

THE PRIME MINISTER

No. 49/2017/QĐ-TTg

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, December 21, 2017

DECISION

ON DECOMMISSIONING OF PETROLEUM INSTALLATIONS

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Petroleum dated July 06, 1993; Law on amendments to some articles of the Law on Petroleum dated June 09, 2000; Law on amendments to some articles of the Law on Petroleum dated June 03, 2008;

Pursuant to the Government's Decree No. 95/2015/ND-CP dated October 16, 2015 on elaboration of some articles of the Law on Petroleum;

At the request of the Minister of Industry and Trade;

The Government hereby promulgates a Decision on decommissioning of petroleum installations.

Chapter I

GENERAL PROVISIONS

Article 1. Scope and regulated entities

This Decision provides for decommissioning of petroleum installations by organizations and individuals involved in petroleum industry in Vietnam (hereinafter referred to as "decommissioning entity").

Article 2. Application of agreements to petroleum contracts

1. Regulations of this Decision shall apply to petroleum contracts and gas installations that have the competent authority's decision on approval for investment project before and after the effective date of this Decision.

2. In the event the signed petroleum contract contains financial obligations that are different from regulations on establishment of fund for decommissioning installations specified in Chapter IV of this Decision, the decommissioning entity shall adhere to such petroleum contract.

Article 3. General rules

1. Petroleum installations shall be decommissioned in accordance with the decommissioning plan approved by the Ministry of Industry and Trade, regulations of this Decision and relevant laws. In case the decommissioning plan has been approved but the Ministry of Industry and Trade requests no decommissioning of part or entire petroleum installation, the decommissioning entity shall comply with such request.
2. Petroleum installations must be decommissioned in a manner that ensures safety of people and environment and complies with requirements for underground protection, environmental restoration, traffic safety and other resources of the sea and mainland where the installations are located.
3. A petroleum installation must be designed so that it can be decommissioned after the project is completed or the installation is no longer used for petroleum industry or unsafe for people and environment.

Article 4. Definitions

For the purposes of this Decision, the terms below shall be construed as follows:

1. "installations for field exploration and development and petroleum extraction" include floating platforms, equipment and structures constructed and installed permanently or temporarily on the mainland or within territorial waters to serve field exploration and development and petroleum extraction.
2. "gas installations" include installations for collection, treatment and transport, offshore gas pipelines, onshore gas pipelines, gas processing and treatment plants, distribution stations, pipeline delivering gas from the gas processing and treatment plant to users (excluding low pressure gas pipelines or similar pipelines delivering gas to users).
3. "underground pipeline" means a pipeline buried underground or seabed according to the design approved by the competent authority.
4. "exposed pipe section" means an underground pipe section whose abrasive coating causes it to expose or stick out of its location or that is placed on the sea surface, ground or river/lake surface.
5. "decommissioning plan" means a document containing decommissioning plan, technical, technological and environmental measures, total costs and progress in decommissioning of petroleum installations.
6. "jacket" means the steel structures, which are fixed by steel or concrete poles, and anchored to the seabed to support the topside.
7. "topside" means the upper half of a fixed installation, including structures and equipment installed on the jacket.

8. “gas processing and treatment plant” means a place where gas is received, processed and treated.

9. “equipment” means a combination of mechanical and electronic components installed and used for petroleum industry.

10. “gas distribution station” means a place where treated gas is received to be distributed to users.

Chapter II

FORMULATING, APPRAISING AND APPRAISING DECOMMISSIONING PLAN AND REPORTING DECOMMISSIONING

Article 5. Submitting decommissioning plan

Within 9 months from commercial extraction or 1 year from the date on which the petroleum installation is put into operation, the decommissioning entity shall formulate and submit a decommissioning plan to the Ministry of Industry and Trade for approval.

Article 6. Submitting the decommissioning plan for approval

1. 1 application shall be submitted, by post or directly, to the Ministry of Industry and Trade.

2. An application for approval for the decommissioning plan includes:

a) An application form for approval for the decommissioning plan;

b) PVN’s written approval for the decommissioning plan (applicable to petroleum contractor and affiliates of the PetroVietnam (hereinafter referred to as “PVN”));

c) 01 decommissioning plan;

d) 25 summaries of the decommissioning plan.

3. A decommissioning plan includes:

a) Introduction to the decommissioning plan;

b) Summary of the decommissioning plan;

c) List of facilities, equipment and structures of the petroleum installation to be decommissioned;

d) Detailed description of facilities, equipment and structures of the petroleum installation to be decommissioned;

- dd) Technical solutions and plans for decommissioning;
- e) Waste treatment and marine pollution control plan (specifying waste type and quantity, collection, storage, transport and treatment of waste during decommissioning of the installation); environmental emergency preparedness and response plan.
- g) Total decommissioning costs, plan and funding progress;
- h) Progress;
- i) Project management and inspection;
- k) Research results (if any);
- l) Other contents.

Article 7. Procedures for appraising and approving the decommissioning plan

1. Within 15 working days from the receipt of the documents on decommissioning plan prescribed in this Decision, the Ministry of Industry and Trade shall take charge and cooperate with ministries in carrying out the appraisal. Within 15 working days from the date of appraisal, the Ministry of Industry and Trade shall consider approving the decommissioning plan.
2. In the event the appraisal results show that the decommissioning plan needs revising, within 5 working days from the date of appraisal, the Ministry of Industry and Trade shall submit a written request for revision to the decommissioning entity or provide explanation for appraisal results.

Within 15 working days from the receipt of the revised plan or explanation for the plan from the decommissioning entity, the Ministry of Industry and Trade shall consider approving it.

Article 8. Adjusting the decommissioning plan

1. The decommissioning plan shall be adjusted in one of the following cases:
 - a) The adjustment or approval of the field development plan or early extraction plan or pipeline construction project or installation construction project or improvement and expansion of the installation or addition of installation items results in an estimated increase or decrease by at least 20% of the approved cost of decommissioning of the latest installation.
 - b) The plan shall be adjusted within 1 year before the end of the petroleum contract or petroleum extraction or termination of the gas installation;
 - c) The petroleum installation fails to satisfy safety requirements to maintain its operation and/or has a breakdown that cannot be handled.

2. 1 application for approval for the adjusted decommissioning plan, which is prescribed in Clause 3 of this Article, shall be submitted by post or directly to the Ministry of Industry and Trade.

3. An application for approval for the adjusted decommissioning plan includes:

- a) An application form for approval for the adjusted decommissioning plan;
- b) PVN's written approval for the adjusted decommissioning plan (applicable to petroleum contractor and affiliates of PVN);
- c) 1 adjusted decommissioning plan;
- d) 25 summaries of the adjusted decommissioning plan.

4. An adjusted decommissioning plan includes:

- a) Approved contents;
- b) Deviations from the approved contents, reasons therefor;
- c) 1 copy of the decision on approval for the decommissioning plan, and decision on approval for the previously adjusted decommissioning plan (if any).

5. Procedures for approving the adjusted decommissioning plan are specified in Article 7 of this Decision.

Article 9. Preparing and approving reports on completed installation decommissioning

1. Within 9 months from the end of the decommissioning, the decommissioning entity shall prepare and submit a report on completed decommissioning plan to the Ministry of Industry and Trade for approval.

2. A report on completed decommissioning plan includes:

- a) Description of the installation and decommissioning tasks;
- b) Decommissioning progress;
- c) Deviations from the approved plan (if any);
- d) Actual decommissioning costs;
- dd) Summary of environmental safety assurance plans that have been implemented such as the waste collection, transport and treatment plan.

e) Responsibilities for the retained installation (if any)

g) Conclusion and suggestions (if any).

3. Procedures for approving the report on completed installation decommissioning are specified in Article 7 of this Decision.

Chapter III

INSTALLATION DECOMMISSIONING

Section 1. DECOMMISSIONING OF INSTALLATIONS FOR FIELD EXPLORATION AND DEVELOPMENT AND PETROLEUM EXTRACTION

Article 10. Removal of fixed offshore installations

1. Removal of topside and associated equipment

a) Technology systems (pines, collectors, separators, storage tanks, oil pumps, pipes, etc.), fluid and cement system, cement, energy systems, fire protection systems, drill rods, extraction tubes, protective structures, anchor blocks and anchor points, anchor lines, vertical pipes and vertical pipe base, etc. must be cleaned before being removed or moved to the shore;

b) The topside and associated equipment shall be completely removed, collected and categorized for the purposes of reusing, recycling, treating or discarding as prescribed by laws;

c) Wastes must be collected and treated in accordance with regulations of law.

2. Removal of jacket and associated equipment

a) The jacket and associated equipment shall be removed to be recycled, treated or discarded in accordance with regulations of law;

b) All piles, pipes and structures anchored to the seabed must be cut so that they do not protrude from the seabed surface thus obstruct maritime operations and extraction. The depth of cut depends on eroded area of the seabed.

Article 11. Removal of floating platforms

1. Oil and chemicals must be removed from floating platforms, structures and associated connecting equipment (flexible pipes, pipes, etc.) before decommissioning.

2. Floating platforms, structures and associated equipment must be removed from their location, completely removed and moved to another location to prioritize recycling or moved to the shore to be stored, treated or discarded in accordance with regulations of law.

Article 12. Removal of offshore pipelines

1. Entire floating and hanging pipelines must be removed. Floating and hanging pipelines shall be only removed if oil, gas and chemicals are removed from such pipelines.
2. Other facilities and equipment in connection with petroleum installations (electrical cables, optical cables, subsea valves, control equipment, etc.) must be completely removed, collected and categorized for the purposes of recycling, reusing, treating or discarding in accordance with regulations of law.
3. The decommissioning entity does not have to remove underground pipelines or pipelines that do not need to be removed, but oil, gas and chemicals must be removed from such pipelines.
4. The plan for retaining underground pipelines or pipelines that do not need to be removed and cleaning pipelines shall be included in the decommissioning plan. The results of pipeline cleaning shall be included in the report on completed decommissioning.

Article 13. Dismantling oil wells

In case an expired oil well needs to be dismantled but is yet to be decommissioned, it shall be dismantled in accordance with applicable regulations of law.

Article 14. Decommissioning of onshore installations for field exploration and development and petroleum extraction

The decommissioning of onshore petroleum installations shall comply with Articles 10, 12 and 13 of this Decision and satisfy human and environmental safety requirements in accordance with regulations of law.

Section 2. DECOMMISSIONING OF GAS INSTALLATIONS

Article 15. Decommissioning offshore installations for gas collection, treatment and transport and offshore gas pipelines

1. Offshore installations for gas collection, treatment and transport shall be decommissioned as prescribed in Article 10 of this Decision.
2. Offshore gas pipelines shall be decommissioned as prescribed in Article 12 of this Decision.

Article 16. Decommissioning of onshore, river or lake gas pipelines and fixed installations

1. Onshore, river or lake gas pipelines must be decommissioned. They shall be only decommissioned if oil, gas and chemicals are removed from them.
2. In the event the gas pipeline is laid under the fixed installations or rivers, lakes or canals without affecting waterway traffic, the decommissioning entity does not have to decommission

such pipeline, but oil, gas and chemicals must be removed from it. The plan for retaining the pipeline that does not need to be decommissioned but requires cleaning shall be included in the decommissioning plan. The results of pipeline cleaning shall be included in the report on completed decommissioning.

Article 17. Decommissioning of gas processing and treatment plants

1. The gas processing and treatment plant shall be cleaned before decommissioning.
2. Facilities and associated equipment shall be completely decommissioned, collected and categorized for the purposes of reusing, recycling, treating or discarding in accordance with regulations of law.
3. Before discharge, wastes must be collected and treated in accordance with regulations of law.

Section 3. GENERAL REQUIREMENTS FOR PETROLEUM INSTALLATION DECOMMISSIONING

Article 18. Waste treatment and management

The decommissioning entity shall treat and manage wastes in accordance with regulations of law.

Article 19. Safety assurance

1. The decommissioning entity shall ensure that the decommissioning is carried out in a safe manner and in accordance with regulations on petroleum and maritime safety management.
2. Before petroleum installation decommissioning, the decommissioning entity shall submit safety documents, including safety management program, risk management report and emergency response plan to the Ministry of Industry and Trade for approval.
3. Contents and procedures for approving safety management program, risk management report and emergency response plan shall comply with regulations of law.
4. During decommissioning of petroleum installations, the decommissioning entity shall comply with the following requirements:
 - a) Establish, maintain and develop safety management system that shall control risks from decommissioning;
 - b) Ensure that risks from decommissioning must be determined, analyzed and assessed, adopt solutions for controlling and minimizing risks and defining acceptable level of risk in accordance with regulations of law;

c) Establish and maintain an emergency response system in a manner that necessary response plans are implemented quickly and effectively, thereby reducing damages caused by accidents to people, environment or properties;

d) Ensure occupational safety and hygiene during decommissioning of petroleum installations;

dd) Take necessary measures to ensure safety of people, properties and environment and report threats to safety of people, properties and environment to the Ministry of Industry and Trade and the Ministry of Natural Resources and Environment.

Article 20. Environmental safety assurance

1. Carry out environmental monitoring upon decommissioning of petroleum installations

a) Before decommissioning, the decommissioning entity shall carry out and prepare a report on environmental monitoring and submit it to the Ministry of Natural Resources and Environment. Monitoring results shall be included in the decommissioning plan. In the event the decommissioning entity has carried out environmental monitoring for 2 years from the end of the monitoring to before the date of decommissioning, the decommissioning entity may use and report the data included in the monitoring to the Ministry of Natural Resources and Environment;

b) Within 9 months from the end of the decommissioning, the decommissioning entity shall carry out and prepare a report on environmental monitoring and submit it to the Ministry of Natural Resources and Environment. The environmental monitoring report shall include assessments of effects of the decommissioning, residual effects of entire decommissioning and natural resilience of the environment. Post-decommissioning monitoring results shall be included in the report on completed petroleum installation decommissioning;

c) Monitoring station network, analysis parameters and environmental assessment are the same as those established and carried out when performing monitoring works during petroleum extraction and operation of petroleum installations.

2. Environmental monitoring scope, network, samples and parameters

a) Regarding petroleum installation decommissioning, the environmental monitoring is carried out similarly to the last one carried out during petroleum installation operation.

b) Regarding pipeline decommissioning, environmental monitoring is carried out similarly to the one carried out before installation of the pipeline.

3. Waste decommissioning and scene cleaning

a) Waste decommissioning and survey shall be included in the decommissioning plan;

b) After each decommissioning, the decommissioning entity shall survey waste to determine and recall wastes generated during the decommissioning of the current or previous installations.

c) The scope of the waste survey is from the outer edge of the petroleum installation

- Regarding an oil well: Within a radius of at least 90 m;
- Regarding a production platform: Within a radius of at least 100 m;
- Regarding subsea wellheads and subsea distribution assembly: Within a radius of at least 90 m.
- Regarding pipelines and other petroleum installations: Within a radius of at least 10 m.

4. The decommissioning entity shall respond to environmental emergencies (if any).

5. The decommissioning entity shall inform the Ministry of Natural Resources and Environment, the Ministry of Industry and Trade and the People's Committee of the province where the petroleum installation is located of plans and resources for response to environmental emergencies during petroleum installation decommissioning.

Article 21. Special cases

1. During operation, if the petroleum installation is seriously damaged or presents threats to safety of petroleum industry, the decommissioning entity shall immediately remove part or entire petroleum installation and inform the Ministry of Industry and Trade.

2. Upon petroleum installation decommissioning, if a force majeure event occurs and obstructs the decommissioning, resulting in failure to decommission the petroleum installation according to the approved plan, the decommissioning entity shall make adjustments to the approved plan and submit them to the Ministry of Industry and Trade.

The decommissioning entity shall submit a report on adjusted contents, by post or directly, to the Ministry of Industry and Trade. Within 15 working days from the receipt of the report, the Ministry of Industry and Trade shall consider approving it. In case of rejection, the Ministry of Industry and Trade shall provide explanation in writing.

Article 22. Suspension of petroleum installation decommissioning

1. The decommissioning entity carrying out petroleum exploration or relevant one owning the gas installation may make a proposal for suspension of petroleum installation decommissioning as prescribed in Clauses 2, 3 and 4 of this Article.

2. Conditions for suspension of petroleum installation decommissioning

a) The petroleum installation shall have its integrity maintained and pose no risks to future decommissioning;

b) The petroleum installation decommissioning shall be suspended in accordance with general, maritime and environmental safety requirements prescribed by Vietnam's laws and Good International Petroleum Industry Practices;

c) The suspension of petroleum installation decommissioning shall be significant to scientific research, national defense, security and other necessary cases;

d) The decommissioning fund shall be established and used according to the approved decommissioning plan;

dd) The oil well decommissioning shall be only suspended if the decommissioning entity takes full responsibility for issues arising from suspension of decommissioning.

e) The petroleum installation must be filled to capacity and satisfy safety requirements.

3. The decommissioning entity shall submit the proposal for suspension of the petroleum installation decommissioning, by post or directly, to the Ministry of Industry and Trade. A proposal for suspension of the petroleum installation decommissioning includes:

a) State of the petroleum installation;

b) A decommissioning plan;

c) Reasons for proposal for suspension of the petroleum installation decommissioning;

d) Potential risk management;

dd) Expected time for decommissioning;

e) Solutions for maintaining integrity of the installation;

g) Conclusion and suggestions.

4. Procedures for approving the proposal for suspension of petroleum installation decommissioning are specified in Article 7 of this Decision.

Article 23. Retaining petroleum installation

1. In case the decommissioning entity has provided sufficient fund for the approved decommissioning plan, the petroleum installation shall be partially or fully retained in one of the following cases:

a) It is not technically feasible to decommission the petroleum installation;

b) Solutions for decommissioning the petroleum installation have been taken but the installation still fails to be decommissioned in a safe manner;

c) The decommissioning of the petroleum installation may harm people or seriously affect maritime environment, but does not affect maritime safety;

d) A pipeline is yet to be buried underground but is entirely buried in a natural manner over time and exists as underground ones or a section of the pipeline still floats but the decommissioning entity buries it;

dd) Wellhead equipment; underground installation; concrete piles, pipes and anchor block, and jacket structures anchored to the seabed of the territorial waters have a water depth of at least 500 m, except for national defense reasons;

e) Casing pipe of the oil well, piles, pipes and structures anchored to the seabed from the seabed and above are removed and retained;

g) Installations have its benefits proved when retained.

2. The decommissioning entity shall submit the proposal for retention of the petroleum installation, by post or directly, to the Ministry of Industry and Trade. A proposal for retention of the petroleum installation includes:

a) State of the petroleum installation;

b) Reasons for proposal for retention of the petroleum installation;

c) Potential risk management;

d) Solutions for maintaining integrity of the installation;

dd) Conclusion and suggestions.

3. The Ministry of Industry and Trade shall consider approving the retention of the petroleum installation as prescribed in Clause 1 of this Article. Procedures for approving the proposal for retention of the petroleum installation are specified in Article 7 of this Decision.

4. Responsibilities of the decommissioning entity for retention of the petroleum installation

a) Submit an application for establishment of aids to navigation to a competent authority;

b) Install marine signaling devices in the retained petroleum installations;

c) Transfer entire decommissioning fund and relevant legal documents to PVN.

Chapter IV

FUND FOR DECOMMISSIONING PETROLEUM INSTALLATIONS

Section 1. FUND FOR DECOMMISSIONING INSTALLATIONS FOR FIELD EXPLORATION AND DEVELOPMENT AND PETROLEUM EXTRACTION

Article 24. Obligations to decommission petroleum installations during petroleum exploration

1. During petroleum exploration, the decommissioning entity shall decommission the petroleum installation to serve exploration (oil wells, equipment, other facilities) if such installation is no longer needed or used for petroleum industry according to the working plan and annual budget (payment to fund is not required).
2. Costs incurred in connection with decommissioning are the cost of petroleum industry for the recovery purposes under the petroleum agreement.

Article 25. Funding methods in case the petroleum project includes petroleum extraction

Fund for decommissioning petroleum installations shall be established using the method of establishing a fund, except for the case where the funding method prescribed in Clause 2 Article 2 of this Decision is adopted.

Article 26. Time for establishing the decommissioning fund

1. Within 1 year from the day on which the first oil and gas flow is extracted, the decommissioning entity shall establish a decommissioning fund according to the approved decommissioning plan.
2. The decommissioning entity that is extracting petroleum but is yet to establish the decommissioning fund shall do so after the effective date of this Decision, except for the case where the funding method prescribed in Clause 2 Article 2 of this Decision is adopted.
3. Annually, the fund for decommissioning petroleum installations shall be established according to the decommissioning plan approved by the Ministry of Industry and Trade. In case the decommissioning plan is yet to be approved by the Ministry of Industry and Trade within 1 year from the day on which the first oil and gas flow is extracted, the decommissioning fund shall be temporarily established according to the data included in the field development plan approved by the Prime Minister or the early extraction plan approved by the Ministry of Industry and Trade. The value of annual establishment of the decommissioning fund shall be adjusted after the Ministry of Industry and Trade approves the decommissioning plan.

Article 27. Rules for establishing, adjusting, using and settling the decommissioning fund

The decommissioning fund shall be established, adjusted and settled as prescribed in Articles 77, 78 and 79 of the Government's Decree No. 95/2015/ND-CP dated October 16, 2015 on elaboration of some articles of the Law on Petroleum.

Article 28. Ratio of establishment of the decommissioning fund

The annual ratio of establishment of the decommissioning fund is determined according to the following formula:

$$E_n = \frac{A_n \times (B_n - C_{(n-1)} - I_{(n-1)})}{D_n}$$

Where:

- E_n : Establishment ratio of year n, expressed as USD.
- A_n : Oil production of year n, equal to the production in the corresponding year, expressed as barrels.
- B_n : Total decommissioning costs determined in year n, $B_n = (b_1 - b_2)$, where:
 - + b_1 : Total costs estimated during implementation of the decommissioning plan (most recently approved), expressed as USD.
 - + b_2 : Estimated costs determined during implementation of the decommissioning plan (most recently approved) corresponding to the decommissioned equipment, property or installation by year (n-1), expressed as USD.
- $C_{(n-1)}$: The balance of the decommissioning fund on 31 December year (n-1) is equal to total balance of all accounts into which PVN deposited of the corresponding mine and is confirmed in writing by relevant commercial banks, expressed as USD.
- $I_{(n-1)}$: Deposit interest received by the decommissioning entity after PVN, on behalf of the, discharge obligations to state budget (if any) for year n-1.
- D_n : Remaining recoverable reserves, $D_n = d_1 - d_2$, where:
 - + d_1 : Recoverable reserves determined during implementation of the development plan or early extraction plan approved by a competent authority by the end of year n, expressed as barrels.
 - + d_2 : Total production of oil from relevant mine(s) by year (n-1), expressed as barrels.

Article 29. Obligations to establish and transfer the decommissioning fund in case the decommissioning entity terminates mine extraction or the petroleum contract expires

1. Before terminating mine extraction or petroleum contract ahead of schedule, the decommissioning entity shall sufficiently establish the decommissioning fund as prescribed in this Decision.
2. In case the petroleum installation does not have to be decommissioned on the date of termination of mine extraction or petroleum contract, the decommissioning entity shall transfer entire fund to PVN.

Article 30. Currency in establishment of the decommissioning fund

The currency in establishment of the decommissioning fund is US dollar.

Article 31. Management of the decommissioning fund

1. The fund for decommissioning petroleum installations shall be managed by PVN.
2. While the decommissioning fund is yet to be used, PVN shall transfer the decommissioning fund allocated to each mine or petroleum contract to accounts at the relevant stable commercial banks listed by the State Bank. The interests annually generated after discharging financial obligations to the state shall be recorded as an increase in the decommissioning fund.
3. Tax shall be paid in case the decommissioning fund generates interest

In case the decommissioning fund generates interest, the decommissioning entity shall declare and pay corporate income tax in accordance with regulations of the law on corporate income tax. Such interest shall be separately managed in order to impose tax obligation in accordance with regulations.

Article 32. Using, inspecting and settling the decommissioning fund

1. Using the fund for decommissioning of petroleum installations.

The decommissioning entity may use the fund for decommissioning petroleum installations according to the approved plan and annually approved working plan and decommissioning budget. Within 20 working days from the receipt of the decommissioning entity's request for funding and relevant documents, PVN shall transfer the amount requested according to the approved decommissioning plan. The decommissioning entity shall cover the difference between the fund provided by PVN and the actual decommissioning costs.

The estimated costs of decommissioning of the decommissioned installation item shall be removed from total decommissioning costs determined during the implementation of the most recently plan as the basis for estimating the fund for decommissioning of the next project.

2. Inspecting the use of the decommissioning fund

PVN shall carry out annual audit and determine the costs covered by the decommissioning fund.

3. Settling the decommissioning fund

a) Within 30 working days from the date on which the Ministry of Industry and Trade approves the report on completed petroleum installation, PVN shall cooperate with the decommissioning entity in settling the decommissioning costs.

b) In case after settlement, the balance of the decommissioning fund is greater than 0, the remaining amount of the decommissioning fund shall be handled as follows:

- If the decommissioning entity has recovered entire amount extracted from the decommissioning fund, the fund balance shall be distributed to such decommissioning entity and PVN according to the proportion of oil or gas profit distribution.

- If the decommissioning entity has not yet recovered the amount extracted from the decommissioning fund, the remaining amount of the decommissioning fund shall be refunded to the decommissioning entity. The balance of the decommissioning fund after the offsetting (if any) shall be distributed to the decommissioning entity and PVN according to the proportion of oil or gas profit distribution.

4. PVN shall submit an annual report on management, use, inspection and settlement of the decommissioning fund to the Ministry of Industry and Trade and the Ministry of Finance.

Article 33. Handling the difference in the fund received by PVN and fund for decommissioning of petroleum installations

1. In case the decommissioning fund is greater than decommissioning costs, PVN shall fulfill financial obligations and give allocation as prescribed by law.

2. In case the decommissioning fund is less than the decommissioning costs, PVN may include the deficit in its operating costs for up to 5 years.

Section 2. FUND FOR DECOMMISSIONING GAS INSTALLATIONS

Article 34. Funding methods

1. Fund for decommissioning gas installations shall be established using the method of establishing a fund.

2. The gas installation decommissioning costs covered by the annually extracted amount shall be included in the decommissioning entity's operating costs.

Article 35. Time for establishing the decommissioning fund

Within 1 year from the date on which the first gas flow is transported or treated, the decommissioning entity shall establish a decommissioning fund or establish it after the gas decommissioning plan is approved.

Article 36. Ratio of establishment of the decommissioning fund

The annual ratio of establishment of the fund for decommissioning a gas installation is determined according to the following formula:

$$E_n = \frac{A_n \times (B - C_{(n-1)})}{D_n}$$

Where:

- E_n : Establishment ratio of year n, expressed as VND;
- A_n : gas production transported in year n according to the approved gas installation plan, expressed as m^3 ;
- B : Approved total decommissioning costs;
- $C_{(n-1)}$: The balance of the decommissioning costs on December 31 year (n-1) (including principal and interest until the end of year (n-1)), expressed as VND;
- D_n : The remaining transported total gas of year n according to the approved investment report, expressed as m^3 .

Article 37. Management of the decommissioning fund

1. The gas installation owner shall establish, manage and use the fund according to the approved decommissioning plan. In the cases where the gas installation is retained as prescribed in Article 23 of this Decision, the gas installation owner shall record the fund balance in the owner's income.
2. While the fund is yet to be used, the decommissioning entity shall transfer the fund allocated to each gas project to accounts at the relevant stable commercial banks listed by the State Bank. The interests annually generated after discharging financial obligations to the state shall be recorded as an increase in the decommissioning fund.
3. In case the fund generates interest, the decommissioning entity shall declare and pay corporate income tax in accordance with regulations of the law on corporate income tax. Such interest shall be separately managed in order to impose tax obligation in accordance with regulations.
4. The decommissioning entity shall submit an annual report on establishment, management and use of the fund according to the approved decommissioning plan to the Ministry of Industry and Trade.
5. In case multiple investors invest in a gas installation, all of them are owners of the decommissioning fund0}

Article 38. Using and settling the decommissioning fund

1. The fund shall be used for decommissioning of the gas installation. The decommissioning entity may use the fund to decommission the gas installation according to the approved gas decommissioning plan.

2. The fund shall be settled in accordance with regulations of law.

3. Regarding the balance of the fund

a) In case the fund is greater than demands necessary for gas installation decommissioning costs, the difference is the installation owner's income after discharging financial obligations to the State in accordance with regulations of law.

b) In case the fund is not sufficient for demands necessary for gas installation decommissioning costs, at least 6 months before the installation expires or is terminated, the decommissioning entity shall make a contribution according to the approved gas petroleum decommissioning plan, which is corresponding to the stakes in owning the installation.

Article 39. Currency in establishment of the fund

The currency in establishment of the fund is VND.

Chapter V

IMPLEMENTATION CLAUSE

Article 40. Responsibilities of Ministries

1. The Ministry of Industry and Trade shall take charge and cooperate with the Ministry of Transport, the Ministry of Natural Resources and Environment, the Ministry of Construction and the Ministry of Finance in inspecting decommissioning of petroleum installations.

2. The Ministry of Finance shall cooperate with the Ministry of Industry and Trade in inspecting management, use and settlement of the fund.

3. The State Bank of Vietnam

a) Annually, provide the list of stable commercial banks for PVN and the decommissioning managing the fund for decommissioning gas installations in accordance with regulations of this Decision.

b) In case it is discovered that the commercial banks on the list of stable banks may be kept under special control or insolvent, the State Bank of Vietnam shall promptly inform PVN and the decommissioning entity managing the fund for decommissioning gas installations.

4. The Ministry of Natural Resources and Environment, the Ministry of Construction and the Ministry of Transport shall, within their competence, cooperate with the Ministry of Industry and Trade in performing state management of petroleum installation decommissioning.

Article 41. Transition clause

1. Regarding the petroleum installation decommissioning plan approved before the effective date of this Decision, the decommissioning entity shall continue to implement such plan.

2. Regarding the decommissioning entity that is extracting petroleum but is yet to submit the decommissioning plan, they shall prepare and submit it to the Ministry of Industry and Trade for approval in accordance with regulations of this Decision and other relevant regulations of law.

3. Regarding the gas installation that is being operated or issued with the decision on approval for investment project before the effective date of this Decision, the decommissioning entity shall prepare a remedial plan suitable for each project and submit it to the Ministry of Industry and Trade, which will submit it to the Prime Minister for decision.

Article 42. Effect

This Decision comes into force from February 12, 2018 and replaces the Decision No. 40/2007/QĐ-TTg dated March 21, 2007 of the Prime Minister on decommissioning of fixed petroleum installations.

Article 43. Implementation

Ministers, heads of ministerial agencies, heads of Governmental agencies, Presidents of the People's Committees of provinces are responsible for the implementation of this Decision./.

**PP. THE PRIME MINISTER
THE DEPUTY PRIME MINISTER**

Trinh Dinh Dung