

DECREE

**AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE NO. 48/2000/ND-CP
DETAILING THE PETROLEUM LAW AND THE REGULATION ON BIDDING FOR PETROLEUM SURVEY, EXPLORATION
AND EXPLOITATION PROMULGATED TOGETHER WITH DECREE NO. 34/2001/ND-CP**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the July 6, 1993 Petroleum Law; the June 9, 2000 Law Amending and Supplementing a Number of Articles of the Petroleum Law; and the June 3, 2008 Law Amending and Supplementing a Number of Articles of the Petroleum Law;
At the proposal of the Ministry of Industry and Trade,

DECREES:

Article 1. Scope of amendment and supplementation

This Decree amends and supplements a number of articles of the Government's Decree No. 48/2000/ND-CP of September 12, 2000, detailing the Petroleum Law (below referred to as Decree No. 48/2000/ND-CP), and the Regulation on bidding for petroleum survey, exploration and exploitation promulgated together with Decree No. 34/2001/ND-CP (below referred to as the bidding regulation).

Article 2. To amend and supplement a number of articles of Decree No. 48/2000/ND-CP

1. Article 3 is amended and supplemented as follows:

"Article 3. Entities entitled to conduct petroleum activities

1. Organizations and individuals entitled to conduct petroleum activities include:

a) Enterprises established and operating under the law on enterprises;

b) Vietnamese and foreign organizations and individuals.

2. Enterprises, organizations and individuals defined in Clause 1 of this Article may conduct petroleum activities under petroleum contracts signed with the Vietnam Oil and Gas Group under the Petroleum Law, this Decree and relevant legal documents.

3. Petroleum survey and exploration of the Vietnam Oil and Gas Group shall be conducted by its member companies under petroleum contracts signed under Clause 2 of this Article."

2. To annul Clause 1, Article 4.

3. To add Clause 8 to Article 4 as follows:

"8. Plan on dismantlement of fixed works, equipment and means a document containing technical and technological solutions, total costs and schedule for the dismantlement of fixed works, equipment and means in service of petroleum activities."

4. Article 15 is amended and supplemented as follows:

"Article 15. Obligation to dismantle fixed works, equipment and means in service of petroleum activities

1. Organizations and individuals conducting petroleum survey, exploration and exploitation are obliged to dismantle fixed works, equipment and means in service of petroleum activities.

2. Organizations and individuals conducting petroleum exploitation shall work out plans on dismantlement of fixed works, equipment and means and funds for the dismantlement under law. and submit them to the Ministry of Industry and Trade for consideration and approval.

3. Organizations and individuals shall dismantle fixed works, equipment and means in service of petroleum activities under approved plans.

If their requests are approved by the Ministry of Industry and Trade or the Ministry of Industry and Trade requests, organizations and individuals may be exempt from dismantling all or part of fixed works, equipment and means in service of petroleum activities.

4. Expenses for the dismantlement shall be accounted as retrieved petroleum expenses."

5. Article 25 is amended and supplemented as follows:

"Article 25. Prolongation of the survey and exploration stage and extension of petroleum contracts

1. Prolongation of the survey and exploration stage

In case each sub-stage or the whole stage of survey and exploration expires but contractors have not yet fulfilled their work programs, the deadline of each sub-stage or the whole stage of survey and exploration may be prolonged, provided that the total prolonged duration must not exceed the duration specified in Article 17 of the Petroleum Law. At least 90 days before the end of each sub-stage or the whole stage of survey and exploration, contractors and the Vietnam Oil and Gas Group shall submit to the Ministry of Industry and Trade reports clearly stating reasons for the prolongation. Within 25 working days after receiving written reports, the Ministry of Industry and Trade shall consider and approve the prolongation.

2. Extension of petroleum contracts

Petroleum contracts may be extended under Article 17 of the Petroleum Law.

At least one year before the expiration of a petroleum contract, the contractor and the Vietnam Oil and Gas Group shall submit a

report clearly stating the reason for extension of the petroleum contract to the Prime Minister and concurrently to the Ministry of Industry and Trade for examination.

Within 35 working days after receiving the report, the Ministry of Industry and Trade shall propose the Prime Minister to consider and decide on extension of the petroleum contract."

6. To add Article 25a as follows:

"Article 25a. Prolongation of the survey and exploration stage and extension of petroleum contracts in special cases

1. Special cases in which the survey and exploration stage may be prolonged or petroleum contracts may be extended under Clause 2, Article 17 of the Petroleum Law are cases in which such prolongation or extension is given for national defense or security reasons.

At least 90 days before the end of the survey and exploration stage or at least one year before the expiration of a petroleum contract, the contractor and the Vietnam Oil and Gas Group shall submit a report clearly stating the reason for prolongation of the survey and exploration stage or extension of the petroleum contract to the Prime Minister and concurrently to the Ministry of Industry and Trade for examination.

2. Within 35 working days after receiving the report, the Ministry of Industry and Trade shall submit to the Prime Minister its examination opinions on prolongation of the survey and exploration stage or extension of the petroleum contract."

7. Article 30 is amended and supplemented as follows:

"Article 30. Early exploitation

In the survey and exploration stage, if contractors conduct early exploitation in areas under petroleum contracts, they shall submit early exploitation programs and plans to the Ministry of Industry and Trade for approval under the Petroleum Law, this Decree and relevant laws."

8. Article 35 is amended and supplemented as follows:

"Article 35. Discovery of petroleum of a commercial potential beyond contractual areas

In case petroleum of commercial potential is discovered outside areas under petroleum contracts and within blocks for which no petroleum contract has been signed yet, contractors and the Vietnam Oil and Gas Group shall submit reports clearly stating reasons for expansion of contractual areas to the Prime Minister and concurrently to the Ministry of Industry and Trade for examination."

9. Article 36 is amended and supplemented as follows:

"Article 36. Field consolidation

In case petroleum of commercial potential is discovered in areas under petroleum contracts and this petroleum field overlap areas of blocks for which petroleum contracts have been signed, involved parties may reach agreement on formulation of a project on joint exploitation of the whole field, and then submit it to the Prime Minister and concurrently to the Ministry of Industry and Trade for examination."

10. Article 37 is amended and supplemented as follows:

"Article 37. Bidding for petroleum services

1. Organizations and individuals conducting petroleum survey, exploration and exploitation may sign petroleum service provision contracts with sub-contractors or other organizations and individuals in service of petroleum activities.

2. For petroleum contracts signed before the effective date of this Decree, the bidding for and signing of contracts on provision of petroleum services directly related to petroleum survey, exploration, field development and exploitation must comply with the provisions of signed petroleum contracts.

3. For petroleum contracts signed after the effective date of this Decree, the bidding for and signing of contracts on provision of petroleum services directly related to petroleum survey, exploration, field development and exploitation must comply with the provisions of signed petroleum contracts and adhere to the following principles:

a) Assuring the investment effectiveness of projects and, publicity and transparency in organizing the bidding for and signing of contracts;

b) Being compatible with particular characteristics of the petroleum sector in the petroleum survey, exploration, field development and exploitation;

c) Prioritizing the use of petroleum services which can be provided by Vietnamese organizations and individuals."

11. Article 43 is amended and supplemented as follows:

"Article 43. Rights and obligations of joint-venture enterprises

In case a petroleum contract is signed in the form of joint-venture contract, the joint-venture enterprise may enjoy rights and perform obligations agreed under the joint-venture contract, and the rights and obligations of contractors as provided in the Petroleum Law, this Decree and relevant legal documents."

12. To add Article 43a as follows:

"Article 43a. Taxes, charges and fees applicable to petroleum activities

Organizations and individuals that conduct petroleum activities shall declare and pay taxes, charges and fees under the laws on taxes, charges and fees."

13. To annul Chapter V, and Articles 64 and 65

14. Clause 1, Article 66 is amended and supplemented as follows:

"1. The Ministry of Industry and Trade shall appraise petroleum contracts, then submit them to the Prime Minister for consideration and approval; appraise and propose the Prime Minister to decide to permit the transfer of rights and obligations of parties to petroleum contracts; and grant investment certificates and modified investment certificates for petroleum contracts under the Petroleum Law and relevant legal documents."

15. To add Article 66a as follows:

"Article 66a. Process of appraisal of petroleum contracts and grant of investment certificates

1. A dossier for appraisal of a petroleum contract comprises:

- a) A written request of the Vietnam Oil and Gas Group for appraisal of the petroleum contract;
- b) A written explanation of econ-technical issues;
- c) A certified copy of the business registration certificate, for organizations, or the identity card or passport, for individual investors entering petroleum contracts;
- d) Draft petroleum contract;
- e) Relevant legal documents used as grounds for petroleum contract negotiation.

Such a dossier shall be submitted to the Ministry of Industry and Trade in 8 sets, including 1 original.

2. Order of appraisal of a petroleum contract and grant of an investment certificate

- a) Within 5 working days after receiving a valid dossier for appraisal of a petroleum contract, the Ministry of Industry and Trade shall forward this dossier to concerned ministries and branches for their opinions;
- b) Within 15 working days after receiving the dossier, the concerned ministries and branches shall send their written opinions to the Ministry of Industry and Trade. Past that time limit, a concerned ministry or branch which has no written opinion will be considered having agreed with proposals in the dossier;
- c) Within 35 working days after receiving a complete and valid dossier, the Ministry of Industry and Trade shall appraise and submit to the Prime Minister appraisal results and give its opinions for the Prime Minister to consider and approve the petroleum contract.
- d) Based on the Prime Minister's approval of the petroleum contract, the Vietnam Oil and Gas Group and the contractor shall sign the petroleum contract;
- e) Within 10 working days after receiving the signed original petroleum contract, the Ministry of Industry and Trade shall consider and grant an investment certificate."

16. To add Article 66b as follows:

"Article 66b. Process of appraisal of transfer of rights and obligations under petroleum contracts and grant of modified investment certificates

1. A dossier for appraisal of transfer of rights and obligations under a petroleum contract comprises:

- a) A written request of the Vietnam Oil and Gas Group for appraisal of transfer of rights and obligations of parties to the petroleum contract;
- b) A certified copy of the business registration certificate, for organizations, or the identity card or passport, for individual investors entering petroleum contracts;
- c) A contract on transfer of rights and obligations under the petroleum contract;
- d) The agreement on modification of the petroleum contract.

Such a dossier shall be submitted to the Ministry of Industry and Trade in 8 sets, including 1 original.

2. Process of appraisal of transfer of rights and obligations under a petroleum contract and grant of a modified investment certificate

- a) Within 5 working days after receiving a valid dossier for appraisal of transfer of rights and obligations a petroleum contract, the Ministry of Industry and Trade shall send this dossier to concerned ministries and branches for their opinions;
- b) Within 15 working days after receiving the dossier, the concerned ministries and branches shall send their written opinions to the Ministry of Industry and Trade. Past that time limit, a concerned ministry or branch which has no written opinion will be considered having agreed with proposals in the dossier;
- c) Within 35 working days after receiving a complete and valid dossier, the Ministry of Industry and Trade shall appraise and submit to the Prime Minister appraisal results enclosed with opinions of concerned ministries and branches and give its opinions for the Prime Minister to consider and approve the transfer of rights and obligations under the petroleum contract.
- d) Within 10 working days after receiving the Prime Minister's approval of transfer of rights and obligations under the petroleum contract, the Ministry of Industry and Trade shall consider and grant a modified investment certificate."

17. To annul Chapter VIII

18. Change of some phrases:

- a) The phrase "state management agency in charge of petroleum" in the Government's Decree No. 48/2000/ND-CP of September 12, 2000, detailing the Petroleum Law, is replaced with the phrase "Ministry of Industry and Trade";
- b) The phrase "Vietnam Oil and Gas Corporation" in Decree No. 48/2000/ND-CP of September 12, 2000, is replaced with the phrase "Vietnam Oil and Gas Group."

Article 3. To amend and supplement a number of articles of the bidding regulation

1. Article 4 is amended and supplemented as follows:

"Article 4. Public bidding

The form of public bidding shall be applied on the principle of competitiveness, fairness and transparency. All organizations and individuals that satisfy the conditions specified in Article 5 of this Regulation may participate in the bidding."

2. To add Article 4a as follows:

"Article 4a. Competitive bids

Competitive bids are applicable to petroleum blocks to be implemented in areas with complicated geological conditions and in which only two capable organizations or individuals register for participation. The Vietnam Oil and Gas Group shall select organizations or individuals with the best bid dossier, then report on selection results to the Ministry of Industry and Trade for appraisal and subsequent submission to the Prime Minister for consideration and approval."

3. Article 6 is amended and supplemented as follows:

"Article 6. Bidding norms

1. Bidding norms to be stated in a bidding dossier include:

- a) The oil and gas profit-sharing ratios;
- b) The minimum workload and minimum financial commitments;
- c) The participation proportion of the Vietnam Oil and Gas Group or a member enterprise of the Vietnam Oil and Gas Group authorized to participate in the bidding as the petroleum contractor.

2. Based on the specific potential of each area or block, the bid-soliciting party shall add to the bidding dossier one or a number of other bidding norms, such as the expense recovery rate, signature commission, exploitation commission, document reference charge and training expense.

3. Royalties, enterprise income tax and other payable taxes, charges and fees comply with the laws on taxes, charges and fees."

4. Article 8 is amended and supplemented as follows:

"Article 8. Bidding plans

1. Bid-soliciting parties shall elaborate bidding plans for areas or blocks, and send them to the Ministry of Industry and Trade.

2. A bidding plan must contain the following:

- a) Preliminary evaluation of the oil and gas potential of each area or block;
- b) Bidding time;
- c) Bidding norms;
- d) Method of bid evaluation;
- e) Bidding form.

3. Within 15 working days after receiving full documents on a bidding plan, the Ministry of Industry and Trade shall complete the examination and report examination results to the Prime Minister for consideration and approval."

5. To add Article 8a as follows:

"Article 8a. Master plan on bidding for petroleum blocks

Before October 31 every year, the Vietnam Oil and Gas Group shall work out a master plan on bidding for petroleum blocks for the subsequent year, then submit it to the Prime Minister and concurrently send it to the Ministry of Industry and Trade for appraisal."

6. Article 15 is amended and supplemented as follows:

"Article 15. Organization of bid evaluation

The bid-soliciting party shall set up a bid-evaluating team composed of its experts. It may invite experts from concerned ministries and branches to join the team. The working regulation of this team shall be stipulated by the bid-soliciting party. The bid evaluation shall be conducted within 20 working days after the date of bid opening."

7. Article 17 is amended and supplemented as follows:

"Article 17. Appraisal of bidding results

The Ministry of Industry and Trade shall set up an inter-branch working team composed of representatives of the concerned ministries and branches for appraisal of bidding results. The working regulation of this team shall be stipulated by the Ministry of Industry and Trade.

Within 25 working days after receiving full documents related to bidding results, the Ministry of Industry and Trade shall submit to the Prime Minister a report on appraisal of bidding results.

8. Article 20 is amended and supplemented as follows

"Article 20. Process of contractor appointment

The contractor appointment shall be conducted according to the following steps:

- 1. The bid-soliciting party shall submit to the Ministry of Industry and Trade the contractor appointment, clearly stating the area or block proposed for contractor appointment, the reason therefore, organizations and individuals appointed as contractors, and bid-assignment norms and conditions.
- 2. The Prime Minister shall consider and approve contractor appointment results based on appraisal reports of the Ministry of

Industry and Trade."

9. Article 23 is amended and supplemented as follows:

"Article 23. Effect

This Regulation applies to the selection of partners for signing petroleum contracts in order to implement petroleum survey, exploration and exploitation projects."

10. The phrase "Vietnam Oil and Gas Corporation" in the Regulation on bidding for petroleum survey, exploration and exploitation projects, promulgated together with the Government's Decree No. 34)2001)ND-CP of July 6, 2001, is replaced with the phrase "Vietnam Oil and Gas Group."

Article 4. Effect

This Decree takes effect on February 14, 2010.

Article 5. Implementation responsibility

The Ministry of Industry and Trade shall guide the implementation of this Decree.

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