turnover ;
- ♦ distribution : 5% of annual turnover ;
- ♦ processing : 5% of annual turnover ;
- ♦ storage : 5% of annual turnover ;
- ♦ importation and exportation : 5% of the annual turnover of the operator concerned, relating to the activity ;
- ♦ sale : 5% of the turnover of the operator concerned relating to the activity.

**(2)** Royalties shall be paid quarterly when they fall due ; the first payment shall be made six months after the accounting year concerned.

**(3)** Under no circumstances shall the amount of the royalties be included in the operating costs of the operator.

### **PART VIII OFFENCES AND PENALTIES**

**Section 54 :** Under this law, the following shall be considered offences :

- ♦ exercise of activities in the downstream gas sector without a concession, licence or required authorization or in violation of conditions laid down by the competent authority when granting same ;
- ♦ failure to pay or late payment and/or insufficient payment of the royalties due ;
- ♦ non-compliance with the set technical rules for the design, maintenance, and operation for connection and access to transportation and distribution networks, as well as to storage facilities ;
- ♦ non-compliance with the obligations relating to accounting rules, information and communication monitoring of which is the responsibility of the Competent authority ;
- ♦ exercise of activities in the downstream gas sector in violation of the rules laid down in this law and its instruments of implementation, particularly as concerns the environment, hygiene, safety, technical standards and classified sites ;
- ♦ non-compliance with the obligations contained in the specifications relating to the maintenance of operators' facilities utilized for their activities of gas transportation, distribution, storage and processing for supply to consumers for exportation and importation.

**Section 55 : (1)** Without prejudice to the prerogatives of the prosecution, judicial police officers with general competence and relevant services, workers specially commissioned by the Minister in charge of hydrocarbons, or any other public establishment duly authorized, shall be responsible for investigating, and establishing gas sector offences and prosecuting their offenders.

(2) They shall take the oath before the competent court.

(3) They shall, at their request receive assistance from the forces of law and order for the exercise of their duties.

**Section 56 :** (1) Where an operator fails to comply with the obligations laid down by this law, the Minister in charge of hydrocarbons or any other duly authorized public establishment shall serve him formal notice to comply with such obligations within (30) thirty days.

(2) Where notice is without effect, the Minister in charge of hydrocarbons or any other duly authorized public establishment shall apply the following penalties to the operator :

- ♦ a fine ;
- ♦ suspension of the right to operate for a period of up to 3 (three) months ;
- ♦ withdrawal of the concession, licence or authorization.

(3) The penalties under this Section shall be supplemented by those in the Penal Code.

**Section 57 :** (1) Without prejudice to the penalties provided under Section 56 (2) and (3) of this law, the competent authority may impose fines on the offender commensurate with the type of offence and its frequency.

(2) The fines shall concern :

- a) lack of concession : 300 000 000 (three hundred million) CFA F ;
- b) lack of licence : 200 000 000 (two hundred million) CFA F ;
- c) lack of authorization : 100 000 000 (one hundred million) CFA F ;
- d) hindrance of control by sworn officers ;
  - ♦ operators for whom a concession is mandatory : 2 000 000 (two million) CFA F ;
  - ♦ operators for whom a licence is mandatory : 1 000 000 (one million) CFA F ;
  - ♦ operators for whom an authorization is mandatory : 500 000 (five hundred thousand) CFA F
- e) breaches of competition, transparency and access by third parties to the transportation and distribution network and to storage facilities : 150 000 000 (one hundred and fifty million) CFA F ;
- f) non-compliance with prices fixed : 100 000 000 (one hundred million) CFA F ;
- g) non-compliance with technical, safety and hygiene rules and those relating to the environment and protected and special sites : 50 000 000 (fifty million) CFA F ;
- h) interruption of the gas supply chain, save in cases of force majeure, 100 000 000 (one hundred million) CFA F ;
- i) non-compliance with accounting standards provided under this law : 50 000 000 (fifty million) CFA F ;
- j) failure to pay royalties and fines : increase of 10% per year ;
- k) non-compliance with the obligations contained in the specifications relating to the maintenance of operators' facilities intended for their activities of gas transportation, distribution, storage and processing for supply to consumers, for exportation and importation : 100 000 000 (one hundred million) CFA F.

(3) The conditions for imposing and collecting the above mentioned fines shall be laid down by regulation.

**Section 58 :** Suspension shall be a penalty by which the Minister in charge of hydrocarbons or any other duly authorized public establishment stops the activities of the operator for a period of no more than 3 (three) months by reason of offences committed in the execution of his operations or repeated breaches of the obligations provided for in this law and its application instruments.

**Section 59 :** (1) Where an operator who has been fined or suspended pursues his activities in violation of the rules and principles laid down in this law and its application instruments, the Minister in charge of hydrocarbons or any other duly authorized public establishment shall proceed to withdraw the concession, licence or authorization in question.

(2) The Minister in charge of hydrocarbons or any other duly authorized public establishment may pronounce the loss of rights of any operator in case of an early decision to dissolve, liquidate, accompanied or not with an authorization to continue the enterprise, or declaration of bankruptcy.

## **PART IX**

### **MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS**

**Section 60 :** (1) For a period of 15 (fifteen) years with effect from the date of publication of this law, the competent authority shall be empowered to grant to operators carrying out the activities referred to in Section 1 of this law, a transitional schedule which will enhance the economic efficiency of the sector and the financial profitability of concessionaires and attract national and foreign investments to gas transportation and distribution activities.

(2) The applicable schedule, where the transportation and distribution of gas falls under distinct concessions by the same operator, shall comprise the following waivers :

- ◆ the operator shall be exempted from the obligation of separate accounts referred to in Section 49 of this law until 31 December of the year of the fifteenth anniversary of the coming into force of the transportation or distribution concession contract in question ;
- ◆ during the period of transitional schedule as defined in paragraph (1) above, a distribution concessionaire who obtained this schedule, shall be the sole supplier of gas in the geographical area of the concession covering all consumers and eligible customers.
- ◆ during the period of the transitional schedule as defined in paragraph (1) above, operators who obtained this schedule shall be exempted from the obligation provided in Section 30 of this law concerning free access to transportation and distribution network for all operators and eligible customers.

(3) A distributor granted the scheduled referred to in this Section and who is the sole authorized person in the area covering his concession to supply gas to final and eligible customers shall be bound to procure his supplies from national gas producers on the basis of open, transparent and non-discriminatory tenders.

**Section 61 :** This law shall be registered, published according to the procedure of urgency and inserted in the official Gazette in English and French.

Yaounde, 30 December 2002

**Paul BIYA**  
**President of the Republic**