

THE REPUBLIC OF SOMALILAND
MINISTER OF ENERGY AND MINERALS

Petroleum Revenue Bill

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Part I - Introductory provisions

1. Definitions

[Ministerial remark: The intention of the Ministry is to use state budget related terminology, the Ministry of Finance has been given the opportunity to provide this before the submission to Parliament, however, this Ministry has not received such input. We recommend aiming at consistent use of terms in all legislation and State documents]

(1) In this Law, unless the context otherwise requires:

“Auditor General” means the Auditor General appointed in accordance with the Constitution, Articles 113 and 114;

“Bank of Somaliland” means the Central Bank of Somaliland established under the Constitution Article 13 and the [Organic law passed by the 1993-96 Parliament];

“Budget Approval” means an approval of Parliament authorizing State expenditures within a national budgetary framework [as defined in the "Budget Law no...."] *[Ministerial remark: Insert relevant reference if any];*

“Constitution” means the Constitution of the Republic of Somaliland.

“Consultative Council” means the council established according to section 24 of this Law;

“District” means a district as defined by the Regions & Districts Law (Law No: 23/2002);

“Financial Year” means the period of twelve months to which the National Budget applies, as defined in the [...] *[Ministerial remark: Insert relevant reference if any, if not – use the following text "means the period of twelve months as defined by the applicable National Budget at any time, if not defined in the National Budget the term shall mean the period of twelve months starting 1st January each year"];*

"Government" means the government of the State;

“Investment Committee” means the body established according to section 18 of this Law;

“Investment Policy” means the investment policy as provided in section 15 of this Law and regulations pursuant to this Law;

“Minister” means the Minister of Finance;

“Ministry of Finance Account” means any account or sub-account referred to as Public Ministry of Finance Account, established by the Minister via the Bank of Somaliland, pursuant to the [organic law of the Central Bank passed by the 1993-96 Parliament] *[Ministerial remark: We are uncertain as to the applicability of this Law, as there seems to be a new law no 54/2012 on the Central Bank according to one web-site, but we have not been able to find the text, please correct the text in brackets as appropriate according to applicable legislation];*

“National Budget” means the budget for allocation of resources and revenue for the State for the Financial Year in accordance with the [Budget Law];

“National Petroleum Account” means the account established in section 3 of this Law, into which all Petroleum Revenue shall be paid;

“Net Petroleum Revenue” means Petroleum Revenue less expenses associated with administration and transportation of Petroleum;

"Parliament" means the Parliament of Somaliland, as the case may require, represented by the House of Representatives, the House of Elders or the joint sitting as regulated by the Constitution, Articles 38 et seq.;

“Petroleum” means petroleum as defined in the Upstream Petroleum Law;

“Petroleum Activities” means petroleum activities as defined in the Upstream Petroleum Law;

“Petroleum Agreement” means a petroleum agreement as defined in the Upstream Petroleum Law;

“Petroleum Fund” means the fund established according to section 11 of this Law;

“Petroleum Revenue” means *[Ministerial remark: This definition will depend on the Government revenue elements decided in the Upstream Petroleum Law and other applicable legislation or contract which for the time being still needs to be worked out depending on the Parliaments enactment of the Upstream Petroleum Law. The Ministry therefore informs Parliament that this definition may be revised at a later stage.]*:

- any amount deriving from the sale of the Government's Petroleum entitlements;
- any amount, including area fees, bonuses and other cost based fees and charges, received by the Government in accordance with the Upstream Petroleum Law, or any license or Petroleum Agreement awarded pursuant to the Upstream Petroleum Law;
- any amount received from direct or indirect Government participation in Petroleum Activities;
- any amount payable by any legal entity wholly or partially owned by the Government involved in Petroleum Activities for the part derived from within the State in the form of tax, royalty, dividend, consideration or any other payment due in accordance with applicable law;
- any amount payable as tax on income from Petroleum Activities;
- the annual petroleum administrative fee payable according to the Upstream Petroleum Act;
- any amount payable for taxes on effluents, emissions or discharges;
- interest deriving from the National Petroleum Account; and
- any amount received by the State relating directly to Petroleum Activities not covered above.

“Region” means a region as defined by the Regions & Districts Law (Law No: 23/2002);

“Revenue Official” means an official working for the Minister, the Bank of Somaliland or a member of the Investment Committee or the Consultative Council;

[Ministerial remark: Which public officials or private actors should be subject to this definition should be decided based on the Parliament's knowledge of need for transparency and disclosure to protect against corrupt actions. Other groups of officials one could consider would be for instance individuals from the Auditor General's office, the External auditor, the External investment manager, Members of Parliament or Government with oversight or decision making functions in relation to this Bill]

“State” means the Republic of Somaliland;

“Upstream Petroleum Law “means the Upstream Petroleum Law of [date] 2014

- (2) In the event of any inconsistencies if there is any conflict between the provisions of this Law and other applicable legislation, licenses or Petroleum Agreements awarded in accordance with applicable law, the provisions of this Law shall prevail.

2. Scope

This Law shall regulate payments, management, use and supervision of revenues from Petroleum Activities fully or partially within the maritime boundaries and borders of the State as defined in the Constitution and applicable law.

Part II – National Petroleum Account

3. Establishment of the National Petroleum Account

- (1) The Minister shall establish a National Petroleum Account at the Bank of Somaliland.
[Ministerial remark: We assume that as long as the House of Representatives enact the Bill, then the House of Representatives may also decide to delegate authority regarding the establishment of the account to the Minister. See the Somaliland Constitution section 54.2. Depending on the applicable Central Bank Law, the Ministry of Finance and the Ministry of Energy and Mining should decide if there is a need to state in the act that the money deposited in the Central Bank are assets held by the bank, but owned by the Government.]
- (2) Any Petroleum Revenue due to the Government shall be paid into the National Petroleum Account for subsequent transfers in accordance with provisions in this Law.
- (3) No other revenue shall be paid into the National Petroleum Account.

4. Payments into the National Petroleum Account

- (1) Any company carrying out Petroleum Activities in Somaliland shall pay any Petroleum Revenue due to the Government into the National Petroleum Account.
- (2) By the due date Petroleum Revenues shall be deposited directly into the National Petroleum Account by the entity liable to make such deposit in accordance with the Upstream Petroleum, Petroleum regulations, licenses, Petroleum Agreements or contracts regarding sale of the State's share of the Petroleum.
- (3) If the payment under subsection (2) of this section is not discharged by the due date, the responsible party shall pay default interest at a rate prescribed by regulations.

- (4) A payment shall not be considered discharged until such payment is received into the National Petroleum Account.

5. *Management of the National Petroleum Account*

- (1) The Bank of Somaliland shall hold any Petroleum Revenue received in foreign currencies at interest-bearing current accounts abroad with financial institutions with the highest security in accordance with procedures prescribed by regulations.
- (2) The Minister and the Bank of Somaliland shall enter into a management agreement on the management of the National Petroleum Account.
- (3) From the amount received in accordance with section 4, the Bank of Somaliland shall be entitled to deduct, by direct debit of the National Petroleum Account, any reasonable management fees, as provided for by the management agreements concluded in accordance with this section and sections 14 and 17 of this Law.

6. *Transfers from the National Petroleum Account*

- (1) Subject to this section, the Bank of Somaliland shall only make transfers from the National Petroleum Account to:
- (a) the Ministry of Finance Account in accordance with sections 7 and 9 of this Law; and
 - (b) the Petroleum Fund in accordance with section 12 of this Law.
- (2) In the event of overpayment of Petroleum Revenue under section 4 of this Law, the Minister is exceptionally permitted to request the Bank of Somaliland to make a transfer from the National Petroleum Account to refund such overpayment.

Part III - Transfers to the Ministry of Finance Account

7. *National Budget funding amount*

- (1) For every Financial Year the Government shall submit a proposal to the Parliament specifying the amount of Petroleum Revenue which may be transferred to the Ministry of Finance Account to finance the National Budget for a Financial Year as a part of the Budget Approval. *[Ministerial remark: Please consider carefully the Ministry's understanding of the Somaliland budget process. Bear in mind the wording in the Somaliland Constitution art. 54, sub-section 2 and 4, as well as section 55]*
- (2) The National Budget funding amount shall be determined after taking into account:
- (c) objectives of national development plans;
 - (d) medium and long-term fiscal sustainability of the State;
 - (e) macroeconomic outlook and the economy's capacity to absorb the transfer without detrimental effect to macro-economic indicators of the State ;
 - (f) capacity to execute public expenditures in a sound and cost-effective manner; and
 - (g) the need for building up buffers to cushion volatility in future Petroleum Revenues.

- (3) The National Budget funding amount pursuant to subsection (1), less expenses associated with administration and transportation of Petroleum shall not exceed an annual benchmark revenue based on an estimate of Petroleum Revenues for the Financial Year as prescribed by regulations approved by the Parliament.
- [Ministerial remark: This sub-section (3) is an essential part of the revenue management as the determination of the annual benchmark revenue will restrict the Government's use of Petroleum Revenue in the National Budget. This is why we explicitly have included Parliament approval of this regulation. It is also our firm opinion that an expert macro-economic specialist needs to be involved in the formulation of such regulation. The law firm which has assisted the Ministry in the drafting process has easy access to several individuals who may carry out required macro-economic analysis and be valuable consultants in formulating prudent regulation of this specific matter, including investment strategy.]*

8. Special funding of the Government's Petroleum administration

- (1) In the proposal pursuant to section 7 (1) of this Law there shall as a minimum be included an amount equal to the annual petroleum administration fee collected in accordance with the Upstream Petroleum Act section 69 (5).
- (2) The Minister shall as a minimum transfer an amount corresponding to the annual petroleum administration fee to the minister responsible for the Upstream Petroleum sector. Unused funds shall be returned within 4 months following the end of the Financial Year.
- (3) The transfer pursuant to subsection (2) shall cease when other Petroleum Revenues exceed the annual petroleum administration fee ten times.

9. Procedures and requirements

- (1) The Bank of Somaliland shall transfer Petroleum Revenue from the National Petroleum Account to the Ministry of Finance Account upon the written request of the Minister signed by two authorised officials. The requests and subsequent transfers shall be made public.
- (2) The total amount transferred from the National Petroleum Account and the Petroleum Fund, as the case may be, to the Ministry of Finance Account for a Financial Year shall not exceed the total amount of Petroleum Revenue required to fund State expenditure as approved by the Parliament in the Budget Approval for the Financial Year.

Part IV Allocation of Petroleum Revenue to Petroleum producing Regions and Districts

[Ministerial Remark: The external consultant to the Ministry has advised against local allocation of Petroleum Revenue. The Ministry has, however, understood that the political preference is to have this in place. The external consultant advised that if this provision of local allocations is retained then Parliament should consider to which level of local government such legal requirements shall apply, whether only to Regions and Region Councils, giving them the responsibility to re-allocate their funds to their respective Districts in accordance with normal procedures, or to stipulate also a requirement to allocate a certain amount directly to the Districts, cf. Regions & Districts Law (Law No: 23/2002)]

10. Allocation to the Petroleum producing Regions and Districts

- (1) The Minister shall allocate shares of the Petroleum Revenue to the Petroleum producing Regions and Districts, which shall be paid out of the Ministry of Finance Account, as follows:
 - (a) the Petroleum producing Regions shall receive [x] percent of the Net Petroleum Revenue; and
 - (b) the Districts within the Petroleum producing Regions shall receive [x] percent of the Net Petroleum Revenue.
[Ministerial Remark: Please note that in order to make this more flexible, these rates could alternatively be prescribed by regulations]
- (2) The Minister shall transfer the amount provided in subsection (1) of this section to the Petroleum producing Regions and Districts.
- (3) The Minister shall prescribe regulations detailing rules and procedures for the implementation of this section.

Part V – Petroleum Fund

11. Establishment of the Petroleum Fund

- (1) The Minister shall establish the Petroleum Fund at the Bank of Somaliland.
- (2) The purpose of the Petroleum Fund is to:
 - (a) act as a financial buffer to cushion the economy against volatility in Petroleum Revenues caused by variations in production, prices and expenditures; and
 - (b) provide long-term savings and support the welfare of future generations.

12. Transfers to the Petroleum Fund

- (1) The Bank of Somaliland shall transfer Petroleum Revenue from the National Petroleum Account to the Petroleum Fund at the written request of the Minister signed by two authorised officials.
- (2) The amount transferred to the Petroleum Fund during a Financial Year shall equal the Petroleum Revenue less the amount authorized to be transferred to the Ministry of Finance Account in accordance with sections 7 and 9 of this Law.
- (3) Further procedures shall be specified in the management agreement referred to in subsection 144 (7) of this Law.

13. Withdrawals from the Petroleum Fund

- (1) Any transfer from the Petroleum Fund to the Ministry of Finance Account during a fund accumulation period ending after the first [insert number of years] years following the enactment of this Law, shall only be made to finance an unexpected shortfall in quarterly Petroleum Revenues during a Financial Year in accordance with procedures prescribed by regulations.
- (2) Subject to subsection (1), any additional withdrawal from the Petroleum Fund to the Ministry of Finance Account shall only be made if:

- (a) the amount proposed for withdrawal in a given Financial Year does not exceed [five] percent of the balance of the Petroleum Fund on the last day of the previous Financial Year;
 - (b) a report, certified by the independent auditor appointed in accordance with section 29, is presented to Parliament, elaborating the effect of the proposed withdrawal on subsequent Financial Years funding of the National Budget in accordance with section 7;
 - (c) economic appraisals, demonstrating that the estimated financial return of the investment exceeds the expected financial return if that sum remained in the Petroleum Fund, are provided to the Parliament prior to Budget Approval of the amount;
 - (d) a report initiated by the Investment Committee is presented to the Consultative Council and Parliament prior to Budget Approval, including economic appraisals conducted in accordance with technical guidance issued by the Minister elaborating financial and macroeconomic consequences of the project;
 - (e) the proposed project is deemed to be a priority investment by the Government and part of a strategy for potential Petroleum Fund investments deemed to benefit future generations and foster long-term economic growth, included in the Investment Policy and approved by Parliament; and
 - (f) the amount is approved by Parliament in the Budget Approval.
- (3) Any transfer by the Minister in accordance with this section shall only take place after the relevant Budget Approval enters into force.

Part VI – Investment and protection of the Petroleum Fund

14. Management of the Petroleum Fund

- (1) The Minister is responsible for the overall management of the Petroleum Fund and shall oversee transfers into and withdrawals from the Petroleum Fund.
- (2) The Minister shall prior to commencement of commercial production of Petroleum determine an Investment Policy using qualified expertise with proven integrity, which shall include the return objectives and acceptable levels of risks, as indicated by eligible asset classes in which the funds can be invested, and by acceptable ratings for the instruments in these asset classes.
- (3) An Investment Committee established in accordance with section 18 shall determine guidelines that shall govern the implementation of the Investment Policy.
- (4) The investment guidelines referred to in subsection (3) shall include:
 - (a) benchmarks and acceptable ranges for interest risk, exchange risk and credit risk;
 - (b) credit risk ranges for each eligible instrument class; and
 - (c) maximum counterparty risk exposures.
- (5) The Bank of Somaliland shall be responsible for the operational management of the Petroleum Fund and shall have operational autonomy to execute investments in accordance with the investment guidelines.
- (6) In the exercise of their respective duties and functions, the Minister, the Investment Committee and the Bank of Somaliland shall comply with the Santiago Principles adopted by the International Working Group of Sovereign Wealth Funds.

- (7) The Minister shall enter into an agreement with the Bank of Somaliland on the operational management of the Petroleum Fund after consultation with the Investment Committee.
- (8) The assets of the Petroleum Fund shall be invested in accordance with the requirements set out in section 156.
- (9) The investment return of the Petroleum Fund shall be added to the balance of the Petroleum Fund.

15. *Investment Policy*

- (1) The Investment Policy shall apply the principle of diversification to maximise the risk-adjusted financial returns of the Petroleum Fund and shall take into account:
 - (a) the purposes for which the Petroleum Fund has been established;
 - (b) the constraints under which the Petroleum Fund operates; and
 - (c) the State's ability to bear risk.
- (2) Further requirements for the Investment Policy shall be prescribed by regulations.

16. *Qualifying instruments*

Eligible investments under this section shall be any investment issued and held in, and governed by the law of, an internationally recognized jurisdiction other than Somaliland, in the form of cash deposits or debt instruments that bear interest or a fixed amount equivalent to interest, in accordance with further requirements prescribed by regulations approved by the Parliament.

[Ministerial Remark: The Ministry is not certain if such approval procedure of regulations by Parliament is possible according to Somaliland law, and suggest Parliament raise this with relevant legal expertise]

17. *External investment managers*

- (1) The Bank of Somaliland, subject to the approval of the Investment Committee, may select and appoint one or more external investment managers to be responsible for managing part or all of the assets of the Petroleum Fund.
- (2) Further requirements to the appointment of the investment manager shall be prescribed by regulations and the management arrangement shall be regulated in a management agreement between the Bank of Somaliland and the external investment manager(s).

Part VII – Investment Committee

18. *Responsibility of the Investment Committee*

- (1) An Investment Committee shall be established by the Minister within [x months] following the enactment of this Law. The Investment Committee shall be composed of a chairperson, deputy chairperson, and [five] additional members to be appointed by the Minister in consultation with the Bank of Somaliland and approved by Parliament.
- (2) The Investment Committee shall:

- (a) determine investment guidelines in line with the Investment Policy established under section 155 of this Law;
 - (b) approve any external investment manager selected under section 177 of this Law and associated management agreements;
 - (c) conduct a regular assessment of the investments of the Petroleum Fund against benchmarks for risks and targets for performance;
 - (d) oversee the internal and external auditing performed in accordance with sections 288 and 299.
- (3) Further requirements for the appointment of committee members, organisation of the committee and its duties shall be prescribed by regulations.

Part VIII - Encumbrances

19. *Prohibited use of Petroleum Fund*

- (1) Assets of the Petroleum Fund may not be used as collateral for State borrowing or repayment of debts, guarantees, or any other liabilities not associated with the management of the fund.
- (2) Without prejudice to subsection (1), the State may use other Petroleum revenue streams or gas as collateral for debts, guarantees or any other commitments with the approval of the Parliament.

Part IX – Transparency and accountability

20. *Transparency as a fundamental principle*

- (1) The management of the National Petroleum Account and the Petroleum Fund, and any related duty of any relevant party, shall be carried out in an open and transparent manner.
- (2) In the exercise of their functions and competencies, and as provided for in this Law, the Parliament, the Minister, the Bank of Somaliland, the Investment Committee and the Consultative Council shall take all necessary measures to ensure free access to public information.
- (3) The Minister shall issue regulations governing access to information by the public.

21. *Records of Petroleum Revenue*

- (1) The Minister shall publish the records of Petroleum Revenues in accordance with this Law no more than six weeks after the end of each quarter.
- (2) The records of Petroleum Revenue published under subsection (1) shall be disaggregated by type of revenue and individual transaction.
- (3) In addition to the records of Petroleum Revenue, the information shall include requests for transfers and transfers from the National Petroleum Account to the Petroleum Fund or the Ministry of Finance Account. The information shall be published simultaneously in the official gazette, in two national daily newspapers and a dedicated website with link from the respective homepage of the Ministry of Finance and the minister responsible for the Upstream Petroleum sector.

22. *Annual disclosure and publication of payments*

Licensees and contractors as defined in the Upstream Petroleum Law shall annually disclose information on all payments, monetary or in kind, made to State agencies in

connection with Petroleum Activities. The Government shall disclose the revenue received in connection with Petroleum Activities without regard to any provisions of confidentiality

[Ministerial remark: The last part of this section may not be applicable if the validity was tested before a court of law in relation to for instance grandfathering clauses]

23. Publication of information

- (1) The Minister shall ensure that this Law and any of its regulations, the Investment Policy, any investment guidelines, the operational investment management agreements of this Law and the rules and procedures of the Investment Committee, are readily available to the public not later than thirty days after their respective enactment or adoption.
- (2) Appointment of the Investment Committee shall be published in the Official Gazette.
- (3) Information required to be made public under this Part shall also be published online on the website of the Government, the Bank of Somaliland and the Parliament.
- (4) The Minister shall also make copies of the information available at its office address.

Part X – Supervision

24. Consultative Council for the Petroleum Revenue management

- (1) There is hereby established a Consultative Council for the National Petroleum Account and Petroleum Fund.
- (2) The Consultative Council shall, on its own initiative or at the request of Parliament:
 - (a) advise Parliament on matters relating to the performance and operation of the National Petroleum Account and the Petroleum Fund;
 - (b) advise Parliament on appropriations from the National Petroleum Account or from the Petroleum Fund as set out in sections 7 and 13; and
 - (c) in the context of the budgetary process, advise Parliament on whether the appropriations of the National Petroleum Account or the Petroleum Fund are being used effectively to the benefit of current and future generations.
- (3) In conducting its activities, the Consultative Council shall take into account the overall objective that the National Petroleum Account and the Petroleum Fund be funds of income from the exploitation of non-renewable Petroleum resources for the benefit of current and future generations, in addition to the principles for the operation of the National Petroleum Account as outlined in this Law. The Consultative Council shall submit, as decided by Parliament on a case by case basis, an advice to Parliament on the Government's proposed appropriation when:
 - (a) the Government proposes to Parliament to appropriate an amount from the National Petroleum Account in accordance with section 7 of this Law; or
 - (b) the Government proposes to Parliament to appropriate an amount from the Petroleum Fund in accordance with section 13 of this Law;

- (4) The Minister and the Governor of the Bank of Somaliland shall furnish the Consultative Council with information it requests on any aspect of the operation or performance of the National Petroleum Account or Petroleum Fund for the purpose of its monitoring duties.
- (5) For purposes of advising Parliament, the Consultative Council shall consult widely in the community and, to this end, shall hold an annual forum on issues relating to the National Petroleum Account and Petroleum Fund.
- (6) Subject to approval by Parliament, the Consultative Council may select and appoint as its international adviser for economic and financial matters, for a period of two (2) years, an academic or professional of the highest reputation and competence.
- (7) Further rights and duties of the Consultative Council may be prescribed by regulations approved by the Parliament.

25. *The Consultative Council members and procedures*

- (1) The Consultative Council shall comprise the following members, all of whom are nationals of Somaliland
[Ministerial Remark: The following listing should rather be considered an example; it may be that based on the Parliaments intimate knowledge of Somaliland another composition would be more suited]:
 - (a) former presidents of the State;
 - (b) former members of the Supreme Court of the State;
 - (c) former speakers of the Parliament who have effectively been in office for at least three (3) years;
 - (d) former ministers in charge of finances who have effectively been in office for at least three (3) years;
 - (e) former governors of the Bank of Somaliland who have effectively been in office for at least three (3) years;
 - (f) two members appointed by the Parliament, elected in accordance with the rules laid down by Parliament;
 - (g) two members appointed to represent civil society non-profit organisations;
 - (h) a member appointed to represent the private business sector; and
 - (i) a member appointed to represent religious organisations.
- (2) The term of office of the members of the Consultative Council is five (5) years and is not renewable.
- (3) If no appointment can be made to the Consultative Council pursuant to subsection (1), letter (a), (b) or (c), the president, the vice-president and the speaker of the House of Representatives of the Parliament, respectively, shall appoint one member to fill such a vacancy. Any member of the Consultative Council appointed under this paragraph shall cease his or her functions as soon as the appointment of the member in question becomes possible under subsection (1), letters (a), (b) or (c).
- (4) The Consultative Council shall determine the rules of procedure under which it will operate, and its decisions shall only be valid if taken by majority, with a quorum of six (6) members.
- (5) Parliament shall provide adequate funding for the operations of the Consultative Council, including appropriate remuneration for members, through the budgetary appropriation for the operation of Parliament.

[Ministerial remark: Please consider whether such funding/ remuneration will be in line with Somaliland legal procedures, which may be established in the Parliamentary Remuneration and Expenses Law (Law No: 13 of 2000) to which our external consultant had no access]

- (6) More detailed procedures and functions of the Consultative Council shall be prescribed by regulations [approved by the Parliament].

26. Consultative Councils access to information

- (1) Parliament shall provide for the publication of the advices of the Consultative Council, including minority opinions, within thirty (30) days of having been provided.
- (2) The Minister and the governor of the Bank of Somaliland shall furnish the Consultative Council with information it requests on any aspect of the operation or performance of the National Petroleum Account or the Petroleum Fund for the purpose of its monitoring duties.
- (3) In dealing with the information furnished under subsection (1) and (3), the Consultative Council shall ensure that measures are taken to prevent the disclosure of any confidential information.

27. Maintenance of the accounts and records of the National Petroleum Account and Petroleum Fund

The Bank of Somaliland shall keep proper books of accounts and records on the National Petroleum Account and the Petroleum Fund in accordance with international financial reporting standards.

28. Internal audit

- (1) Any account, record and other document related to the National Petroleum Account and the Petroleum Fund shall be audited by the internal audit department of the Bank of Somaliland [*Ministerial Remark: Does such department, or any similar arrangement, exist?*], and a quarterly report shall be submitted by the governor of the Bank of Somaliland to the Investment Committee, the Auditor General, the independent auditor appointed in accordance with section 299(1) and any other person required by law to receive the report.
- (2) The Government shall submit an annual report for the National Petroleum Account and the Petroleum Fund for a fiscal year to Parliament, at the same time as the annual financial statements of that year are submitted to Parliament. The content requirements of the annual report shall be prescribed by regulations.
- (3) The annual report referred to in subsection (1) shall be published by the Minister within 30 days of its submission to Parliament.

29. External audit

- (1) The Auditor General shall appoint an independent auditor to conduct audits of the National Petroleum Account and the Petroleum Fund in accordance with international auditing standards.
- (2) The independent auditor shall be an internationally recognized auditing firm selected under an open, transparent, non-discriminatory and competitive public tender process under applicable law concerning public procurement.

- (3) Further requirements of external audit procedures and content shall be prescribed by regulations.

Part XI - Miscellaneous provisions

30. Review

The Government shall review the provisions of this Law and present a report to the Parliament no later than five years after this Law has entered into force.

31. Penal provisions

Whoever by any measure or by any means, intentionally or by gross neglect, fails to comply with an obligation provided for by this Law or regulations prescribed pursuant to this Law by:

- (1) failing to publicise information, or leading someone else to fail to comply with, or in any manner hindering or leading someone else to hinder the compliance with such an obligation; or
- (2) giving information that is materially false or misleading, or knowingly including or permitting to be included, in any report or document, information that is materially false or misleading; or
- (3) directly or indirectly, hindering or leading someone else to hinder the exercise of powers by an auditor under this Law, shall be punished by imprisonment for a period up to [*insert number of years*] years or a fine of no less than [*insert currency and amount*].

32. Liability for loss or damage

In any court or arbitration proceeding against the Bank of Somaliland, the Investment Committee, the secretariat of the Investment Committee, members of the Consultative Council or a current or former official, staff or an agent of any of these entities, related to the exercise of their duties under this Law, a person shall not be liable for losses and damages or otherwise liable for acts or omissions performed pursuant to and in the course of the duties and responsibilities exercised under this Law, unless it has been proven that such acts or omissions constitute intentional wrongful conduct or gross neglect.

33. Immunity from prejudgment attachment

No attachment or execution shall be issued against the Petroleum Revenue Account or the Petroleum Fund before the issuance of a final judgment in any legal action.

34. Declaration and disclosure

- (1) Any Revenue Official shall upon assumption of their offices, and each year thereafter, make a confidential declaration of their assets and liabilities, including those of the closest family in their domestic relations, to their superior official who shall forward the information to the Auditor Generals' office.

[*Ministerial remark: Based on Somaliland knowledge of its institutions, other institution may be preferable or further institutions added.*]

- (2) Any Revenue Official who has or is likely to have a direct, or indirect, interest in a subject matter submitted before him or her for consideration shall disclose in writing to his or her superior official or committee leader the nature of such interest. The superior official shall forward the information to the Auditor General's office.

[Ministerial remark: See remark to sub-section (1) above]

- (3) The Revenue Official bound to disclose interest in accordance with subsection (2) shall not take part in any deliberation or decision to be taken with respect to the subject matter in question, unless it is apparent that

- a) the interest in the subject matter will not influence his or her decision, and
- b) neither public nor private interests indicate that he or she is excluded from any deliberation or decision making.

- (4) If a superior official working for the Minister or the Bank of Somaliland is disqualified, the matter may not be decided by any directly subordinate official in the same public body.

35. *Transitional and final provisions*

- (1) The appointments necessary for the effective functioning of the Investment Committee shall be made within three months before the estimated commencement of first commercial production from any reservoir in Somaliland.
- (2) The Minister and the Bank of Somaliland shall enter into the management agreements referred to in sections 5 and 174 of this Law, within three months from start-up of commercial production of Petroleum.

36. *Regulations*

The Minister may issue regulations for the effective implementation of the provisions of this Law.

[Ministerial remark: Please clarify with Parliament's legal adviser whether this list is required to be more specific.]