

Petroleum Act (No.6), B.E.2550

Bhumibol Adulyadej P.R.

Given on the 7th Day of October, B.E. 2550 Being the 62nd Year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed expedient to amend the law on petroleum,

Be it, therefore, enacted by the King's most Excellent Majesty, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act shall be called the "Petroleum Act (No. 6) B.E. 2550".

Section 2. This Act shall come into force on the day following the date of its publication in the Government Gazette.

Section 3. The provisions of Section 15 and Section 16 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

"Section 15. There shall be a committee called the "Petroleum Committee" which shall consist of the Permanent Secretary of the Ministry of Energy as Chairman,

Director-General of the Land Department, Director-General of the Department of Fisheries, Director-General of the Royal Forest Department, Director-General of the Revenue Department, Secretary-General of the Office of Natural Resources and Environmental Policy and Planning, Director-General of the Energy Policy and Planning Office, Representative of the Ministry of Defence, Representative of the Ministry of Finance, Representative of the Ministry of Industry and other qualified persons who have knowledge, skills and experience in the fields of geology, engineering, economics, finance, law or other fields that will be beneficial to petroleum operation, not exceeding five in number which the Council of Ministers may appoint as members.

The qualified persons appointed by the Council of Ministers under paragraph 1 hereof shall not be officials from the same government agencies as those ex-officio members.

The Director-General shall be a member and secretary to the Committee. The Director-General may appoint not more than two officials of the Department of Mineral Fuels as assistant secretary.

Section 16. The Committee shall have powers and duties in the following matters:

1. rendering advice to the Minister under Sections 22;
2. carrying out other acts as prescribed in this Act or as assigned by the Minister or as prescribed in other laws as powers and duties of the Committee."
3. issuing orders relating to importation of machinery and equipment exempt from import duty and value added tax under Section 70;
4. issuing orders relating to importation of aliens under Section 69;
5. permitting the concessionaire to own land under Section 65;
6. agreeing on domestic sale price of natural gas under Section 58;
7. giving concurrence to the Director-General under Section 22/1;

Section 4. The following provision shall be added as Section 16/1 of the Petroleum Act B.E. 2514:

“Section 16/1. The qualified member shall have the qualifications and shall not be under any prohibition as follows:

1. being of Thai nationality;
2. not being adjudged in competent or quasi-incompetent;
3. not being bankrupt;
4. not having been convicted and sentenced by a final judgment to imprisonment, except for an offence committed through negligence or a petty offence;
5. not being a member of the House of Representatives, senator, political official, member of a local assembly, local administrator, member of the Board of Directors or holder of a position responsible for the administration of a political party, advisor to a political party or official of a political party;
6. not being a member of the Board of Directors, or executive, or person having power to manage or having an interest in a juristic person or organization carrying out petroleum business, and not engaging in an occupation or other profession having an interest or conflict of interest with the performance of duties as a member.”

Section 5. The provisions of Section 17 and Section 18 of the Petroleum Act B.E. 2514 shall be repealed and replaced by the following:

“Section 17. The qualified member shall hold office for a term of three years and can be reappointed after vacating from office.

In the case where a qualified member has vacated his office upon expiration of term, but a new qualified member has not yet been appointed, such vacated qualified member shall continue to perform his duty until the appointment of a new qualified member has been made.

“Section 18. Apart from vacating upon expiration of the term of office, a qualified member shall vacate office upon:

1. death;
2. resignation;
3. being dismissed by the Council of Ministers for improper behavior, malfeasance in office or incompetence in the performance of duty;
4. lack of qualifications or being under prohibitions under Section 16/1;

When a qualified member vacates his office prior to the expiration of his term, a new qualified member shall be appointed. The appointment may be omitted if the remaining term of such qualified member is less than ninety days. While a new qualified member has not yet been appointed, the remaining members shall continue to perform their duties.

In the case where the appointment, whether it be appointment of an additional member or of a new member to fill the vacancy made by an appointed member, is made during the term of office of the appointed qualified members, the qualified member so appointed shall hold office for the remaining term of his predecessor.”

Section 6. The provision of Section 22 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 22. The Minister upon the advice of the Committee shall have the powers and duties as follows:

1. award concession under Section 23;
2. award a renewal of the petroleum exploration period under Section 25;
3. award a renewal of the petroleum production period under Section 26;
4. grant approval for the alteration in physical work obligations under Section 30;
5. grant approval for the transfer of obligations between exploration blocks under Section 33;
6. permit the concessionaire to have other companies co-venture in his petroleum operations under Section 47;
7. permit the transfer of concessions under Section 50;
8. revoke concession under Section 51, Section 52 and Section 53;
9. notify the concessionaire that the government will exercise its right to undertake petroleum operations in any area at its sole risk under Section 52 bis;
10. require the concessionaire to supply petroleum for domestic consumption under Section 60;
11. issue announcement prohibiting the export of petroleum under Section 61;
12. require the concessionaires to produce petroleum under the unit operation under Section 72;
13. require the concessionaire to pay royalty in kind under Section 83;
14. permit the payment of royalty in foreign currency under Section 87;
15. grant a royalty reduction under Section 99 bis and Section 99 ter.”
16. determine the “geological constant of the exploration block” under Section 100 sex;

The proceeding under (1), (3), (7) or (15) must be approved by the Council of Ministers.”

Section 7. The following provision shall be added as Section 22/1 of the Petroleum Act B.E. 2514:

“Section 22/1. The Director-General with concurrence of the Committee shall have powers and duties as follows:

1. extend the term of a concession under Sections 27;
2. grant approval for the defining of a production area under Section 42;
3. permit the extension of the commencement of petroleum production under Section 42 bis;
4. designate other person to make good the pollution arising from petroleum operations on behalf of or jointly with the concessionaire under Section 75;
5. give concurrence to the work plan and estimated expenses for decommissioning of installations, structures, materials, equipment and facilities, or designate other person to conduct the decommissioning on behalf of or jointly with the concessionaire under Section 80/1.”

Section 8. The provision of Section 27 of the Petroleum Act B.E. 2514 shall be repealed and replaced by the following:

“Section 27. In the event that a major portion of petroleum exploration or production or, in so far as it affects petroleum exploration or production, storage or

transportation of petroleum in any exploration block has been interrupted substantially due to an event that is not the fault of the concessionaire, if the concessionaire desires an extension of the term of his concession, he shall inform the Director-General within seven days from the date of his knowledge of such event; and in such event, the Director-General shall extend the term of the concession in respect of that exploration block for a period equivalent to such duration of time for which the concessionaire is able to prove that the interruption of petroleum exploration or production is not due to the fault of the concessionaire”

Section 9. The provision of Section 28 of the Petroleum Act B.E. 2514, as amended by Petroleum Act (No. 4) B.E. 2532, shall be repealed and replaced by the following:BR>“Section 28. In awarding a concession, the Department of Mineral Fuels shall delineate the area of the exploration blocks by publishing in the Government Gazette.

The area of an exploration block which is not located offshore shall not exceed four thousand square kilometers per block.

The area of an offshore exploration block shall include the area of those islands located therein.”

Section 10. The provision of Section 33 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 2) B.E. 2516 shall be repealed and replaced by the following:

“Section 33. A transfer of obligations from one exploration block to another can be made if there are justifiable grounds and with the approval of the Minister.

Section 11. The provision of paragraph one of Section 42 of the Petroleum Act B.E. 2514 shall be repealed and replaced by the following:

“Section 42. Before producing petroleum from any place in an exploration block, the concessionaire shall demonstrate that a commercial well has been found and a production area has been correctly defined; and he may produce petroleum from such production area when approval has been given by the Director-General.

Section 12. The provision of Section 42 bis of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 42 bis. When the concessionaire has obtained from the Director-General an approval to produce petroleum from the production area under Section 42, the concessionaire shall be required to submit a detailed production plan for that particular production area in accordance with the rules, procedures and period of time as stipulated by the Ministerial Regulations, and the concessionaire shall commence the petroleum production according to such production plan within four years as from the date on which the approval under Section 42 is given by the Director-General. If the concessionaire fails to commence the petroleum production within the stipulated period, that period for petroleum production from the area defined as production area shall be deemed expired.

In the case the concessionaire wishes to apply for an extension to the period for commencing the petroleum production under paragraph one, the concessionaire shall notify the Director-General in writing together with reasons therefor at least six months prior to the expiry of the period in paragraph one. If the Director-General finds that the failure to commence petroleum production was not due to the fault of the concessionaire, the Director-General shall be empowered to grant approval to extend

the period for commencing the production as he may deem appropriate, provided that each extension shall not exceed two years and the extension approval shall not exceed two in total.

Throughout the petroleum production period for the production area, the concessionaire shall review the petroleum production plan described under paragraph one and report the results of such review in writing annually to the Director-General; and if the concessionaire wishes to alter the petroleum production plan, the concessionaire shall seek from the Director-General the approval therefor prior to altering the petroleum production plan.”

Section 13. The provision of paragraph two of Section 50 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 2) B.E. 2516 shall be repealed and replaced by the following:

“The concession transferee under paragraph one shall possess the qualifications prescribed in Section 24.”

Section 14. The provision of Section 51 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 51. The Minister shall have the power to revoke the concession when the concessionaire:

1. fails to perform his obligations in petroleum exploration as prescribed in the concession under Section 30;
2. fails to deposit a security or deposit the security not in full as required under Section 80/2;
3. fails to pay royalty under Division 7 or special remuneration benefit under Division 7 bis;
4. fails to pay income tax in accordance with the Petroleum Income Tax Act;
5. fails to comply with sound technical principles or good petroleum industry practice;

or

1. violates or fails to comply with the provisions set out in the concession as the grounds for revocation.”

Section 15. The following provision shall be added as paragraph three of Section 75 of the Petroleum Act B.E. 2514:

“In the case where the concessionaire fails to proceed, or proceeds under paragraph two in delay, or if immediate action not taken may result in more damage, the Department of Mineral Fuels or other person designated by the Director-General may proceed to make good such pollution on behalf of or jointly with the concessionaire at the concessionaire’s expense.”

Section 16. The provision of paragraph one of Section 76 of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 76. The concessionaire shall submit progress reports, annual work programme and budget in accordance with the rules, procedures and period of time specified by the Director-General.”

Section 17. The provision of Section 77 of the Petroleum Act B.E. 2514 shall be repealed and replaced by the following:

“Section 77. The concessionaire shall submit a summary statement of his expenditures and annual financial statement for the petroleum operations in accordance with the rules, procedures and period of time specified by the Director-General.”

Section 18. The following provisions shall be added as Section 80/1 and Section 80/2 of the Petroleum Act B.E. 2514:

“Section 80/1. For the purposes of promotion and preservation of environment, the concessionaire shall be responsible for the decommissioning of installations, structures, materials, equipment, and facilities used in the exploration, production, storage, or transportation of petroleum whereby the concessionaire shall submit his decommissioning plan together with estimated expenses thereof in order to seek the concurrence of the Director-General in accordance with the rules, procedures, conditions and period of time prescribed in the Ministerial Regulations.

In the case there are additional installations, structures, materials, equipment, and facilities used in the exploration, production, storage, or transportation of petroleum which must be decommissioned or the decommissioning technology has changed, or the estimated expenses of the decommissioning are varied, the Director-General shall have the power to order the concessionaire to amend, revise or adjust the plan and estimated expenses so approved under paragraph one, or the concessionaire may submit his proposal for the amendment to or adjustment of the plan or estimated expenses approved under paragraph one to the Director-General for his concurrence in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations. Upon approval by the Director-General, they shall be deemed the decommissioning plan and estimated expenses for such petroleum production area.

The concessionaire shall complete the decommissioning in accordance with the plan so approved under paragraph one or paragraph two. If the concessionaire fails to proceed with the decommissioning or proceeds in delay which may cause damage, the

Director-General shall have the power to designate other person to carry out the decommissioning on behalf of or jointly with the concessionaire using the security under Section 80/2.

Section 80/2. The concessionaire shall deposit a security for the decommissioning of installations, structures, materials, equipment, and facilities under Section 80/1 with the Director-General in accordance with the rules, procedures, conditions and period of time prescribed in the Ministerial Regulations. The security can be in the form of cash, Thai government bonds, a bank guarantee, or any other form.

The security in the form of cash, Thai government bonds or any other assets though not subject to enforcement of any judgment are not released from the liability under this Act.

If the concessionaire fails to deposit the security, or deposit the security not in full as required or not within the period of time prescribed in paragraph one, the concessionaire shall pay a surcharge of two percent per month of the amount required or the shortfall, as the case may be, commencing from the due date and the Director-General shall give him a notice on the deposit of the security with surcharge to be made within thirty days from the date of receipt of the written notice. If the security and surcharge still are not properly deposit, the Minister may issue an order revoking the concession.

In the case that the Director-General designates other person to carry out, on behalf of or jointly with the concessionaire, the decommissioning of installations, structures, materials, equipment, and facilities under Section 80/1, the security under paragraph one shall be used. If the security is insufficient, the concessionaire shall be responsible for the shortfall, and the balance, if any, shall be returned to the concessionaire.

The maintenance and disbursement of the security shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations.”

Section 19. The provisions of Section 99 bis of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 99 bis. In order to foster and expedite the exploration and development of petroleum resources in certain areas within any exploration block or production area of the concessionaire, where the geological conditions are unfavorable or the production rate is declining and which are not under the exploration or production plan of the concessionaire, the Minister, upon the advice of the Committee, shall have the power to grant a royalty reduction to the concessionaire by making an agreement with the concessionaire so as to encourage the concessionaire to explore and develop such areas in accordance with the plans to be prescribed by the Department of Mineral Fuels.

In providing the Minister with the advice for reduction of royalty under paragraph one, the Committee shall pay due regard to the geological conditions and petroleum potential of such areas, statistics data on petroleum exploration and production expenses for the areas having similar geological conditions, domestic demand for petroleum products, the price sensitivity for petroleum products in the market, and other advantages and disadvantages which the nation would realize from the expedition of petroleum exploration and resource development.

The royalty to be reduced under this Section shall be either the royalty derivable from the petroleum operation already undertaken by the concessionaire in the exploration block or production area, or the royalty that will be derivable from the petroleum production in the area or areas which the Department of Mineral Fuels prescribed in its plans; and such reduction shall not exceed ninety per cent of the amount of royalty payable by the concessionaire on all the petroleum produced from the exploration block and the production area located within such exploration block, or not exceeding ninety per cent of the amount of royalty which will be derivable from the petroleum production conducted within the area so prescribed by the Department of Mineral Fuels; while the period to be granted for reduction shall not exceed five years from the date of execution of the agreement or the date of commencement of production. Such agreement made with the concessionaire may include any conditions or terms.”

Section 20. The provisions of paragraph one and paragraph two of Section 99 ter of the Petroleum Act B.E. 2514 as amended by the Petroleum Act (No. 4) B.E. 2532 shall be repealed and replaced by the following:

“Section 99 ter. For the area which its geological conditions indicate that the production of petroleum in such area would require a very high expenditure or the production of petroleum in such area is not commercial, the Minister, upon the advice of the Committee, may award a concession for that area with provision on royalty reduction on the petroleum derivable when production commences in such area in respective with the volume of petroleum to be specified in the concession; provided that

the size of the area under such concession shall not exceed two hundred square kilometers and the reduction of royalty shall not exceed ninety per cent of the amount of royalty payable while the period the concessionaire would be granted with royalty reduction shall not exceed five years from the date of commencement of petroleum production from the production area. The concessions awarded under this Section may prescribe any conditions.

In providing the advice of the Committee under paragraph one, the rules as set out in paragraph two of Section 99 bis shall apply.”

Section 21. The provision of Section 104 of the Petroleum Act B.E. 2514 shall be repealed and replaced by the following:

“Section 104. Any concessionaire who produces petroleum without the approval of the Director-General under paragraph one of Section 42 shall be punished with a fine not exceeding two hundred thousand Baht.”

Section 22. The Petroleum Committee under the Petroleum Act B.E. 2514 who holds office on the date this Act comes into force shall remain in office until the new Petroleum Committee is appointed under the Petroleum Act B.E. 2514 as amended by this Act.

Section 23. All Ministerial Regulations, notifications, regulations, orders, conditions or obligations issued or prescribed under the Petroleum Act B.E. 2514 and the amendments thereto that are in force on the effective date of this Act, shall continue to apply to the extent that they are not contrary to or inconsistent with this Act, until the new Ministerial Regulations, notifications, regulations, orders, conditions or obligations issued or prescribed under the Petroleum Act B.E. 2514 as amended by this Act comes into force.

Section 24. The Minister of Energy shall have the charge and control of this Act.

Countersigned: General Surayud Chulanont
Prime Minister