

Appendix D Model Provisions for Decommissioning

Decommissioning Model Provisions (Petroleum Act, Regulations and Petroleum Agreement)

The 'legal framework' refers to the combination of requirements under laws, regulations and contracts that govern decommissioning. There are several cross-cutting aspects that may be addressed in other sectors' regulatory framework. This section pertains to elements that are typically addressed within petroleum-specific instruments such as a petroleum act, petroleum regulations and petroleum agreements (for example, concessions, production sharing contracts).

Please note: *This section is intended to provide guidance and should not be treated as a substitute for the holistic formulation of laws, regulations and contracts. The provisions are not exhaustive.*

It is recommended practice that in so far as practically possible, the requirements related to the decommissioning should be enshrined in legislation (either the petroleum act or regulations), so that this is not a negotiable element of petroleum agreements – thereby providing a robust regulatory framework to ensure the country's interests are protected.

The provisions cited below can be used as a guide to ensure that the key aspects related to decommissioning are adequately addressed in the legal framework.

Please note that the terminology in countries' legal frameworks can differ, as it reflects different systems for the award of petroleum rights (some use licences in addition to having petroleum agreements) and the different institutional arrangements across various jurisdictions (for example, whether there is a national oil company, independent regulator). Within this document:

- 'Contractor' is used as the reference for the holder of petroleum rights (i.e. the company).
- The generic term 'Regulator' is used to represent the government entity with responsibility for administering the petroleum sector. Depending on the particular situation, this could be the Ministry of Petroleum, the Petroleum Commission or the national oil company.

The following colour coding has been used to distinguish the types of provisions that are typically found in law (which usually establishes requirements and principles), regulations (which outline specific details) and the petroleum agreement (which generally refers to the legislation and operationalisation of requirements).

Blue: Provisions typically found in laws

Orange: Provisions typically covered in regulations

Green: Provisions typically covered in petroleum agreements

Grey: Guidance notes, which are intended to provide some context around the particular provision

Legislative Provisions (Petroleum Act or Regulations)

Definitions

- **"Best industry practice"** means such policies, practices, methods, standards, procedures, equipment and material generally accepted and used internationally by prudent, diligent, skilled and experienced operators in petroleum operations, including but not limited to policies, practices, methods, standards, and procedures intended to:
 - conserve petroleum by maximising recovery of petroleum in a technically sound and economically efficient and sustainable manner;
 - promote operational safety and prevention of accidents; and
 - protect the environment by minimising the impact of petroleum operations.

- **Decommissioning operations** means planning and implementation activities to remove, dispose or otherwise deal with wells, structures, facilities, installations and materials used in petroleum operations in connection with the abandonment or cessation of petroleum operations, including site restoration for areas disturbed by way of such operations to clean up, make safe and protect the environment.
- **Decommissioning plan** means the package of measures to be taken to remove or otherwise deal with all wells, installations, equipment, pipelines and other facilities, whether onshore or offshore, used in connection with petroleum operations and to rehabilitate land disturbed by way of such operations.
- **Facility** means any building, structure, installation, equipment or appurtenance over which the Government has jurisdiction and that is connected to or associated with the recovery, development, production, handling, processing, treatment or disposal of hydrocarbon-based resources, including synthetic coal gas and synthetic coal liquid, or any associated substances or wastes or the disposal of captured carbon dioxide, and includes, without limitation, a battery, a processing plant, a gas plant, an oilfield waste management facility, a central processing facility, a compressor, a dehydrator, a separator, a treater, a custom treating plant, a produced water-injection plant, a produced water disposal plant, a miscible flood injection plant, a satellite or any combination of any of them, but does not include a Well, a mine site or processing plant or a mine site or coal processing plant.
- **Operator** means the entity appointed by the contractor or a licensee, with the approval of the REGULATOR, to carry out petroleum operations on its behalf.
- **Production operations** shall include but not be limited to operations and all activities related thereto carried out for petroleum production such as extraction, injection, stimulation, treatment, transportation, storage, lifting, and related operations, but does not include any storage or transportation beyond the measurement point.

General Provisions

1. Prior to relinquishment of any area, the contractor shall perform all necessary clean-up activities to restore the area, as nearly as possible, to the condition existing prior to exploration activities, including the removal of facilities and equipment in accordance with best international petroleum industry practice.
2. The termination of a contract shall not absolve a contractor of its obligations that have arisen before the termination, including performing all necessary clean-up activities to restore the area, as nearly as possible, to the condition existing prior to exploration activities, including the removal of facilities and equipment in accordance with best international petroleum industry practice.
3. A field development plan shall contain at a minimum:
 - a preliminary decommissioning plan;
 - an environmental and social impact assessment; and
 - any additional information as requested by the REGULATOR.

Please note, the legislative requirements for FDPs would be more expansive, the above items are specifically decommissioning related areas which should be included. ESIA is included as it should provide critical baseline information and the basis for ongoing monitoring and assessment of environmental and social impacts from the oil and gas project.

Depending on the permitting regime, the FDP may relate only to the field and a separate licence may be required to install and operate facilities. Depending on the licencing/permitting regime, the Act should ensure that the above provisions apply *mutatis mutandis* to licensees. This is to ensure that the same requirements are required as part of the approval process to develop any associated facilities and infrastructure.

4. Each contractor shall carry out decommissioning at the end of a field life unless the Government expressly releases them from such obligation.

Please note that the Petroleum Act should ensure that this requirement for adequate decommissioning treatment is applied to all associated facilities and infrastructure.

5. Where a contractor is declared bankrupt or is wound up before the fulfilment of any of its decommissioning obligations under its contract, the Government shall recover the costs of fulfilling those obligations from the contractor's trustees in bankruptcy.
6. The costs to fulfil any decommissioning obligations under a petroleum contract shall be treated as a debt owed by the contractor to the Government of **[COUNTRY]** and shall have priority over the claims of other creditors of the contractor whether secured or unsecured notwithstanding anything to the contrary under any other law.
7. An application for approval to assign, encumber or transfer assignments, any contract, or any rights or obligations arising out of a contract, shall be made in writing to the REGULATOR, and shall include:
 - (a) the same information from the prospective transferee as would be required of a new application for a petroleum contract or licence in accordance with regulation;
 - (b) the final terms and conditions of the assignment or transfer;
 - (c) a review of the status of the decommissioning fund and evidence of payments if required to ensure that there is no shortfall in accordance with this Act;
 - (d) an unconditional written undertaking by the assignee or transferee to assume all the obligations assigned and transferred by the assignor or transferor under the contract;
 - (e) evidence of payment prescribed fees; and
 - (f) any such other particulars as the REGULATOR may require.
8. Every contractor shall, in respect of its contract area, keep at its registered office in **[COUNTRY]**, accurate records containing full particulars of the following matters:
 - (a) the drilling operation, deepening, plugging or abandonment of wells;
 - (b) the strata and subsoil through which wells are drilled;
 - (c) the casing inserted in wells and any alteration to such casing;
 - (d) any petroleum, water and other economic minerals encountered;
 - (e) the areas in which any geological or geophysical work has been carried out;
 - (f) accurate geological maps and plans, geophysical records, engineering records, representative geological samples and test results, and all interpretations thereof; and
 - (g) such other matters as may be provided in his contract or as the REGULATOR may reasonably require by notice in writing to the contractor.

Decommissioning – Duty to Abandon & Decommission

Please note the duty to abandon and decommission should apply to the upstream assets which are governed by the petroleum contract/licence as well as any associated infrastructure and facilities which may sit outside of the contract area. This should be addressed within the licencing regime (granting of rights to build and operate such infrastructure/facilities).

9. Upon cessation of production operations, the contractor shall conduct decommissioning operations as per the approved decommissioning plan and in accordance with any other applicable law and in line with best industry practice.
10. A contractor or a licensee who operates a petroleum facility shall, after the termination of production operations restore the affected area and remove the causes of damage or danger to the environment in accordance with the applicable enactments.

11. A contractor or a licensee who is under an obligation to implement an approved decommissioning plan is subject to strict liability towards the Government for any loss or damage caused, in connection with the decommissioning of the facility or other implementation of the decommissioning plan.
12. Each contractor shall carry out decommissioning at the end of a field life unless the Government expressly releases them from such obligation.
13. A decommissioning plan shall cover all petroleum facilities described in the field development plan.
14. The provisions of this section [as well as the provisions of regulations] shall apply *mutatis mutandis* to licensees.

Abandonment

15. An operator shall submit to the REGULATOR, notice of the intention to abandon any well in accordance with regulations.
16. The closure, plugging or abandonment of a well shall be carried out only with the prior written approval of the REGULATOR in accordance with regulations.

Decommissioning Plan

17. (1) Upon cessation of petroleum operations, the contractor or licensee shall conduct decommissioning operations as per the approved decommissioning plan and in accordance with any other applicable law and in line with best industry practice.
- (2) The contractor or licensee shall include a preliminary decommissioning plan and decommissioning statement as part of the field development plan submitted or the application for a facility licence under this Act in the manner and form as prescribed.
- (3) Where a field development plan has been approved, the contractor or licensee shall thereafter submit a decommissioning statement to the REGULATOR no later than [30th March] every year in the form prescribed in regulations.

Please note that in some jurisdictions, a calendar year is adopted and in others the contractual year. The choice will depend on the country practice and ease of administering.

- (4) The contractor or licensee shall, no later than one year before the estimated date on which [fifty per cent (50%)] of the estimated total recoverable reserves of petroleum would have been produced in accordance with the approved field development plan, submit a proposed decommissioning plan and associated decommissioning statement to the REGULATOR for approval as prescribed.
- (5) The REGULATOR may, in consultation with the Department of Environment and other relevant agencies and ministries, approve the proposed decommissioning plan submitted in accordance with subsection (4) and shall notify the contractor in writing. For the purposes of this Act, such a revised plan shall be deemed the approved decommissioning plan. The REGULATOR may request further information from the contractor or licensee before approving a decommissioning plan or a revision thereof.
- (6) If there are subsequent changes in circumstances that materially impact the approved decommissioning plan, the contractor or licensee shall update the decommissioning plan and decommissioning statement and re-submit for approval. Such circumstances include but are not limited to
 - (a) any additions or substantial changes to the facilities;
 - (b) changes in the assumed method, techniques or costs of decommissioning operations; or
 - (c) material changes in recoverable reserves or the production profile.

- (7) If the REGULATOR considers that the decommissioning plan submitted in accordance with subsection (4) may not adequately address the potential needs or requirements for decommissioning operations, the REGULATOR may direct the contractor to re-evaluate the decommissioning plan and to make appropriate revisions thereto within a specified time. The contractor or licensee shall promptly make such revisions and re-submit the decommissioning plan for approval.
- (8) If a contractor or licensee fails to comply with subsections (4) or (6), the Minister may give notice in writing to review, revise or amend the decommissioning plan in question, within a period specified. If the contractor fails to comply with such notice, the Minister may cause such decommissioning plan to be prepared and shall recover the costs incurred from the contractor. Where the Minister has prepared the decommissioning plan, it shall have the same effect as if it had been submitted by the contractor and approved by the Minister.
- (9) A contractor or licensee shall, on a date no later than five years prior to the estimated date for the commencement of decommissioning operations, or as otherwise agreed with the REGULATOR, submit a revised decommissioning plan to the REGULATOR for approval as prescribed and which shall include:
 - (a) reservoirs and production history and relevant data;
 - (b) particulars for determining the economic threshold for cessation of production;
 - (c) an evaluation of options for continued production;
 - (d) an outline of alternative decommissioning solutions and the preferred option;
 - (e) inventory of dangerous material and chemicals present in the facilities and plans for removal and potential alternative use;
 - (f) plans for conducting an environmental and social impact assessment report;
 - (g) technical information regarding each relevant facility to be decommissioned and disposal alternatives where applicable;
 - (h) detailed budget for the activities under the plan, including particulars of the cost of decommissioning facilities;
 - (i) engineering and feasibility studies necessary to support the proposed plan;
 - (j) a revised decommissioning statement;
 - (k) any other information as required by the REGULATOR.
- (10) A contractor or licensee shall ensure that decommissioning operations are conducted in accordance with the approved decommissioning plan.
- (11) The obligations to decommission under subsection (1) are binding on the contractor or licensee after the expiration of the applicable petroleum agreement or licence.
- (12) If a decommissioning plan is not implemented within the stipulated time limit and in accordance with the terms and conditions of the approval, the Minister, in consultation with the REGULATOR, may take necessary measures for implementing the decommissioning plan for and on behalf of the licensee or contractor responsible for the disposal and on the account and risk of the licensee or contractor, including the engagement of subcontractors for carrying out of the plan.

Contents of a Decommissioning Plan

18. (1) The preliminary decommissioning plan required as part of the field development plan, in accordance with section 17(2) of the Act, shall include:
 - (a) the anticipated date of cessation of production and the estimated date at which decommissioning would occur;
 - (b) overview of measures and techniques for the abandonment and decommissioning of wells, and all associated facilities and infrastructure contained within the field development plan;
 - (c) a preliminary decommissioning statement, which shall include:
 - i the total recoverable reserves, projected annual production profile over the life of the field and cumulative annual production for each year of production;
 - ii the estimated date on which fifty per cent (50%) of the estimated total recoverable reserves of petroleum will have been produced;
 - iii the estimated future total decommissioning costs; and
 - iv the estimated annual payments to the decommissioning fund.
- (2) Pursuant to section 17(4) of the Act, the proposed decommissioning plan to be submitted no later than one year before the estimated date on which fifty per cent (50%) of the estimated total recoverable reserves of petroleum would have been produced in accordance with the approved field development plan, shall include:
 - (a) an overview and particulars of wells, installation, equipment, pipeline and other facilities in the approved field development plan and measures for decommissioning each;
 - (b) the anticipated date of cessation of the use of each facility and the estimated date at which decommissioning would occur;
 - (c) the planned measures to effect the decommissioning of wells, facilities and all other installations, a description of equipment needed, timeframes for execution, and estimated cost of such decommissioning operations;
 - (d) proposed measures for post decommissioning monitoring and maintenance of wells and facilities;
 - (e) a preliminary assessment of environmental and social impact of decommissioning operations; and
 - (f) any other information the REGULATOR may require.
- (3) Pursuant to Section 17(9) of the Act, the contractor shall, on a date no later than five (5) years prior to the estimated date for the commencement of decommissioning operations, submit a revised decommissioning plan, which in addition to the particulars required under sub-regulation (2) shall also include:
 - (a) an overview of the field history, including:
 - i relevant information on reservoirs and production history;
 - ii a description of all wells, including wells already plugged and abandoned;
 - iii plans for plugging and abandonment of all other existing wells in the contract area;
 - iv information on the deposit of drill cuttings and other materials; and
 - v possibilities for continued production;
 - (b) an evaluation of options for continued production;
 - (c) technical information regarding each relevant facility to be decommissioned and disposal alternatives, where applicable;

- (d) particulars for determining the economic threshold for cessation of production;
- (e) an inventory of dangerous material and chemicals present in the facilities and plans for removal and potential alternative use;
- (f) alternative decommissioning measures and techniques considered and the grounds for the preferred option;
- (g) the planned measures to effect the decommissioning of wells, facilities and all other installations, a description of equipment needed, timeframes for execution, and estimated cost of such decommissioning operations;
- (h) plans for conducting an assessment of the environmental and social impacts of decommissioning operations;
- (i) information on applicable mitigating actions to avoid damage or unnecessary inconvenience to third parties and to reduce the negative impact on health, safety, environment, agriculture, fisheries and other affected interests;
- (j) proposed measures to secure clean-up and restore the contract area, adjacent areas and lands;
- (k) plans for post decommissioning monitoring and maintenance and abandoned facilities, if applicable;
- (l) engineering and feasibility studies necessary to support the proposed plan;
- (m) detailed budget for the activities under the plan, including particulars of the cost of decommissioning facilities; and
- (n) any other information the REGULATOR may require.

Decommissioning Statement

19. (1) Where a field development plan has been approved, the contractor shall submit an annual decommissioning statement prepared in accordance with the template in Schedule 1, which shall include information on:
- (a) the initial total recoverable reserves, associated projected annual production profile, cumulative annual production, the estimated date by which fifty per cent (50%) of the estimated total recoverable reserves of petroleum from the production area will have been produced, the estimated future total decommissioning costs as per the approved field development plan and estimated annual payments to the decommissioning fund;
 - (b) current estimates of the total recoverable reserves, production profile (actual and projected), cumulative petroleum produced, date by which fifty per cent (50%) of the estimated total recoverable reserves of petroleum from the production area will have been produced, future total decommissioning costs and estimated annual payments to the decommissioning fund;
 - (c) where applicable, the amount that is in the decommissioning fund at the beginning of that year;
 - (d) where applicable, the amount to be deposited by the contractor into the decommissioning fund in respect of the relevant year, setting out how the amount has been calculated in accordance with regulations;
 - (e) where applicable, the amount actually paid into the decommissioning fund by the contractor in respect of the relevant year;
 - (f) where applicable, the amount of expenditure incurred by the holder of a production licence on actually decommissioning the facilities in the relevant year; and
 - (g) where applicable, the amount of any money received by the contractor in the relevant year from the decommissioning fund.

Decommissioning Fund

20. (1) There shall be established a US Dollar ring-fenced fund to be known as a 'Decommissioning Fund' for each field and facilities operated in relation to a contract under this Act for the sole purpose of meeting the costs related to the implementation of decommissioning operations. The Decommissioning Fund shall be based on the approved field development plan as may be revised and shall be applied to the implementation of activities approved in the decommissioning plan.
- (2) It is the intention of this section to ensure that at cessation of production, the total monies in the decommissioning fund will equal the total cost of conducting decommissioning operations.
- (3) A separate Decommissioning Fund shall be established *mutatis mutandis* in accordance with the provisions of subsection (1) in respect of the decommissioning of facilities in any area outside the contract area where facilities are used in connection with production operations.
- (4) Deposits into the Decommissioning Fund shall:
 - (a) be calculated in accordance with a formula based on the levels of production relative to total recoverable reserves as prescribed in regulations;
 - (b) commence from the calendar quarter where production has reached [fifty per cent (50%)] of the aggregate recoverable reserves as determined in an approved field development plan; and
 - (c) thereafter be paid quarterly.
- (5) The amount deposited in the Decommissioning Fund shall be deductible for income tax purposes in the year in which deposits are made.
- (6) Any interest on income earned in the Decommissioning Fund shall be exempt from taxes and used for benefit of the decommissioning fund.
- (7) The trust deeds establishing the Decommissioning Fund shall be approved by the Minister after consultation with the Minister responsible for finance, and shall provide, subject to the provisions of this section, for –
 - (a) the appointment of the board of trustees consisting of such equal number of persons, not fewer than four members, as may be determined by mutual agreement between the Minister and the holder of the production licence concerned of which one-half shall be nominated by the Minister and the other half shall be nominated by the holder of the licence concerned; the Minister shall designate from among the members nominated by him or her one member who shall be the chairperson and another such member to be the vice-chairperson of the board of trustees;
 - (b) functions of the board;
 - (c) the winding up of each Decommissioning Fund.
- (8) In the event of an assignment of the petroleum contract or transfer of interest, the Decommissioning Fund must be transferred to the assignee or transferee by the assignor or transferor.

Management of the Decommissioning Fund

21. (1) The Decommissioning Fund shall be managed by a committee consisting of representatives of the Government and the contractor or licensee.

Alternative 1: the committee established as a Board of Trustees

The Decommissioning Fund shall be managed by a board of trustees, which shall consist of

- (a) a chairman and one other person appointed by the Minister; and
- (b) a vice-chairman and one other person appointed by the contractor.

Alternative 2: the committee established under the governing petroleum contract. Please see Joint Management Committee in Petroleum Agreement section.

The Decommissioning Fund shall be managed by the Joint Management Committee established under the petroleum agreement which consists of representatives of the Government and the contractor.

- (2) The Committee shall –
 - (a) open in respect of the Decommissioning Fund a secure interest-yielding account in United States Dollars at a reputable financial institution that has a long-term bank deposit rating in a category which is equal to, or the equivalent of, A(-) or above from at least two of the following three institutions –
 - i Fitch;
 - ii Moody's; and
 - iii Standard and Poor's.

and which has been approved by the Minister after consultation with the Minister responsible for finance;

In the event that an institution has different rating across the three agencies, the lowest two shall be used.
 - (b) be responsible for administering the Decommissioning Fund;
 - (c) review the state of the Decommissioning Fund at least once a year;
 - (d) review the credit worthiness of the financial institution at which the Decommissioning Fund is held at least once a year;
 - (e) review the state of the Decommissioning Fund at least once a year;
 - (f) report to the Minister in such form as may be determined by the Minister within 30 days at the end of each calendar year on the state of the Decommissioning Fund.
- (3) The committee shall meet at least once in every calendar year at such place and time as may be determined by the chairperson.
- (4) A simple majority of the members of the committee shall form a quorum for a meeting of the board, provided that both the Government and contractor is represented.
- (5) A decision of a simple majority of the members of the Committee present at a meeting of the board shall be a decision of the committee: provided that in the event of an equality of votes the chairperson shall have a casting vote in addition to his deliberative vote.
- (6) In the event that the annual assessment of the financial institution pursuant to subsection 2(d) indicates that there is either a change or potential change in the financial institution's rating, the Minister shall be notified in writing within fourteen (14) days of the measures to be taken to ensure that the objective of the Decommissioning Fund will be met.
- (7) Prior to any transfer or assignment, a review of the status of Decommissioning Fund shall be conducted to ensure that there is no shortfall in the fund.

Payments from the Decommissioning Fund

22. (1) Payments from the decommissioning fund shall be solely for the purposes of:
 - (a) an amount in respect of expenditure in accordance with the decommissioning plan in the area in respect of which the trust fund has been established;
 - (b) the normal costs of the administration of the affairs of the fund such as bank charges.

- (2) No payment referred to in subsection (1) shall be made except with the prior approval of the committee.
- (3) Where the decommissioning fund is not sufficient to cover the implementation of the decommissioning plan, the contractor shall be responsible for meeting the full costs of decommissioning in accordance with the decommissioning plan.
- (4) Where any amount remains in the Decommissioning Fund after decommissioning operations have been completed, such funds shall be distributed to the contractor less any taxes that may be payable.

Payments into the Decommissioning Fund

23. (1) The amount to be paid by the contractor into the Decommissioning Fund shall, with the exception of the last year prior to commencement of decommissioning activities, be calculated in the following manner:

$$A = \left(PP \times \frac{DC}{RR} \right) + NAF$$

where:

A is the amount to be remitted by the contractor to the Decommissioning Fund in respect of the relevant calendar year.

PP is the annual volume of petroleum produced from the field in the calendar year. In the first year that a payment is due, only the incremental volumes above 50% of recoverable reserves shall be used.

DC is the future total cost of decommissioning activities per the approved field development plan.

RR is 50% of the remaining recoverable reserves per the approved field development plan.

NAF represents net adjustments in the decommissioning fund for the calendar year related to payments as per section 22(1) of the Act and valuation adjustments such as interest income accumulated in the year.

- (2) The final payment to the Government for deposit in the decommissioning fund shall be made in the last year prior to commencement of decommissioning activities and shall be equal to the future total decommissioning costs minus the amount of funds in the decommissioning fund.

Removal and Sale of Property

24. (1) Where a contract has expired, or has been surrendered, revoked or relinquished, the REGULATOR shall direct the contractor to:
 - (a) remove from the contract area all property brought into that area by any person engaged or concerned in petroleum operations authorised by the contract or to make arrangements to the satisfaction of the REGULATOR with respect to that property;
 - (b) take any action for the conservation and protection of the natural resources and the environment in that area.
- (2) A direction given under subsection (1) shall be consistent with best industry practice, and nothing in this section or in any direction shall be construed as requiring any person serving or having served as the contractor to do anything contrary to best industry practice.
- (3) Where directions given under subsection (1) are not complied with, the REGULATOR may:

- (a) do or cause to be done all or any of the things required by the direction to be done;
 - (b) remove or cause to be removed, in such manner as the REGULATOR thinks fit, all or any of the property from the area concerned; and
 - (c) dispose of, in such manner as the REGULATOR thinks fit, all or any of the property from the area concerned.
- (4) The REGULATOR may sell, or cause to be sold, by public auction or otherwise, all or any of the property referred to in this section, provided that the REGULATOR has first served notice to the person to whom the property belongs.
 - (5) The REGULATOR may deduct from the proceeds of sale of property under subsection (4):
 - (a) the costs and expenses incurred by the REGULATOR in relation to that property; and
 - (b) the fees or amounts due and payable by the person under this Act.
 - (6) The costs and expenses incurred by the REGULATOR under subsection (3) shall be treated as a debt owed by the contractor to the Government and have priority over the claims of other creditors of the contractor whether secured or unsecured notwithstanding anything to the contrary under any other law.
 - (7) No action shall lie in respect of the removal, disposal or sale of property under this section.

Notification of termination of use

- 25. (1) The contractor shall notify the REGULATOR no later than [six (6) months] before the date of an intended termination of use of a facility.
- (2) The contractor or holder of a licence shall submit to the REGULATOR a report on the implementation of its decommissioning plan not later than sixty [60] days after the decommissioning has been completed. The report shall include:
 - (a) how the plugging and abandonment of wells were carried out;
 - (b) the final disposal of petroleum facilities covered by the decommissioning plan;
 - (c) an overview of actual expenditures associated with the implementation of the decommissioning plan and how it compared to budgeted amounts;
 - (d) any other relevant matters the contractor would like the [Regulator] to know.
- (3) The REGULATOR may, on receipt of the report mentioned in subsection (2), request additional information on the decommissioning operations and any monitoring activities that may be required.

Verification Report

- 26. (1) After decommissioning operations are completed, the contractor or licensee shall submit a comprehensive report on the work carried out to the REGULATOR.
- (2) The REGULATOR shall upon receipt of the report referred to in subsection (1), require a verification of the decommissioning operations by an independent body appointed in consultation with the holder of the contract or licence. The cost of any such verification shall be funded from the Decommissioning Fund.
- (3) Where the verification report finds that decommissioning operations were implemented in accordance with the decommissioning plan, all applicable enactments and there is no risk to public health, safety or the environment, the Minister shall issue a decommissioning certificate to the contractor or licensee.

- (4) Where the verification report finds that decommissioning operations were not completed in a satisfactory manner, it shall state the necessary measures that the contractor or licensee must take in order to comply with the decommissioning plan and applicable enactments and the contractor or licensee shall implement such measures promptly.

Liability

- 27. (1) A contractor or licensee shall be liable for damage or loss arising in connection with the disposal of the facility or other implementation related thereto.
- (2) Where a contractor or licensee abandons a facility, the contractor shall be liable for any damage or loss caused in connection with the abandoned facility.

Alternative

Where the implementation of a decommissioning plan involves the abandonment of the whole or any part of a facility, the contractor concerned shall be liable for any loss or damage caused in connection with the abandoned facility after the termination or expiry of the contract, provided that the Minister may accept compensation from the contractor in advance of any future loss or damage associated with the facilities.

- (3) Where there is more than one party liable under subsection (1) or (2), they shall be held jointly and severally liable for all financial obligations, penalties and/or liabilities associated with the abandonment.
- (4) Where a decision is made to abandon a facility before the end of its useful life or to defer any aspect of the decommissioning, such as by transferring facilities to the Government, it may be agreed between the contractor or licensee and the Government that future maintenance, responsibility and liability be assumed by the Government based on an agreed financial compensation as provided for in accordance with regulations.

Encumbrances

- 28. (1) Where the Government requires removal of a facility, any lien, charge or encumbrance on the facility shall lapse. This applies also where the Government assumes operation of a facility under this Act.

Decommissioning Statement
for year ending 20XX

Section (a) Decommissioning Requirements: Field Development Plan																											
Estimated Future Value of Decommissioning Costs		500 \$USm																									
50% Recoverable Reserves (Trigger reserves)		200 mmmboe																									
Estimated 50% trigger yr		Yr 7																									
		Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13	Yr 14	Yr 15	Yr 16	Yr 17	Yr 18	Yr 19	Yr 20	Yr 21	Yr 22	Yr 23	Yr 24	Yr 25	Total
mbd		20	75	80	110	110	110	93	79	67	57	49	41	35	30	25	22	18	16	13	11	10	8	7	6	5	400
mmscfd		20	75	80	110	110	110	93	79	67	57	49	41	35	30	25	22	18	16	13	11	10	8	7	6	5	400
mboed		20	75	80	110	110	110	93	79	67	57	49	41	35	30	25	22	18	16	13	11	10	8	7	6	5	400
Recoverable Reserves	mmboe	7	27	29	40	40	40	34	29	25	21	18	15	13	11	9	8	7	6	5	4	3	3	3	2	2	400
Cummulative Reserves	mmboe	7	35	64	104	144	184	218.3	247	272	292	310	325	338	349	358	366	373	378	383	387	391	394	396	398	400	
Remaining Rec.Reserves		393	366	336	296	256	216	182	153	129	108	90	75	62	51	42	34	28	22	17	13	9	6	4	2	0	
% Reserves produced	%	2%	9%	16%	26%	36%	46%	55%	62%	68%	73%	77%	81%	84%	87%	89%	91%	93%	95%	96%	97%	98%	98%	99%	100%	100%	
Remaining50%	mmboe							18.1	28.9	25	21	18	15	13	11	9	8	7	6	5	4	3	3	3	2	2	
Remaining recoverable Reserves		393	366	336	296	256	216	182	153	129	108	90	75	62	51	42	34	28	22	17	13	9	6	4	2	0	
Payments to DecomFund excl NAF		0	0	0	0	0	0	45	72.1	61	52	44	38	32	27	23	20	17	14	12	10	9	7	6	5	5	500

		Current View of Decommissioning Requirements: Estimate as at 20XX										Estimated Future Value of Decommissioning Costs														
		500					USD																			
		Yr 7																								
Latest Estimate		Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13	Yr 14	Yr 15	Yr 16	Yr 17	Yr 18	Yr 19	Yr 20	Yr 21	Yr 22	Yr 23	Yr 24	Yr 25
Oil Production		20	75	85	110	100	100	90	85	70	60	50	45	40	42	35	20	17	16	15	13	10	8	7	6	5
Gas Production		20	75	85	110	100	100	90	85	70	60	50	45	40	42	35	20	17	16	15	13	10	8	7	6	5
Total Production		20	75	85	110	100	100	90	85	70	60	50	45	40	42	35	20	17	16	15	13	10	8	7	6	5
Recoverable Reserves		7	27	31	40	37	37	33	31	26	22	18	16	15	15	13	7	6	6	5	5	4	3	3	2	2
Cumulative Reserves		7	35	66	106	142	179	212	243	268	290	308	325	339	355	368	375	381	387	392	397	401	404	406	408	410
Reserving Rec. Reserves		403	376	345	304	268	231	199	168	142	120	102	85	71	55	43	35	29	23	18	13	9	7	4	2	0
% Reserves produced		2%	8%	16%	26%	35%	44%	52%	59%	65%	71%	75%	79%	83%	86%	90%	91%	93%	94%	96%	97%	98%	98%	99%	100%	100%
Remaining50%								12	31	26	22	18	16	15	15	13	7	6	6	5	5	4	3	3	2	2
Remaining recoverable Reserves		403	376	345	304	268	231	199	168	142	120	102	85	71	55	43	35	29	23	18	13	9	7	4	2	0
Payments to DecomFund		0	0	0	0	0	0	0	29	78	64	55	46	41	36	38	32	18	16	15	14	12	9	7	6	5
variance on DF Contributions		0	0	0	0	0	0	-16	5	3	3	1	3	4	11	9	-1	-1	0	2	2	0	0	0	0	0
% change		0%	0%	0%	0%	0%	0%	-36%	8%	4%	5%	3%	9%	14%	41%	38%	-7%	-7%	3%	13%	16%	5%	-2%	1%	2%	0%

Applicable when Trust Fund Established (yr 7 onwards_)

Opening Balance as at Yr 7	0		
Interest income	0		
Deposits to Trust Fund	45		
Payments from Trust Fund			
<i>Decommissioning activities*</i>	0		
Administration Costs	0		
Board Members tariffs	0		
Closing Balance as at Yr 7	45		

Calculations for Payments to Decommissioning Trust Fund			
A =	(PP x DC/RR) + NAF		
In Yr 7 PP =	Cumulative Reserves produced - 50% of Recoverable Reserves	In Yr 8	PP = Annual Production
	= 218- 200		= 28.9
	= 18		Assuming interest earned = 0.2m, Administrative costs = 0.1m
A =	(18 x 500/201) + 0	A =	(28.9 x 500/200) + (0.1-0.2)
	= 45 USDm		= 72.1 - 0.1
			= 72.0 USDm

* where monies have been received for performing decommissioning activities, details are to be provided on how funds are spent

PETROLEUM AGREEMENT PROVISIONS

It is common that petroleum agreements (irrespective of whether they are PSCs or Concessions) contain an article establishing a Joint Management Committee (JMC), often no later than thirty (30) days from the Effective Date of the petroleum agreement. In some jurisdictions, JMC is referred to as 'Management Committee' or 'Technical Management Committee'. Membership is composed of representatives from the government and the owners. As part of its functions, the JMC should have oversight and ongoing review of decommissioning issues.

ARTICLE: Joint Management Committee

- Without prejudice to the rights and obligations of the Contractor in relation to the management of its operations, the Joint Management Committee (JMC) shall have the following duties and authorities:
 - to review and recommend to the [Regulator] the approval of any proposed work programme, budgets, reports, application, plans and any amendments thereof to be submitted by the Contractor to the Government, including but not limited to an exploration work programme and budget, appraisal programmes, Field Development Plan, Local Content Plan, Decommissioning Plan;
 - to monitor and evaluate the Contractor's progress with respect to the implementation of any approved programme, plan or other matters as approved by the Minister or [Regulator], including but not limited to the exploration work programme and budget, appraisal programmes, Field Development Plan, Local Content Plan, Decommissioning Plan; and
 - establish the Decommissioning Fund pursuant to *Article on Decommissioning*.

ARTICLE: Decommissioning

1. Prior to the relinquishment of any part of the Contract Area, the Contractor shall prudently perform all necessary Decommissioning Operations to restore the area as nearly as possible, to the condition in which it existed on the Effective Date, including removal of such Facilities, equipment or installations as the [REGULATOR] may instruct, and shall take action necessary to prevent hazards to human life, property and the environment, which may be caused by its wells, Facilities, equipment or installations. In carrying out such Decommissioning activities, the Contractor shall observe Best Industry Practices.
2. The Contractor shall prepare and submit to the JMC for review and endorsement:
 - (a) the Decommissioning Plan and Decommissioning Statement prior to submission to the REGULATOR for approval is in accordance with the Act;
 - (b) the annual Decommissioning Statement in accordance with the Act;
 - (c) the proposed financial institution at which the Decommissioning Fund will be established, prior to submission to the Minister for approval, in accordance with section [*insert reference*] of the Act. The proposal shall be accompanied by an evaluation of the financial creditworthiness of the institution and alternatives considered;
 - (d) a review of the state of the Decommissioning Fund at least once a year; and
 - (e) an annual assessment of the credit-worthiness of the financial institution at which the Decommissioning Fund is held.
3. Upon approval of the financial institution, the Contractor shall promptly open a US Dollar interest-bearing escrow account [in the name of the Minister] to ensure that the first contribution to the Decommissioning Fund is made in the quarter where production has reached [fifty per cent (50%)] of the total ultimate recoverable reserves as determined in an approved Field Development Plan.
4. The Contractor shall deposit monies into the Decommissioning Fund in accordance with *Regulation []*, and such contributions shall be deductible for tax purposes.

- 5 No payment from the Decommissioning Fund shall be made except with the prior approval of the JMC and only for the sole purpose of implementing the approved Decommissioning Plan as approved pursuant to the Act.
- 6 If the Decommissioning Fund is not sufficient to cover the implementation of the Decommissioning Plan, the Contractor shall be responsible for meeting the full costs of Decommissioning Operations.
- 7 Where any amount remains in the Decommissioning Fund after Decommissioning Operations are completed to the satisfaction of the Minister and a verification certificate has been issued in accordance with section [*Verification Report*] of the Act, such funds shall be distributed to the Contractor less any taxes payable.