

LAW
THE REPUBLIC OF TAJIKISTAN
about the Production Sharing Agreement

(Akhbori Majlisi Oli of the Republic of Tajikistan 2007, №3, Article 171, 2008, №6, Article 458; Law of the RoT as of 01.08.2012, №887)

This Law establishes the legal basis of relation between the state and the investor arising from the implementation of domestic and foreign investment in exploration and mining of mineral resources on the territory of the Republic of Tajikistan in accordance with the terms of the agreement on the division of output.

CHAPER 1 General Provision

Article 1 the relationship between the parties on the Production Sharing Agreement (PSA)

1. This Law defines and regulates relations arising from the subsoil between the state and the investor when entering into, execution and termination of production sharing agreements.
2. The relationship between the parties arising in mining as well as transport, handling, processing, storage, use, or disposition of product production are regulated by production sharing agreements to be concluded in accordance with this Law.
3. The rights and obligations of the parties with a civil nature shall be determined in accordance with this Law and the Civil Code of the Republic of Tajikistan.
4. The relations arising in the process of subsoil use unresolved by this Law are determined by the Law of the Republic of Tajikistan “On Subsoil” and other regulatory legal acts of the Republic of Tajikistan.

Article 2 Legislation of the Republic of Tajikistan on the production sharing

Legislation on production sharing agreements is based on the Constitution of the Republic of Tajikistan and consists of this Law and other regulations of the Republic of Tajikistan, as well as international legal acts recognized by Tajikistan.

Article 3. The basic concepts

The following basic concepts are used in this Law:

- A production sharing agreement (hereinafter - Agreement) – a treaty under which the Republic of Tajikistan provides a business entity (the "Investor") on a reimbursable basis and on a fixed term exclusive rights to prospecting, exploration, development, production and processing of mineral deposits in the area specified in the agreement and to perform work related to the implementation of these activities, and the investor undertakes to carry out the activities specified in the agreement at its own expense and risk of probable compensation for its own account;

-manufactured products - mining and quarrying products contained in actually produced (extracted) from the depths of (waste, loss) of minerals, mineral raw materials (rocks, fluids and other mixtures), its quality meets the state standard of the Republic of Tajikistan or international standard; mined by the investor during the performance of work under a production sharing agreement and reduced by the number of technological losses of these products within the established standards;

- profitable products - produced in the reporting (tax) period in the performance of a production sharing agreement after deduction of compensation output;

- compensating products - part of manufactured products during performance of the production sharing agreement, which is passed into the ownership of the investor to recover incurred costs to perform production sharing agreement (reimbursable expenses), the composition of which is determined in accordance with the Production Sharing Agreement and the Tax Code of the Republic Tajikistan;

- **Subsoil use - use of** ore-bearing area for exploration, development, evaluation, production, processing and use of minerals in the deposits of the land

Article 4 Production Sharing Agreement

1. The agreement defines all the terms related to subsoil use including the conditions and procedure section of output between the parties in accordance with this Law.
2. Terms of subsoil use as defined in the agreement must comply with the legislation of the Republic of Tajikistan.
3. List of mineral deposits that have been granted the right for subsoil use on the production sharing basis in accordance with this Law is established by the Government of the Republic of Tajikistan.

The basis for inclusion into the list of mineral deposits that have been granted the right to use on the production sharing basis is unacceptable conditions for investment of work on the use of these areas in accordance with the Law of the Republic of Tajikistan “On Subsoil”, inability of budget financing for the effective use of these deposits, including:

-a mineral deposit is located in the mountainous and remote from populated areas and there are no conditions and other necessary infrastructure for its developments;

-exploration, evaluation and development of mineral deposits require the high-cost technology and a lot of money.

Article 4. Agreements concluded between the state and investors before the entry into force of this Law are executed in accordance with certain terms in them. In this case, this Law applies to such agreements to the extent to which its use is not contrary to the terms of these agreements, and does not limit the rights and interests of the investor as stipulated in the agreements.

Article 5 Parties of the agreement

1. Parties of the agreement (hereinafter – “the Parties’”) are the Republic of Tajikistan, on whose behalf the Government of the Republic of Tajikistan or governing agency authorized by the Government of the Republic of Tajikistan signing the agreement, and investors act in the agreement.

2. Investors may be legal persons and association of legal entities that are created on the basis of an agreement on joint venture agreements, and **other types** of activity investing of own or borrowed funds in prospecting, exploration and mining of mineral resources and subsoil users on the existing subsurface mineral deposits under the terms of the agreement.

Article 6 Use of subsoil on a production sharing terms

1. Subsoil use right on production sharing terms is provided to the investor on the basis of the agreement.

2. Licensing of subsoil activities is carried out in accordance with the Law of the Republic of Tajikistan “On licensing of certain types of activities”.

Article 7 Duration of the agreement

1. Duration of the agreement is established by the parties in accordance with the laws of the Republic of Tajikistan;

2. Duration of the agreement and the order for its extension is determined by the agreement. In the case of the extension of the validity of the agreement, the validity of the license for subsoil use shall be extended by the authority issuing the license, in accordance with the laws of the Republic of Tajikistan.

CHAPER 2 The conclusion of agreements and its implementation

Article 8 Order of agreements

1. The agreement is concluded in accordance with the regulations of the Republic of Tajikistan.

Determination of the conditions of subsoil use in any field, the preparation of the draft agreement and negotiating with an investor are exercised by the authorized body of the Republic of Tajikistan on the Decision of the Government of the Republic of Tajikistan.

2. In the case of the auction agreement is concluded with the winner to offer a deal to the best the best conditions. In the auction, must be provided for the participation of legal entities of the Republic of Tajikistan on the implementation of the agreement as a fraction, determined by the Government of the Republic of Tajikistan. The agreement signed by the state authorized body of the Government of the Republic of Tajikistan.

Article 9 Conditions for execution of work

1. The work and type of activities stipulated by the agreements (hereinafter "work under agreement") are executed in accordance with the programs, projects, plans and estimates approved by the procedures determined in the agreement.

2. Work performed under the agreement subject to the legislation of the Republic of Tajikistan, regulations and rules on safety and security operations, conservation of resources, the environment and human health.

Agreement must be provide the investor obligations:

- to provide legal permanent residents in the Republic of Tajikistan the right to participate in the work under the agreement as contractors, suppliers, transporters or other activities on the basis of agreements (contracts) between them and the investor;

- Involvement of workers - citizens of the Republic of Tajikistan and foreign nationals' citizens to perform work under the agreement (Law of RoT as of 01.07.2012, №887)

3. Upon expiration of the agreement the investor is obliged to return to the state mineral deposits given to use. Procedure and terms of repayment of mineral deposits are determined by agreement.

4. In order to coordinate the work under agreement the parties shall create a volunteer board of directors, which includes an equal number of representatives from each side. The numerical composition, rights and responsibilities of the board of directors, as well as the work procedure is determined by agreement. The procedure for the appointment of representatives of the Republic of Tajikistan to the board of directors and their powers is established by the Government of the Republic of Tajikistan.

Article 10 Products category

1. Outputs are divided between the investor and the state in accordance with the agreement between the parties. The agreement (with the exception of cases determined in the second part of this article) should be provided for the following:

- Definition of total production and its value reduced in the amount of regulatory process losses;

- Definition of output transferred to the ownership of the investor to recover its costs to perform work under the agreement (hereinafter the "Compensating products"). Threshold level of compensatory products shall not exceed 70 percent. The cost structure for investors adopted for the calculation of reimbursable products is determined by an agreement under the laws of the Republic of Tajikistan;

- The order of separation between state and investors profit productions;

- The order of transfer the state the part of the produced product or its value equivalent by investor;

-the order to obtain by the investor the part of the produced product owned by him

2. In some cases the agreement may provide another order of separation between the state and the investor of output or value equivalent products and determine the proportions of the products owned by the state and the investor. The order and the ratio of production sharing between the parties of agreement shall be based on geological and economic and cost assessment of mineral deposits, the technical project and the indicators of the feasibility study. The conditions specified in this part shall be provided for in the auction terms.

Article 11: The rights of ownership of the investors for output

The output of the investor, owned by investor on the rights of ownership may be exported from the customs territory of the Republic of Tajikistan on the terms agreed by the parties without any quantitative restrictions on export subject to the laws of the Republic of Tajikistan. To this end, the Government of the Republic of Tajikistan in the agreement provides for allocation of long-term quotas for the export of output owned by the investor outside of Tajikistan.

Article 12: Ownership of the property and information

1. The property newly created or acquired by the investor and used to perform work under the agreement is the property of the investor unless otherwise stipulated in the agreement.

The right of ownership of such property may pass from the investor to the state from the day when the value of the property is fully reimbursed by the state or from the date of termination. During the whole period of validity of agreement the investor is given a full right to use such property for the work under the agreement. In this case, the responsibility for the safety and risk of accidental damage is entrusted to the investor.

2. Primary geological, geophysical and chemical information, as well as samples of minerals obtained by the investor in course of work under the agreement belong by right of ownership to the state. Under conditions of confidentiality the investor has the right to use this information and samples to perform work under the agreement.

Article 13 Transport, storage and processing of minerals

1. The investor has the right to use on a contractual basis the pipeline transport facilities and other existing facilities of transport, storage and processing of minerals resources.

2. Investor in the performance of work under the agreement has the right for construction facilities on the storage, processing and transportation of minerals, and in this case, the ownership of these objects is determined by agreement subject to Article 12 of this Law.

Article 14 Taxation of the activity while performing the agreement

In the process of execution of the agreement on production sharing the calculation and payment of taxes shall be made in a manner established by the Tax Code of the Republic of Tajikistan.

Article 15 Accounting and reporting

1. Accounting for financial and economic activities of the investor while performing work under the agreement is carried out on each individual agreement and apart from that into account when carrying out other activities not related to the agreement. The

order for this calculation is determined in accordance with the laws of the Republic of Tajikistan.

2. Accounting and reporting the performance of work under the agreement are carried out in the national currency of the Republic of Tajikistan or in foreign currency. If accounting is in a foreign currency, the reporting provided to public authorities should contain data calculated as the adopted both in foreign and local currency. All the data calculated in foreign currency shall be converted into national currency at the rate of the National Bank of Tajikistan on the date of reporting.

Article 16 Bank accounts and foreign exchange regulation

To perform work under the agreement the investor must have a special bank account in the national and (or) foreign currency in banks in the territory of the Republic of Tajikistan and (or) on the territory of foreign states that are used exclusively for execution of work specified in the agreement.

Article 17 Transfer of rights and obligations defined in the agreement

1. The investor has the right to transfer all or part of its rights and obligations under the agreement to any legal person or any other citizen (individual) only with the consent of the Republic of Tajikistan, provided that such persons have sufficient financial and technical resources and management, experience necessary to perform the work under the agreement.

2. Transfer of rights and obligations under the agreement legal and natural person is made in writing, by producing a special act, which is an integral part of the agreement, in the manner and within the period set by agreements and is accompanied by renewal license for subsoil use for 30 days from the date of signing of the act.

3. With the consent of the authorized state body investor can use its property and property rights as collateral to secure its obligations under the agreements concluded in connection with the execution of the agreement with the observance of requirements of the civil legislation of the Republic of Tajikistan

Article 18 The Stability of the agreement

1. Terms of the agreement shall remain in force for a fixed period. Changing the terms of the agreement shall be permitted only by agreements of the parties, as well as at the request of either party in the event of significant changes of circumstances in accordance with the Civil Code of the Republic of Tajikistan. Changes in the terms of the agreement shall be entered by agreement of the parties in the same manner as during conclusion of the agreement.

2. If during the term of the agreement the legislation of the Republic of Tajikistan will set standards which adversely affect the business performance of the investor under the agreement, the agreement shall be amended to ensure that the investors commercial results which could be obtained by them while use of the existing legislation of the Republic of Tajikistan at the time of the conclusion of agreement. The procedure for making such changes is determined by the agreement.

This provision to change the term of the agreement shall not apply if the legislation of the Republic of Tajikistan amends the standards (rules) for safe operations, protection of mineral resources, environment and public health as well as to bring them into conformity with those standards (rules) adopted and recognized in international practice.

Article 19 The state guarantees the rights of the investor

1. Investors are guaranteed the protection of property and other rights acquired and implemented by them in accordance with the agreement.

2. The validity of regulations of the executive bodies of state authority, acts of local government, if these acts establish limitations on the rights of the investor, purchased and implemented by them in accordance with the agreement, except for the restrictions imposed by regulations in accordance with the laws of the Republic of Tajikistan, relevant authorities supervision, which are issued in order to ensure safe operations, protection of mineral resources, the environment, public health as well as to ensure the public and state security shall not be applied to the investor.

Article 20 Control over the execution of the agreement

1. Control over execution of the agreement is exercised by the competent authority of the Republic of Tajikistan in accordance with its competence.

2. Competence and responsibilities of the authorized body and executive authorities established by the Government of the Republic of Tajikistan in accordance with the provisions of the Law of the Republic of Tajikistan “On Subsoil”.

3. Representatives of the competent authorities of the Republic of Tajikistan, which carry out control over the execution of the agreement have the right to unimpeded access to the objects of the work under the agreement, as well as to documentation related to conduction of this work exclusively to implement the functions of control over the execution of the agreement.

Article 21 Termination of the agreement

The agreement is terminated on its expiration or earlier by agreement of the parties, as well as on other grounds and in the manner stipulated in the agreement in accordance with the laws of the Republic of Tajikistan at the date of signing the agreement.

Termination by the agreement of the parties shall be put in place in the same manner as the original agreement, with the exception of the auction procedure

CHAPTER 3. Final Provisions

Article 22 Settlement of Disputes

Disputes between the state and the investor with the execution, termination and invalidation of agreements are settled in accordance with the terms of the agreement judicially.

Article 23 Responsibility for violation of this Law

Natural and legal persons for violation of this Law shall be liable in due course in accordance with the laws of the Republic of Tajikistan.

Article 24 The order of entry into force of this Law

This Law shall enter into force after its official publication.

President of the Republic of Tajikistan

Emomali Rakhmon

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