

THE PRIME MINISTER

No. 40/2007/QĐ-TTg

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom – Happiness

Hanoi, 21 March 2007

DECISION

**On the abandonment of fixed installations, equipment and facilities
for servicing petroleum operations**

THE PRIME MINISTER

Pursuant to the Law on Organisation of the Government dated 25 December 2001;

Pursuant to the Petroleum Law dated 6 July 1993 and the Law amending and supplementing a number of articles of the Petroleum Law dated 9 June 2000;

Pursuant to Decree No. 48/2000/ND-CP of the Government dated 12 September 2000 detailing the implementation of the Petroleum Law;

In consideration of the proposal of the Minister of Industry,

DECIDES:

Chapter I: GENERAL PROVISIONS

Article 1. Governing scope and subjects of application

This Decision provides the regulations on the abandonment of fixed installations, equipment and facilities necessary for petroleum operations carried out by organisations, individuals conducting petroleum operations in Vietnam (hereinafter referred to as organisations and individuals).

Article 2. International treaties and agreements in the petroleum contract

1. In case where the International Treaties to which the Socialist Republic of Vietnam is a signatory or has acceded contain provisions other than those in this Decision, provisions of those International Treaties shall apply.

2. Provisions of this Decision shall also apply to petroleum contracts which have been signed. With respect to the assurance of financial obligations for the abandonment of fixed installations, equipment and facilities as stipulated in Chapter IV herein, where the signed petroleum contracts contain agreements other than those in this Decision, agreements in those petroleum contracts shall apply.

Article 3. General principles

1. Organisations and individuals shall be responsible for conducting the abandonment of fixed installations, equipment and facilities subject to the plan of abandonment of fixed installations, equipment and facilities approved by the Ministry of Industry. In case where the Ministry of Industry requests not to abandon the whole or part of the fixed

installations, equipment and facilities, organisations and individuals shall comply with such requirement.

2. The abandonment of fixed installations, equipment and facilities must satisfy the requirements for protection of the bed of the earth, rehabilitation of the status of the ecological environment, navigation safety and other resources of the sea.

3. The fixed installations, equipment and facilities must be designed to ensure the capability to abandon upon completion of operations.

Article 4. Interpretation of terms

In this Decision, the following terms shall be understood as follows:

1. “Fixed installations” mean the installations that are constructed or installed in a fixed manner and used for petroleum operations;

2. “Underground pipelines” mean the pipelines that are deeply buried under the trench subject to the design approved by the competent authorities;

3. “Suspended pipelines” mean the pipelines that are buried underground, however, they are exposed or removed from the original position when time has elapsed and its coverage disappears;

4. “Plan of abandonment of fixed installations, equipment and facilities” means the document including the contents relating to technical and technological solutions, total expenses and the time schedule for abandonment of the fixed installations, equipment and facilities in service of petroleum operations.

5. “Bases of fixed sea works” mean the steel structures which are fixed by steel or concrete stakes piled into the seabed to support the topside;

6. “Topside” means the top part of the fixed installations, including structures and facilities put on the bases;

7. “Equipment” means the combination of mechanic and electronic components which are installed and used to serve petroleum operations.

Chapter II: REQUIREMENTS FOR ABANDONMENT OF FIXED INSTALLATIONS, EQUIPMENT AND FACILITIES

Article 5. Abandonment of drilled oil wells

The abandonment of drilled oil wells must comply with procedures for maintenance and cancellation of drilled oil wells stipulated by the Ministry of Industry.

Article 6. Abandonment of the topside and associated facilities

Organisations and individuals shall abandon and transport to shore the topside and associated facilities of fixed installations for re-use or disposal at the designated location. Waste and scrap must be treated in compliance with the regulations on protection of the environment, navigation and aquatic products before being disposed of.

Article 7. Abandonment of the bases and associated facilities

1. The bases of fixed sea installations and associated facilities must be abandoned for re-use or disposal at the designated location.
2. The stakes, casings and structures piled into the seabed must be deeply cut up below the natural seabed so that no parts which rise above the sea surface can hinder navigation activities, fishing and other operations.

Article 8. Floating facilities

Floating facilities, structures and associated facilities must be moved out of the current location of use or moved to the new location for re-use or retaining or disposal in compliance with the laws.

Article 9. Abandonment of pipelines on the sea

1. Organisations and individuals shall abandon the whole floating pipelines and suspended pipelines. The abandonment of floating pipelines and suspended pipelines shall only be conducted when organisations and individuals have cleaned petroleum, gas and chemical in such pipelines.
2. Organisations and individuals shall not have to abandon underground pipelines, but they have to clean petroleum, gas and chemical in such pipelines.

Article 10. Exceptional cases

1. During the petroleum operations, organisations and individuals must immediately abandon the whole or part of the fixed installations, equipment and facilities if they are seriously damaged or materially downgraded, affecting the safety and efficiency of the petroleum operations.
2. When conducting the abandonment of such fixed installations, equipment and facilities, if there are unforeseen causes, preventing the abandonment resulted in the incompleteness of the plan as scheduled, organisations and individuals may make a revised plan and submit it to the Ministry of Industry for approval.

Article 11. Treatment of wastes

Prior to the abandonment of fixed installations, equipment and facilities, organisations and individuals must collect and treat solid and liquid wastes accompanying such fixed installations, equipment and facilities in accordance with the law on waste treatment.

Article 12. Requirements for safety and environment protection

1. The requirements on ensuring the safety and environment protection must be complied with in the plan for abandonment of fixed installations, equipment and facilities.
2. Prior to the abandonment of fixed installations, equipment and facilities, organisations and individuals must submit to the Ministry of Industry documents in relation to safety as stipulated in Articles 4, 5 and 39 of the Regulation on safety control in

petroleum activities issued conjunction with Decision 41 of the Prime Minister dated 8 March 1999.

3. Environment monitoring program:
 - a. Prior to the abandonment, organisations and individuals must monitor the environment, prepare monitoring reports to submit to the Ministry of Natural Resources and Environment;
 - b. The network of the monitoring stations, parameters of environmental analyses and assessment shall be set up in a manner similar to the monitoring setup during the course of petroleum exploitation;
 - c. Within 9 months upon completion of the abandonment of fixed installations, equipment and facilities, organisations and individuals shall organise the environment monitoring, prepare monitoring reports to submit to the Ministry of Natural Resources and Environment. The monitoring reports must assess the impacts which have been caused during the abandonment of fixed installations, equipment and facilities.

Article 13. Abandonment of on-shore fixed installations, equipment and facilities

The Ministry of Industry shall provide detailed regulations on the abandonment of on-shore fixed installations, equipment and facilities.

Article 14. Reports on the abandonment of on-shore fixed installations, equipment and facilities

Within 9 months upon completion of the abandonment of fixed installations, equipment and facilities, organisations and individuals shall prepare the report on completion of the abandonment of fixed installations, equipment and facilities and submit it to the Ministry of Industry for approval.

Within 30 working days upon receipt of the report, the Ministry of Industry shall consider and approve the report. In case of failure to satisfy requirements for abandonment subject to the approved plan of abandonment of fixed installations, equipment and facilities, the Ministry of Industry may request organisations and individuals to strictly comply with such requirements and make supplements to the report for re-consideration.

Chapter III: PREPARATION AND APPROVAL OF ABANDONMENT PLAN

Article 15: Submission of abandonment plan

1. Within 1 year from the date of commercial production, organisations/individuals shall prepare the plan for abandonment of fixed installations, equipment and facilities and submit the same to the Ministry of Industry for review and approval.
2. Those organisations/individuals that are already carrying out petroleum production operations without any abandonment plan submitted shall have to prepare such plan and submit it to the Ministry of Industry for approval in accordance with the provisions of this Decision and other relevant laws and regulations.

Article 16: Abandonment plan

1. The principal contents of an abandonment plan shall include:
 - (a) Introduction to abandonment plan;
 - (b) Summary of contents of abandonment plan;
 - (c) List of categories of installations, equipment and facilities subject to abandonment;
 - (d) Detailed description of items of installations, equipment and facilities subject to abandonment
 - (e) Abandonment options;
 - (f) Environment safety and protection;
 - (g) Pipeline abandonment;
 - (h) Rubbish abandonment;
 - (i) Total abandonment expenses;
 - (k) Time schedule of abandonment;
 - (l) Project management and control;
 - (m) Results of supporting researches.
2. Revised plan: During the course of petroleum operations, organisations/individuals may, where necessary, prepare a revised plan and submit the same to the Ministry of Industry for approval.

Article 17: Time limit of approval of abandonment plan

Within 30 business days of receipt of the file of abandonment plan or revised abandonment plan submitted by organisations/individuals, the Ministry of Industry shall make its decision of approval.

Where the abandonment plan is not approved, the Ministry of Industry shall notify the relevant organisations/individuals, specifying the reason for its refusal.

Chapter IV: SECURITY FOR ABANDONMENT LIABILITIES

Article 18: Method of setting up abandonment liabilities security fund

The security for abandonment liabilities shall be provided by setting up the abandonment liabilities security fund.

Article 22: Timing of setting up abandonment liabilities security fund

1. Within 1 year from the date of the first oil/gas flow production, organisations and individuals must set up a fund of security for the liabilities of abandonment of fixed installations, equipment and facilities.
2. Organisations and individuals that are already carrying petroleum production operations without having set up such fund are required to set up the fund immediately upon the effectiveness of this Decision.

Article 20: Principles of making, adjustment and settlement of abandonment liabilities security fund

1. The abandonment liabilities security fund shall be made on an annual contribution basis as set out in Article 21 of this Decision. The amount to be contributed by each organisation or individual shall be corresponding to his respective participation in the petroleum contract and shall be accounted for as recoverable expense.
2. Within three (3) years prior to the expiration of the petroleum contract or the petroleum production term set out in the Field Development Plan as approved by the Prime Minister, organisations and individuals shall reevaluate the abandonment liabilities security fund on the basis of revaluation of total abandonment expenses and production within the framework of the petroleum contract and recoverable reserves at such time.

In case the balance of the abandonment liabilities security fund exceeds the amount needed for abandonment of fixed installations, equipment and facilities, the difference shall be distributed back to organisations/individuals *pro rata* to their participations in the petroleum contract.

In case the balance of the abandonment liabilities security fund is not sufficient to cover the amount needed for abandonment of fixed installations, equipment and facilities, organisations/individuals shall, within 6 months prior to the expiration of the petroleum contract or the production term, make up [additional] contribution *pro rata* to their participations in the petroleum contract.

3. Upon completion of the abandonment, organisations/individuals must make the final accounts of such abandonment in compliance with the accounting principles agreed in the petroleum contract. Where the fund is not fully utilised, the remaining balance shall be distributed back to organisations/individuals *pro rata* to their participations in the petroleum contract.

Article 21: Amount of contribution to abandonment liabilities security fund

The amount of the annual contribution to the abandonment liabilities security fund shall be determined as follows:

$$\text{Contribution Amount} = \frac{\text{Production in the Year of Question } x \text{ (Total Abandonment Expenses - Ending Balance of Contributed Amount)}}{\text{Remaining Recoverable Reserves}}$$

Article 22: Management and utilisation of abandonment liabilities security fund

1. The abandonment liabilities security fund shall be managed by PetroVietnam.
2. During the time when the fund has not been utilised, PetroVietnam shall deposit the amount of the abandonment liabilities security fund in a separate interest-bearing account at a financial institution in Vietnam. The annually incurred interest on such deposit shall, subject to fulfilment of all financial obligations to the State, be added to the abandonment liabilities security fund.
3. The abandonment liabilities security fund shall be used for the purpose of financing the abandonment of fixed installations, equipment and facilities. Organisations and individuals shall be entitled to use the money of such fund to perform their abandonment obligations, subject to the approved abandonment plan.
4. In case the abandonment in whole or in part the fixed installations, equipment and facilities is not required as provided in clause 1 Article 3 of this Decision, the abandonment liabilities security fund shall remain under PetroVietnam's management and shall be used for abandonment upon the fixed installations, equipment and facilities cease their operation.

Chapter V: IMPLEMENTATION PROVISIONS

Article 23: Responsibility of Ministries

1. Responsibilities of the Ministry of Industry

The Ministry of Industry shall be responsible for leading and coordinating with the Ministries of Communications and Transportation, Natural Resources and Environment, Construction, Finance, and Aquiculture to conduct inspection and audit of abandonment activities.

2. Responsibilities of the Ministry of Finance

The Ministry of Finance shall be responsible to, acting in coordination with the Ministry of Industry, provide detailed guidance on management and use of the abandonment liabilities security fund.

3. The Ministries of Natural Resources and Environment, Construction, Communication and Transportation, and Fisheries shall, within the scope of their respective function and authority, be responsible to coordinate with the Ministry of Industry to perform the state management function with respect to the abandonment activities.

Article 24: Responsibilities of PetroVietnam

1. To monitor abandonment activities carried out by organisations/individuals.
2. To manage the abandonment liabilities security fund on the principles of safety and efficiency and shall be refund on an unconditional basis the amount of this fund, including any interest, to enable organisations/individuals to perform their abandonment obligations.
3. To make reports on an annual basis to organisations/individuals on the management and use of the fund; to discuss and reach mutual agreement with organisations/individuals to the plan of use of the fund.

4. To be subject to inspection of the Ministry of Finance and Ministry of Industry in managing the abandonment liabilities security fund.

Article 25: Handling with breaches

Any organisation/individual in breach of the provisions of this Decision shall be subject to the measures of handling such breach available under the law.

Article 26: Effectiveness

This Decision shall take effect 15 days after the date of its publication in the Official Gazette.

Article 27: Implementation

1. The Ministry of Industry shall provide guidance on and organise the implementation of this Decision.

2. Ministers, heads of ministerial-level agencies, heads of governmental agencies, chairpersons of People Committee of provinces/cities under the central authority shall be responsible for the implementation of this Decision.

PRIME MINISTER
Nguyen Tan Dung