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## Decommissioning Offshore Oil and Gas Installations in Thailand

Thailand's Ministry of Energy promulgated the Ministerial Regulation Prescribing Plan and Estimated Cost and Security for Decommissioning of Installations Used in the Petroleum Industry B.E. 2559 (2016) earlier this year. As the specific rules and procedures governing the end of the life cycle for upstream petroleum projects had been somewhat uncertain, the decommissioning regulation adds a great deal of clarity on legal obligations for concessionaires.

Unlike businesses with perpetual growth potential, upstream petroleum production has a limited project life cycle—since oil and gas are not renewable resources, every project will have a finite timetable. The tail end of the production cycle is also generally when fewer barrels of oil are being produced, which, to the detriment of petroleum producers, coincides with the capital-intensive task of decommissioning various installations.

A common misconception about offshore drilling rigs is that at the end of the production cycle they will retain some monetary value. This seems intuitive, since it can be assumed that, at the very least, the metal which has been

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used to construct the installations could be melted down for scrap. But these materials have endured the corrosive effects of seawater over several decades, and the logistical expenses of retrieving the salvageable material are extraordinary. The reality is that the decommissioning of offshore rigs is extremely costly and does not generally enable the petroleum producer to realize any return on the physical assets.

Since the costly endeavor of decommissioning will occur precisely at the moment in the production cycle when revenues will be decreasing, petroleum producers and governments must design appropriate procedures to ensure that decommissioning work is properly carried out. Policy issues of major concern for host governments include protecting the environment, minimizing the impact on fisheries, and ensuring that shipping lanes remain clear of any obstacles. Although offshore petroleum production has been occurring around the world for decades, decommissioning

is increasing in importance globally as more projects near the end of their life cycles. Accordingly, lawmakers everywhere are still in the process of learning what processes are best employed to achieve the desired policy objectives.

In Thailand, the Petroleum Act was amended in 2007, introducing two sections which provide the Director General of the Department of Mineral Fuels with the authority to prescribe regulations concerning decommissioning activities. Section 80/1 of the Petroleum Act outlines the general rule that the concessionaire will be responsible for decommissioning works, while Section 80/2 is concerned with the requirement of the concessionaire to make a security deposit to ensure that it will be financially responsible for those decommissioning works. The specific procedures, rules, and timelines outlined under Sections 80/1 and 80/2 of the Petroleum Act are to be in accordance with Ministerial Regulations.

The decommissioning regulation requires the concessionaire to submit a Decommissioning Plan (divided into an Initial Decommissioning Plan and a Final Decommissioning Plan), an Estimate of Decommissioning Costs, a Decommissioning Environmental Assessment Report, and a Best Practical Environmental Option Report to the Director General within prescribed timelines.

The obligation of the concessionaire to begin the decommissioning process will be triggered by any of the following:

1. when the concessionaire does not use the installations continuously for more than one year;
2. when petroleum reserves of the concession are less than 40 percent of the sum of the accumulated petroleum production and the petroleum reserves;
3. when the remaining time for petroleum production as specified in the concession is five years; or
4. if the concessionaire wishes to commence decommissioning activities.

The Estimated Decommissioning Costs and Decommissioning Plan must be audited by authorized third parties based on qualifications prescribed by the Director General and published in the *Government Gazette*. The Director General has the authority to accept the decommissioning reports or request clarifications and/or amendments if the reports are not in compliance with the prescribed rules.

The concessionaire will be obligated to make a security deposit to the Director General, which may be in the form of cash or a cashier check payable by a bank, Thai government bonds, a letter of guarantee issued by a bank, an irrevocable standby letter of credit, or any other security prescribed by the Director General and announced in the *Government Gazette*. The security deposit will be for an amount approved by the Director General which must not be less than the Estimated Decommissioning Cost. Failure to make a complete security deposit will result in a written warning from the Director General, and exposure to a surcharge of 2 percent per month of the unpaid amount.

The decommissioning regulation leaves a few rules and procedures open, to be determined later by the Director General. In addition, depending on how the decommissioning regulation is implemented in practice, there may still be room for further minor amendments. In general, the decommissioning regulation provides a great deal of clarity and certainty for petroleum producers working on concessions which are nearing the end of their production lifespan. 🦄