



14th May 2022

OIL AND GAS DECOMMISSIONING IN MYANMAR

The legal framework (or, more precisely, its absence) for petroleum decommissioning in Myanmar has recently come into the spotlight due to high profile exits of foreign companies from offshore gas fields.

On 16th March 2022, TotalEnergies announced the [implementation of its withdrawal](#) from the Yadana field and the connecting pipeline; its share will be taken over without consideration proportionally by the remaining foreign partners PTTEP and Chevron and, one would assume, Myanma Oil and Gas Enterprise (MOGE). Chevron in turn [intends to sell its increased share to PTTEP](#). Production in the Yadana field appears to be commercially viable [until 2025](#).

Furthermore, all foreign partners (Petronas, a Japanese consortium around ENEOS and PTTEP) in Yetagun - a field to [apparently go dry in 2023](#) - recently [announced their intention to quit](#), leaving only MOGE. Today, the SAC's Ministry of Energy put out an invitation to bid (annexed) with insanely tight deadlines in an attempt to find a new operator.

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There is no practical experience with the decommissioning of offshore fields in Myanmar as the first permit was granted only in the 1990s and the fields are still operational.

Enforceable commitments in environmental management plans a new phenomenon

Projects permitted after 2015 have to go through environmental impact assessments (at least prior to the start of exploration and prior to the start of production); this involves the preparation of environmental management plans. The environmental management plan would, among others, detail how the operator intends to dismantle and rehabilitate the site when abandoning it. Failure to follow through may result in administrative and criminal penalties (para. 125-131 [EIA Procedure](#), section 32 [Environmental Conservation Law](#)).

Whether operators made comparable commitments for earlier projects is unknown.

Projects prior to 2015 may have gone through environmental impact assessments (as the then Ministry of Environmental Protection and Forestry had to comment on potentially hazardous projects), but there appear to have been no specific penalty provisions prior to 2015 for not sticking to an environmental management plan.

Investment legislation and permits past and present in general terms oblige the investor to protect the environment, but are unspecific about decommissioning obligations.



Contractual commitments

In an [undated presentation](#) (which we presume, however, to be from 2012), MOGE expresses the opinion that Myanmar has no law or regulations on the decommissioning of offshore fields.¹ This has not changed since as the [Petroleum Exploration, Drilling and Production Bill](#) from 2019 - which would have obliged permit holders to create a fund for dismantling and deconstruction - was never voted into law.

Rather, decommissioning obligations - if any - are contained in the production sharing contract (PSC) and related contractual paperwork, most of which are, however, not in the public domain.

The model deepwater PSC from the 2013 bidding round provides that the operator must -

after the expiration or termination of this Contract, or relinquishment of part of the Contract Area, or abandonment of any field, prearrange to remove all equipment and installations from the area in a manner acceptable to MOGE, and perform all necessary site restoration activities in accordance with the applicable rules and regulations of the Government of the Republic of the Union of Myanmar and international petroleum industry practices to prevent hazards to human life and property of others or environment.

MOGE would have recourse to arbitration (in Singapore according to UNCITRAL rules) against a non-compliant operator.

Of note, the 2013 model PSC does not oblige the operator to establish a decommissioning fund during the exploration or production period, and a determined operator would be able to get out of its decommissioning obligations by selling or otherwise transferring its share to someone else prior to the PSC's expiration.

PSCs concluded prior to 2013 (such as Yetagun or Yadanar) reportedly do not contain any decommissioning clauses. However, MOGE appears to be [hopeful that clauses in related contracts](#) (production operating agreement, joint operating agreement, shareholder agreement) will constitute sufficient legal grounds for imposing decommissioning obligations on the operator, although, judging from how the clauses are quoted in MOGE's presentation, they may be rather vague.

ASCOPE's decommissioning guidelines

MOGE [seems to have mulled](#) drawing up "detailed decommissioning procedures" modelled after the [ASEAN Council on Petroleum's Decommissioning Guidelines](#) (ADG) in coordination with the private

¹ The Petroleum Concession Rules 1962 reportedly provide for decommissioning obligations (but would they be applicable to a PSC, which is exactly not a "concession"?), but we have not been able to procure a copy as the [Myanmar Law Information System](#) seems to have been deleted from its server.



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companies invested in ongoing offshore production. It is, however, unknown if this has been put into practice.

Be this as it may, ASCOPE's guidelines seem to provide for the following decommissioning requirements:

Item	Nominal requirement
Platforms and other facilities	Remove if in < 75 m water depth and weighing < 4,000 tonnes (installations pre 1998); or Remove if in < 100 m water depth and weighing < 4,000 tonnes (installations post 1998). Remainder assessed on a case by case basis.
Pipelines	Recommend main export pipelines left <i>in situ</i> , smaller infield pipelines assessed on a case by case basis.
Drill cuttings piles	Where possible leave undisturbed. Case by case where jacket obstructed by drill cuttings is being removed.
Decommissioning Plan needed	Recommend submission of draft then full Decommissioning Plan.

Source: [International Association of Oil and Gas Producers](#)



Annex

(Published in the Global New Light of Myanmar on 14th May 2022)

THE GOVERNMENT OF THE REPUBLIC OF THE UNION OF MYANMAR
MINISTRY OF ENERGY
Dated: 14th May, 2022

INVITATION FOR BIDS TO CONDUCT AS AN OPERATOR AND SHAREHOLDER IN YETAGUN PROJECT

1. The Ministry of Energy of the Republic of the Union of Myanmar hereby announces Invitation of Sealed Bids for conducting as an operator and shareholder in YETAGUN Project in Moattama Offshore Area Block M-12, M-13, M-14 on Production Sharing Contract – PSC basis.

2. All interested parties are cordially invited to submit “the Letter of Expression of Interest”, together with Company’s Article of Association (AOA), Memorandum of Association (MOA) or Constitution of Company, Certificate of Incorporation, Annual Report and Financial Statement (or) Financial Report, Detailed Track Record and related documents, “ YETAGUN Project Tender Invitation -2022”, to the following address by respective personnel of the company (In Person) not later than (12:00) noon at the date of 20 May 2022:-

Director General
Oil and Gas Planning Department
Ministry of Energy
Building No.6, Nay Pyi Taw

3. The petroleum operations shall be conducted on Production Sharing Contract- PSC basis and the party(s) who desire to cooperate with Ministry of Energy and to conduct as an operator shall have technical competency, financial capability, experience, expertise and technical know how to conduct petroleum exploration and must have good track record.

4. The potential bidders will be pre-qualified and selected.

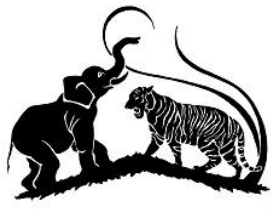
5. The pre-qualified company(s) have to perform in accordance with the terms and conditions of the executed agreements relating to the YETAGUN Project in order to submit the proposal.

6. The pre-qualified company(s) will have to submit the proposal(s) to the address mentioned above paragraph 2 in line with the specifications not later than 12:00 noon at the date of 27 May 2022.

7. The pre-qualified company(s)’s proposed Terms and Conditions will be assessed and the best offered Terms and Conditions will be selected for awarding.

8. The pre-qualified bidders may contact to the following address:-

Director General
Oil and Gas Planning Department
Ministry of Energy
Building No.6, Nay Pyi Taw



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Tel: 95-67 3 411 046

Fax: 95-67 3 411 213

Email: dg.ogpd@moe.gov.mm

Note: For further inquiry (and/or) information, please contact to the followings:-

(1) Director General

Oil and Gas Planning Department

Ministry of Energy

Tel: 95-67 3 411 046

Fax: 95-67 3 411 213

Email: dg.ogpd@moe.gov.mm

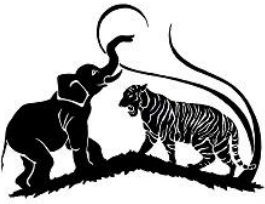
(2) Deputy Permanent Secretary

Ministry of Energy

Tel: 95-67 3 411 321

Fax: 95-67 3 411 479

Email: mmo12577@gmail.com



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

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Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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