THE GOVERNMENT

No: 100/2009/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Ha Noi, day 03 month 11 year 2009

DECREE

PROVIDING FOR THE COLLECTION OF A SURCHARGE ON THE VOLUME OF OIL DIVIDED AS PROFITS TO PETROLEUM CONTRACTORS WHEN THE PRICE OF CRUDE OIL INCREASES

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the National Assembly Standing Committee's opinion in Document No. 255/UBTVQH12 of July 22, 2009;
At the proposal of the Minister of Finance,

DECREES:

Article 1. Scope of regulation

This Decree provides for the collection of a surcharge on the volume of oil divided as profits to petroleum contractors (below referred to as contractors) when the price of crude oil increases.

Article 2. Condition for collection of a surcharge

A surcharge will be calculated and collected under this Decree when the average sale price of crude oil in a quarter increases more than 20% compared to the base price of the corresponding year.

Article 3. Surcharge rates and surcharge calculation method

To apply the partially progressive surcharge rates and the surcharge calculation method as follows:

1. The rate of 50% will apply to the volume of oil divided as profits to contractors on a quarterly basis when the average sale price of crude oil in the quarter increases by between over 20% and 50% compared to the base price in the corresponding year. The surcharge amount is determined according to the following formula:

$$\text{Surcharge amount} = 50\% \times \left| \text{Average sale price of crude oil in the quarter} - 1.2 \times \text{Base price in the corresponding year} \right| \times \text{Volume of oil divided as profits to contractors on a quarterly basis}$$

In which:

a) The average sale price of crude oil in the quarter is the price calculated by contractors based on statistical data on actual daily sale prices of crude oil in each quarter which, however, must not exceed 150% of the base price of the corresponding year.

b) The base price in the corresponding year is the price estimated for the corresponding year which is stated in the approved oilfield development plan.

2. The rate of 60% will apply to the volume of oil divided as profits to contractors on a quarterly basis when the average sale price of crude oil in the quarter increases by over 50% compared to the base price in the corresponding year. The surcharge amount is determined according to the following formula:

$$\text{Surcharge amount} = 60\% \times \left| \text{Average sale price of crude oil in the quarter} - 1.5 \times \text{Base price in the corresponding year} \right| \times \text{Volume of oil divided as profits to contractors on a quarterly basis}$$

In which:

a) The average sale price of crude oil in the quarter is the price calculated by contractors based on statistical data on actual daily sale prices of crude oil in each quarter which is higher than 150% of the base price of the corresponding year.

b) The base price in the corresponding year is the price estimated for the corresponding year which is stated in the approved oilfield development plan.

Article 4. Surcharge exemption and reduction

1. For petroleum projects entitled to investment encouragement, the surcharge rate of 30% will apply to the volume of oil divided as profits to contractors on a quarterly basis when the average sale price of crude oil in the quarter increases by more than 20% of the corresponding base price. The surcharge amount is determined according to the following formula:

$$\text{Surcharge amount} = 30\% \times \left| \text{Average sale price of crude oil in the quarter} - 1.2 \times \text{Base price in the corresponding year} \right| \times \text{Volume of oil divided as profits to contractors on a quarterly basis}$$

In which:

a) The average sale price of crude oil in the quarter is the price calculated by contractors based on statistical data on actual daily sale prices of crude oil in each quarter.

b) The base price in the corresponding year is the price estimated for the corresponding year which is stated in the approved oilfield development plan.

2. For special cases when higher investment incentives are needed, the Ministry of Finance shall propose the Prime Minister to decide on surcharge exemption on a case-by-case basis.

Article 5. Effect

1. This Decree takes effect on January'1, 2010.

2. For petroleum contracts signed or not yet signed but approved by the Prime Minister before the effective date of this Decree, no surcharge will be collected under this Decree.

Article 6. Implementation guidance

1. The Ministry of Finance shall guide the implementation of this Decree.

2. The Ministry of Industry and Trade shall propose the Government to amend and supplement the model contract on the sharing of petroleum products issued together with the Government's Decree No. 139/2005/ND-CP of November 11, 2005, to comply with this Decree.

3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.

THE GOVERNMENT
PRIME MINISTER
(Đã ký)

Nguyen Tan Dung