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Security Information

22 September 1953

MEMORANDUM FOR : Chief, WH  
ATTENTION : Mr. [ ]  
FROM : Chief, RQM/OIS  
SUBJECT : Oil Exploitation in Guatemala  
REFERENCE : K-10602

CIA HISTORICAL REVIEW PROGRAM  
RELEASE AS SANITIZED

2003

1. In response to your oral request for information concerning oil exploitation in Guatemala, the following information has been obtained from "World Oil" 15 July 1950:

"Guatemala's new petroleum law, which went into effect September 28, 1949, was instrumental in causing Standard Oil Company of Ohio, The Atlantic Refining Company, and The Ohio Oil Company to suspend operations and withdraw all personnel and equipment. The law provides that the government shall control all petroleum activities from exploration to distribution, and foreign companies may exploit petroleum resources only as agents of the government. The title to all equipment brought into the country for petroleum exploitation by foreign concerns reverts immediately to the government, with the companies to be reimbursed with oil payments, if oil is found."

2. An explanation of the law covering petroleum concessions is attached.

3. A petroleum engineer, presently with CIA, who maintains a personal interest in petroleum developments in Central America, believes that there has been no activity by oil companies since the passing of the petroleum law.

4. Any further questions regarding this subject should be referred to Mrs. [ ] on extension 8655.

Attachments:

As stated above

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## Petroleum Legislation

Under article 95 of the Constitution, deposits of hydrocarbons can be exploited only by the State, by Guatemalans, or by Guatemalan companies in which the capital is predominately national. This is reaffirmed in article 12 of the Petroleum Law. This law, Decree No. 649 of August 30, 1949, is at present the basic legislation governing petroleum deposits and concessions. It defines petroleum as "any mineral oil, natural gas, bitumen, asphalt or similar substance" but excluding coal, lignite, bituminous shale and other stratified deposits.

Under this law, petroleum lands are divided into two categories: National Reserve Zones and Free Zones. The former include: a) those specified by the Executive, not included in some other exploration or exploitation concession; b) zones which had previously formed a part of an exploration or exploitation concession, but which were subsequently abandoned, in accordance with the provisions of article 72; c) those on which a previous concession had expired.

Any petroleum lands not included in the above categories are Free Zones. Under article 8 of the Law, the Executive may require "special benefits for the Nation" for concessions in National Reserve Zones. These benefits may include special royalties and also special contributions for social welfare, education and public services.

The State may grant four types of petroleum concessions:

- 1) Exploration concessions, conferring an exclusive right to search for petroleum in specified areas;
- 2) Exploitation concessions, conferring an exclusive right to develop petroleum production, in specified areas;
- 3) Conversion concessions (transformacion), conferring a right to process, convert and refine petroleum or extract its derivatives;
- 4) Transportation concessions, giving the right to construct and operate pipelines to transport petroleum.

Accessory concessions may be granted in each category, if it is shown that the holder of the principal concessions has complied with all obligations, regulations, etc.

Exploration concessions. An exploration concession must cover a specified and continuous tract of not less than 10,000 nor more than 50,000 hectares, in rectangular form where possible, and the base of the rectangle may not be more than five times the height. No one may obtain exploration concessions covering more than 200,000 hectares. Within the first twelve months of the concession drilling equipment suitable to the type of work and the region must be installed under penalty of forfeiture of the concession, except in case of force majeure.

The holder of an exploration concession is entitled to obtain an exploitation concession, if duly qualified, and if the latter concession is awarded to another, the holder of the exploration is entitled to payment of compensation in kind from the holder of the exploitation concession. This right is retained for ten years if no exploitation concession is immediately granted.

Exploitation concessions. The exploitation concession confers the exclusive right to develop petroleum production in specified tracts of not less than 5,000 hectares nor more than 25,000 hectares. No one person may hold concessions covering more than 100,000 hectares. They should be in the same rectangular form as exploration concessions.

A holder of an exploitation concession is under obligation to install a refinery whenever production reaches 3,000 barrels a day, unless it can be shown this is not economically feasible, but it will become compulsory if a daily production of 4,000 barrels is reached.

Other concessions. Conversion concessions and transportation concessions do not confer exclusive rights. Under normal circumstances they would be granted to the holders of exploitation concessions, but not necessarily. In the case of a transportation concession, both terminals of pipeline must be situated within the national territory. When the holder of a pipeline concession is also holder of an exploitation concession the Government may require the transportation of the oil it receives as a royalty in proportion to that of the concession holder.

Duration. Exploration concessions may be granted for three years, renewable for one year if all conditions have been complied with. Exploitation, conversion, and transportation concessions are granted for a period of thirty years and may be renewed for a period of twenty years if all requirements have been met. Upon expiration of a concession, the property in the condition that it then exists shall revert to the State.

Applications. Applications for all petroleum concessions are to be made in duplicate to the National Petroleum Institute (Instituto Nacional de Petroleo), accompanied by maps and plans.

Fees and royalties. The fee for granting an exploration concession is 500 quetzals and for an exploitation, conversion, or transportation concession it is 1,000 quetzals, payable to the National Treasury. If a concession is denied, the fee is returned, less 25 percent withheld as a tax.

The holder of an exploration concession must pay an annual tax of two centavos per hectare of area of the concession. This tax is payable in advance during the first month of each year. The concession holder is also required to invest annually an amount equal to 20 centavos per hectare. This investment may include cost of transportation of equipment and material.

Holders of an exploitation concession are exempt from tax during the first three years of such a concession, after which the tax is increased at intervals, as follows:

4th to 7th year of the concession	Q. 1.50 per hectare
8th to 10th year of the concession	3.00 per hectare
11th to 15th year of the concession	4.50 per hectare
16th to 20th year of the concession	6.00 per hectare
21st to 25th year of the concession	7.50 per hectare
25th to 30th year of the concession	9.00 per hectare
31st and longer (if the concession is extended)	11.00 per hectare

A royalty is also payable at the close of each quarter, based on the amount of production, as follows:

1st to 3rd year of the concession	10%
4th to 6th year of the concession	12-1/2%
7th to 9th year of the concession	15%
10th year and over of the concession	16-1/2%

This royalty may be paid in money or in kind, at the option of the Executive. Once decided, this may not be changed during a quarter, or for a succeeding quarter without advance notice. If to be paid in kind, the oil is to be stored, at the expense of the concession holder, for thirty days, and if any amount is not withdrawn by the government, it shall be assumed that payment of the remainder in money is desired and shall be continued until further notice.

During the first ten years of a concession, the holder is entitled to import, duty free, all equipment, materials, instruments, replacements and accessories not manufactured within the country, for use of the enterprise. Certain formalities are required to obtain this free entry.

National Petroleum Institute. The National Petroleum Institute was created as a technical-administrative agency, headed by a Director General, entrusted with application of the Petroleum Law in all matters pertaining it. It is also charged with the inspection and supervision of all operations relating to the petroleum industry and with the orientation of national petroleum policies.

National Reserve Zones. Article 12 of the Law states that if the State decides to undertake the exploration and exploitation of the National Reserve Zones, it is authorized to make contracts with qualified national or foreign enterprises under the following conditions:

- 1) When exploitation is begun, the State shall reserve to itself a minimum of 12-1/2% of the gross petroleum production, the remainder being available for amortization of the capital investment;
- 2) After amortization has been completed, the State will take 15 percent of the value of production, in addition to the 12-1/2 percent in kind;
- 3) The enterprise shall undertake to construct refineries in Guatemala, on terms agreed upon in the contract;
- 4) The State shall acquire ownership of machinery, equipment, tools, etc., used in the industry, from the time they are acquired by the enterprise, and their value shall be amortized from production; if the value of production is not sufficient to cover the value, the State may elect to pay the difference in money;
- 5) The State shall pay for investments made by the enterprise, in petroleum and derivatives extracted from the area under contract, and payment may not be requested in any other form; the State may elect payment as indicated in 4);
- 6) In no case may a contract be made covering an area of more than 200,000 hectares for exploration or 100,000 hectares for exploitation or for periods of more than three years for exploration or fifty years for exploitation. Conversion and transportation may be included in the same contract with exploration and exploitation;

7) Whenever the Executive may deem it appropriate, a contract may also stipulate the "special benefits" referred to in article 8;

8) Enterprises operating under these contracts shall be exempt from taxes and municipal charges if so stipulated in the contract; such exemptions shall be in effect for the period stipulated in each contract;

9) The State may not make a contract based on terms inferior to those of a previous contract;

10) In accordance with article 119 of the Constitution, all such contracts must be submitted to the Congress for approval.

Source: A Statement of the Laws of Guatemala In Matters Affecting Business, by Julio Gomez Robles. Division of Legal Affairs, Department of International Law, Pan American Union, Washington, D. C., 1951