

Pursuant to Article 26 of the Law on Exploration and Production of Hydrocarbons (*Official Gazette of Montenegro*, 41/10 and 62/13), the Government of Montenegro, on its session held on 30 January 2014 adopted the

Decree on the Manner of Calculation and Payment of the Fee for Production of Oil and Gas

Subject-matter

Article 1

This Decree regulates the amount, criteria and the manner of payment of the fee for area (hereinafter referred to as the Area Fee) used by the Concessionaire in accordance with a hydrocarbons production concession contract (hereinafter referred to as the production concession contract), the criteria for determination of the amount, the manner of calculation, documents based on which the calculation is made and other issues of relevance for calculation of the fee for produced oil and gas for monthly extracted hydrocarbons.

Meaning of terms

Article 2

The terms used in this Decree shall have the following meaning:

- 1) **Related party** shall be any legal entity or physical person (hereinafter referred to as a parent entity) which directly or indirectly controls a Concessionaire or other legal entity which is directly or indirectly controlled by the parent entity, in the following manner:
 - a) Legal entity is directly controlled by one or several legal entities holding shares or other equity carrying in the aggregate more than 50% of voting rights at shareholder's assembly;
 - b) legal entity is indirectly controlled by one or several legal entities, constituting a series with a parent entity, beginning with the parent entity where each legal entity, except the parent entity, is directly controlled by one or more of the legal entities earlier in the series, if possible to be determined;
- 2) **Area** means a part of the onshore or offshore used by the Concessionaire pursuant to a Production Concession Contract in accordance with the law;
- 3) **Barrel** means the volumetric quantity equivalent to 159 metric litres;
- 4) **Disposable Hydrocarbons** means the Hydrocarbons extracted which, after deduction of Hydrocarbons allocated for payment of the fee for produced oil and gas and Hydrocarbons that were re-injected, consumed, or burned between the point of extraction and the point of delivery remain as the ownership of the Concessionaire in accordance with the Law on Exploration and Production of Hydrocarbons (hereinafter referred to as the Law);
- 5) **Netback** means the sum of all the costs associated with brining one unit of hydrocarbons to the marketplace, and revenues from the sale of oil and is calculated by reducing the revenues in respect of oil by the costs associated with getting the oil to the market, where such costs include importing, transportation, production and fees for produced oil and gas.

1. AREA FEE

Fee Amount Article 3

- (1) The Concessionaire shall pay an annual Area Fee after concluding a production concession contract.
- (2) Area Fee shall amount to 300 euro per square kilometre.
- (3) In case of extension of exploration phase in accordance with Article 29 of the Law, the Area Fee shall amount 3,000 euro per square kilometre.
- (4) When calculating the fee referred to in paragraph 1 of this Article, the area awarded under a concession production contract shall be rounded off to the nearest km².
- (5) For Production Concession Contracts with stratigraphic division of the area, the Area Fee shall be calculated on the basis of the area surface projected horizontally on the seabed covered by the Production Concession Contract.
- (6) In case of division of the area during a calendar year, such area shall be considered for calculation of the Area Fee for the next calendar year in accordance with Article 4 paragraph 1 of this Decree.

Area Fee Calculation Article 4

- (1) Area Fee calculation shall not include area relinquished to the grantor.
- (2) Area covered by an approved program on development and production of hydrocarbons shall not be subject to the Area Fee calculation.
- (3) The Administration Authority competent for hydrocarbons (hereinafter referred to as the Administration Authority) shall determine delineation of acreage to be exempt from payment of the Area Fee in accordance with paragraphs 1 and 2 of this Article, based on a proposal of the Concessionaire.
- (4) The Administration Authority shall calculate the Area Fee and submit it to the Concessionaire by 1 December of the current year for the next year.

Area Fee Payment Article 5

- (1) For acreages delineated and divided, the Area Fee shall be payable in advance by 31 December of the current year for the next year.
- (2) Notwithstanding paragraph 1 of this Article, the Administration Authority may propose deferred payment of the Area Fee to the Government of Montenegro.

- (3) The Area Fee for the year in which the Production Concession Contract is entered into shall be calculated pro rata for the period until the end of that year and shall be payable within 60 days following the day the Production Concession Contract is concluded.
- (4) The Concessionaire shall submit the data for calculation of the Area Fee and shall be responsible for their accuracy.
- (5) The Area Fee shall be paid to a special account of the Budget of Montenegro.
- (6) Amount of the Area Fee shall be adjusted in intervals of at least two years in line with changes of the consumer price index published by the Administration Authority competent for statistical affairs.

2. CALCULATION AND PAYMENT OF THE FEE FOR PRODUCED OIL AND GAS

Fee for Produced Oil and Gas Article 6

- (1) The fee for produced oil and gas for monthly extracted hydrocarbons shall include the fee for produced oil, gas and associated hydrocarbons.
- (2) The fee referred to in paragraph 1 of this Article shall be paid in monetary assets or equivalently in delivery of oil and gas.
- (3) The fee for produced oil and gas shall be measured, calculated and paid separately for produced oil and separately for produced gas and associated hydrocarbons.
- (4) The fee for produced oil and gas for each Concessionaire individually shall be calculated and paid commensurate to its share in hydrocarbons extracted from all deposits in accordance with the Production Concession Contract or an approved joint hydrocarbons development and production programme.
- (5) Administration Authority shall carry out the calculation of the fee referred to in paragraph 1 of this Article within 20 days following the day designated for acceptance of the documents referred to in Article 16 of this Decree.

Manner of Calculation of the Fee Article 7

- (1) The fee for produced oil paid through the oil delivery shall be calculated by applying the fee rate for extracted oil volumes (hereinafter referred to as the fee rates) multiplied by the total extracted volume of oil on the day the fee rate is established.
- (2) The fee for produced oil paid in monetary assets shall be calculated by applying the fee rate multiplied by the total extracted volume of oil on the day the fee rate is

established and multiplied by the value of oil established in accordance with this Decree.

Fee Rates for Oil Article 8

- (1) The Fee referred to in Article 6 of this Decree shall be established on the first day of the following month for the previous month, based on daily average volumes of oil extracted in the previous month by applying the following rates:
- Equal or less than 10,000 Barrels per day: 5%;
 - More than 10,000 and less than 20,000 Barrels per day: 7%;
 - More than 20,000 and less than 30,000 Barrels per day: 10%;
 - More than 30,000 Barrels per day: 12%.
- (2) Fee rates from the extraction commencement until the lapse of the current month shall be established based on daily average volumes of extracted oil.

Fee Rate for Gas and Associated Hydrocarbons Article 9

- (1) Fee rate for produced gas and associated hydrocarbons shall amount to 2% of the volume of extracted gas and produced associated hydrocarbons from the area defined by the contract or area established based on an approved joint development and production programme.
- (2) Calculation of the fee for produced gas and associated hydrocarbons shall be carried out in accordance with Article 7 and Article 8, paragraph 2 of this Decree.

Released, discharged or burned Hydrocarbons Article 10

- (1) The volume of oil, gas and associated hydrocarbons used for calculation of the fee for produced oil and gas shall also include hydrocarbons that are released, discharged or burned as part of the production process.
- (2) If volume of hydrocarbons referred to in paragraph 1 of this Article cannot be measured, the Administration Authority shall determine such volumes based on an expert report on assessment of such volumes.

Valuation of oil, gas and associated Hydrocarbons Article 11

- (1) The basis for calculating the value of oil referred to in Article 7, paragraph 2 of this Decree, gas and associated hydrocarbons shall be the monthly prevailing market price at the point of delivery, defined by an approved development and production programme (hereinafter referred to as the point of delivery) for the quality and volume appropriate for the quality and volume of extracted quantities of oil, gas and associated hydrocarbons traded at the time when the hydrocarbons are extracted from the deposit.

- (2) If the market price is not established or a prevailing market price is not available due to limited trade, the fee for produced oil and gas shall be calculated based on the prices determined in accordance with paragraphs 4, 5 and 6 of this Article and Articles 12, 13 and 14 of this Decree.
- (3) Establishing the value of oil, gas and associated hydrocarbons referred to in paragraph 1 of this Article shall commence in the month in which the production has commenced and shall be completed on the last day of the calendar month.
- (4) If the sale price of oil, gas and associated hydrocarbons differs from their value established in accordance with paragraphs 1, 2 and 3 of this Article, then relevant adjustment of the value, also including netback calculation if applicable, shall be made relative to the sales value obtained.
- (5) The valuation of oil, gas and associated hydrocarbons referred to in paragraph 1 of this Article shall be based on the volumes disposable at the point of delivery.
- (6) The value referred to in paragraph 5 of this Article shall not include freight, insurance and other costs to be paid by the seller beyond that point of delivery, on 30 days payment term from the date of the bill of lading or equivalent document for transport of such hydrocarbons, and other terms as commonly applied in international trade for the relevant quality of Hydrocarbons and mode of transport.

Value of specific Oil type or quality

Article 12

- (1) If the Concessionaire sells the oil to a non-related party, the value for each individual type or quality of oil shall be the weighted average price per Barrel at the point of delivery for each individual export grade of Oil being the FOB price in line with the definition set by the rules of the International Chamber of Commerce (INCOTERMS 2010) (hereinafter referred to as the FOB), at which the Concessionaire sells such oil during a calendar month.
- (2) If the Concessionaire sells the oil to a third party on terms different from FOB, for the purpose of establishing the value for a type or quality of oil, a calculated netback FOB price shall be applied, which is established by deducting from the agreed price the actual and direct costs incurred by the Concessionaire in fulfilling the obligations under its sales contracts in addition to the obligations included under a FOB contract.
- (3) In the case of sales of oil to a related party, the value for an individual type or quality of oil shall be determined based on the price obtained in the market where seller and buyer of such oil obtain market price as a result of free trade in the specific quality on non-discriminatory arm's length principles.
- (4) If the price referred to in paragraph 3 of this Article cannot be established, the value for individual type or quality of oil shall be mutually agreed between the Administration Authority and the Concessionaire by summing the following :

- 1) Weighted average calendar month FOB price for Brent blend dated cargos as reported by Platt's Oilgram price report, whereby the weighted average shall be established as per the days in a calendar month when a closing price is reported in Platt's Oilgram price report, excluding from the weighted average days such as weekends and holidays with no price reports. If the Hydrocarbon in question is of a quality for which Brent blend dated cargos is not a suitable price reference, the Administration Authority may stipulate such other appropriate markers from the Platt's Oilgram price report to be used as reference for the quality of Hydrocarbons in question before their production; and
 - 2) a premium or discount to the price of the Brent blend rated Oil, or such other appropriate marker for Hydrocarbons in question is to be determined by reference to the quality of the Hydrocarbons determined in accordance with item 1 of this paragraph, whereby the premium or discount shall reflect differences in Hydrocarbons quality, point of delivery and conditions prevailing in the transactions between non-related parties and which are based on the market valuation.
- (5) If the Administration Authority and the Concessionaire cannot reach agreement on the price referred to in paragraph 4 of this Article, the Administration Authority and the Concessionaire shall submit their assessments of the premium or discount together with an explanation of elements taken into account in assessing the premium or discount.
- (6) If the amount of premium or discount submitted by the Administration Authority is different from the amount submitted by the Concessionaire, and if such difference is:
- Less than 10 USD cents per Barrel, the average of such two values is taken for establishment of the final value of oil;
 - higher than 10 USD cents per Barrel, the Administration Authority and the Concessionaire shall submit a revised premium or discount amount on the third business day after the first exchange of information;
 - Less than 10 USD cents per Barrel, on the second exchange of information, the average of such two values is taken for the purpose of setting the final value of oil;
 - Higher than 10 USD cents per Barrel, at the occasion of the second exchange of information, the amount of premium or discount shall be established by a person determined by the Production Concession Contract.

Value of specific types of Gas and Associated Hydrocarbons

Article 13

The value for each individual type or quality of gas and associated hydrocarbons shall be as follows in the case of:

- 1) sales to a non-related party, the price obtained in the market where the seller and buyer of gas and associated hydrocarbons obtain true market price as a result of free trade in the quantities of gas and associated hydrocarbons of the subject quality on non-discriminatory arm's length principles;
- 2) sales to a non-related party, in the market that is not deemed to be a market where the seller and the buyer will obtain true market price as a result of free trade in quantities of the quality in question on non-discriminatory arm's length

principles, shall be the weighted average price per Gigajoule (GJ) of commercial specification of the relevant quality of Hydrocarbons at the determined point of delivery where the Concessionaire delivered such type of hydrocarbons during the same calendar month, consisting of the weighted average price per Gigajoule (GJ) of all commercial specifications of such hydrocarbons which were delivered during the same calendar month from Deposits in the territory of Montenegro, and the weighted average of posted or publicly available prices for alternative fuels in respect of the quality of Hydrocarbons in question for large scale industrial consumers, including electricity generators in the market where such hydrocarbons were delivered to end users;

- 3) sales of gas and associated hydrocarbons to a related party shall be the price referred to in item 2 of this paragraph, unless otherwise agreed between the Administration Authority and the Concessionaire.

Payment of the Fee for Produced Oil and Gas in Monterey Assets **Article 14**

- (1) The fee for produced oil and gas payable in monetary assets shall be established based on the value of oil and value of gas and associated hydrocarbons at the point of delivery.
- (2) The fee for produced oil and gas payable in monetary assets shall be calculated for each calendar month.
- (3) The fee for produced oil and gas payable in monetary assets shall be paid quarterly within 15 days following the day of receipt of the calculation.
- (4) If the Administration Authority has not completed valuation of hydrocarbons in accordance with Articles 11, 12, and 13 of this Decree within the deadline referred to in Article 6, paragraph 5 of this Decree, the Administration Authority may set provisional value of hydrocarbons for the calculation of the fee for produced oil and gas.
- (5) The fee for produced oil and gas shall be paid to a special account of the Budget of Montenegro.

Cost Refund **Article 15**

- (1) If the fee for produced oil and gas is payable through delivery of oil and gas, the Concessionaire shall be entitled to refund of costs of transportation, storage or additional processing of oil and gas, if the costs:
 - Have been incurred between the point of delivery and the actual offtake point for oil and gas by the Grantor;
 - Are based on commercial terms; and
 - Are equal or less than the costs the Concessionaire would have incurred for handling own hydrocarbons.

- (2) If the method for calculation of costs referred to in paragraph 1 of this Article has not been established by a special regulation, the Administration Authority shall do the calculation of such costs based on submitted evidences on their level.

Documentation for the Calculation of the Fee for Produced Oil and Gas

Article 16

- (1) The Concessionaire shall submit to the Administration Authority the documentation on the basis of which the fee for produced oil, gas and associated hydrocarbons is calculated, for the previous month by the seventh day of the current month.
- (2) The documents referred to in paragraph 1 of this Article shall include:
- 1) Invoice or another document evidencing the price for each respective quality of extracted Hydrocarbons;
 - 2) Certificate on quality of Oil and quality of gas and associated Hydrocarbons;
 - 3) Bank statement or other document stating the currency exchange rate, if relevant;
 - 4) Amount of all costs and expenses deductible or reimbursable in accordance with the law and this Decree.
- (3) All volumes of hydrocarbons, revenues, costs and expenses must be documented by copies of invoices and by specific references to the accounts of financial statements of the Operator for the relevant Deposit and Facilities or projects.
- (4) The Administration Authority may verify data and information submitted by the Concessionaire pertaining to measurement, calculation, valuation for the settlement of the Area Fee and the fee for produced oil and gas.

Interest on Overdue Payments

Article 17

- (1) Interest shall be payable on overdue payments due in accordance with this Decree in the amount which is equivalent to the interest for the unpaid or underpaid tax, in accordance with the law regulating tax procedure.
- (2) The interest referred to in paragraph 1 of this Article shall be payable within 15 days following the day of receipt of interest calculation.

Currency Exchange Rate

Article 18

- (1) When converting prices, deductibles, costs and expenses invoiced in a foreign currency, the daily currency exchange rates for sales and purchases of the Central Bank of Montenegro shall be used.
- (2) Four decimal places shall be used in conversion calculations made in accordance with paragraph 1 of this Article.

(3) The final amount after the conversion made in accordance with paragraphs 1 and 2 of this Article shall be rounded off to the nearest Euro amount.

Entering into Force
Article 19

This Decree shall enter into force on the eighth day following the day of its publication in the Official Gazette of Montenegro.

No: 08-145/3

Podgorica, 30 January 2014

GOVERNMENT OF MONTENEGRO

PRIME MINISTER
Milo Đukanović