

PANORAMIC

OIL REGULATION

Thailand



LEXOLOGY

Oil Regulation

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GENERAL

Key commercial aspects

Describe, in general terms, the key commercial aspects of the oil sector in your country.

The Thai petroleum concession has provided a very stable foundation for investment in the oil and gas industry as well as upstream projects since 1971. However, Thailand has limited geological prospects for oil and gas. Thailand is a net importer of both oil and gas, and its petroleum reserves are declining with increasing demand.

Given the present petroleum resource base and demand profile, Thailand will remain a net importer of hydrocarbons for the foreseeable future. Natural gas still plays a large role in satisfying Thailand's energy requirements.

Major producers of crude oil are, for example, PTT Exploration and Production Public Company Limited, Chevron, Medco, Mubadala, and Mitsui Oil Exploration Co., Ltd.

Oil refineries are presently operated in Thailand by IRPC, ThaiOil, Bangchak, Star Refinery and PTTGC.

Further, petroleum products are marketed by PTTOR, Bangchak, Shell, Chevron (through Caltex), ThaiOil, IRPC, SUSCO and PT (through PTG Energy), among others.

Law stated - 7 March 2024

Energy mix

What percentage of your country's energy needs is covered, directly or indirectly, by oil or gas as opposed to nuclear or non-conventional sources? What percentage of the petroleum product needs of your country is supplied with domestic production?

According to the Energy Statistics of Thailand 2023 prepared by the Energy Policy Planning Office (EPPO), the breakdown of Thailand's primary energy consumption in 2022 was as follows:

- petroleum products: 53 per cent;
- electricity: 22 per cent;
- coal and lignite: 11 per cent; and
- natural gas: 14 per cent.

Thailand's crude oil procurement in 2022 was 992,000 barrels per day in estimate. Approximately 8 per cent of the total crude oil procurement came from domestic supply, while the majority – approximately 92 per cent – was imported.

Law stated - 7 March 2024

Government policy

Does your country have an overarching policy regarding oil-related activities or a general energy policy?

Energy-related regulations and laws are applicable at a general level, with various regulatory bodies overseeing the overall energy market. The Department of Fuels (DMF) specifically handles the administration of laws pertaining to petroleum. The Energy Policy Planning Office (EPPO) plays a key role in formulating policies and regulations, along with managing funds dedicated to oil and energy conservation. The EPPO's authority extends to natural gas, oil, and energy matters (eg, solar and waste-to-energy). Both the DMF and the EPPO are governed by the Ministry of Energy.

Law stated - 7 March 2024

Registering a licence

Is there an official, publicly available register for licences and licensees? Is there a register setting out oilfield ownership or operatorship, etc?

The website of the DMF provides a list of all active petroleum concessions. However, the DMF does not maintain a register that is publicly accessible.

The DMF's annual report is a public source of information on investments by concessionaires and on government income (eg, income tax, royalties and special remunerative benefit). It includes a list of all outstanding concessions and details of ongoing investments regarding oilfield ownership and operatorship.

Law stated - 7 March 2024

Legal system

Describe the general legal system in your country.

Thailand is a civil law jurisdiction with the Constitution as the supreme law. Decisions and rulings of the judiciary and civil service are not binding but have considerable influence as precedents.

There is an independent judiciary that provides a forum for the settlement of disputes.

Although Thai is the primary language of the courts, contracts between private parties may be executed in other foreign languages and may be governed by foreign law. Such contracts may also specify arbitration as the dispute settlement mechanism. Thailand is a party to the New York Convention, meaning foreign arbitration awards are generally enforceable. Judgments entered by a foreign court are not enforceable in Thailand but can be introduced as evidence in an enforcement proceeding in a Thai court. The Thai court will consider the case and provide its decision based on the merits of the case, and the Thai court has its own discretion to reject the foreign court's judgement if it deems that enforcing the judgement will be contrary to public order and good morals in Thailand.

Government agencies may be sued in the courts and cannot raise a defence of sovereign immunity. However, state property is not subject to execution. Thailand's primary legislation

covering anti-bribery and corrupt practices is the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption, BE 2561 (2018).

Law stated - 7 March 2024

REGULATION OVERVIEW

Legal framework for oil regulation

Describe the key laws and regulations that make up the principal legal framework regulating oil and gas activities.

Key legislation governing the oil and gas activities includes the Petroleum Act, BE 2514 (1971), as amended (the Petroleum Act), and the Petroleum Income Tax Act, BE 2514 (1971), as amended (PITA).

The Petroleum Act is administered by the Department of Mineral Fuels (DMF), while the PITA is under the supervision of the Revenue Department. The domestic trading of oil and gas is also governed by the Fuel Oils Trading Act, BE 2543 (2000) and the Fuel Oils Control Act, BE 2542 (1999), which are administered by the Department of Energy Business (DOEB). Both the DMF and the DOEB are part of the Ministry of Energy (MOE), and are responsible for implementing its policies.

Law stated - 7 March 2024

Expropriation of licensee interest

Are there any legislative provisions that allow for expropriation of a licensee's interest and, if so, under what conditions?

There are no legislative provisions that allow for expropriation of a licensee's interest. However, the law empowers the Minister of Energy, with the advice of the petroleum committee, to revoke the licensee's interest when the licensee fails to comply with certain provisions under the Petroleum Act.

Law stated - 7 March 2024

Revocation or amendment of licences

May the government revoke or amend a licensee's interest?

Under sections 51 and 52 of the Petroleum Act, the MOE has the power to revoke a concession, production-sharing contract (PSC) and service contract for good cause, subject to providing time to rectify a default. Grounds for termination would also be found under the model form of each petroleum concession, PSC and service contract.

Law stated - 7 March 2024

Regulators

Identify and describe the government regulatory and oversight bodies principally responsible for regulating oil exploration and production activities in your country. What sanctions for breach may be imposed by the regulatory and oversight bodies?

The government regulatory and oversight body that is principally responsible for regulating oil exploration and production activities is the DMF.

The breach of any relevant laws and regulations may attract penalties on the entity and, in some cases, the penalties may extend to directors.

Law stated - 7 March 2024

Government statistics

What government body maintains oil production, export and import statistics?

The Department of Mineral Fuels and Energy Policy Planning Office maintain statistics in relation to oil production, export and import. In addition to these governmental bodies, the Petroleum Institute of Thailand, a non-profit organisation, is also the best source of statistics on the petroleum and petrochemical business.

Law stated - 7 March 2024

NATURAL RESOURCES

Title

Who holds title over oil reservoirs? To what extent are mineral rights on private and public lands involved? Is there a legal distinction between surface rights and subsurface mineral rights? At what stage does title to extracted oil transfer to the licensee, lessee or contractor?

Title to petroleum resources belongs to the state. Owners of surface land have no rights to the mineral resources underneath. Unless a concession, a production-sharing contract (PSC) or a service contract (SC) is obtained, no person may explore for or produce petroleum in any area. For concessions, title to the petroleum passes to the concessionaire at the wellhead. However, for a PSC, title remains with the state and the contractor is compensated with oil. Under an SC, the contractor is paid for its services and does not own the petroleum.

Law stated - 7 March 2024

Exploration and production – general

What is the general character of oil exploration and production activity conducted in your country? Are areas off-limits to exploration and production?

Oil exploration and production activity are conducted both onshore and offshore. Certain areas are off-limits to exploration and production, including military areas, agricultural land reform areas and certain areas reserved for environmental conservation purposes.

Law stated - 7 March 2024

Exploration and production – rights

How are rights to explore and produce granted? What is the procedure for applying to the government for such rights? To what extent are the terms of licences or contracts negotiable?

The Department of Mineral Fuels (DMF) regulates petroleum exploration and production under the supervision of the Petroleum Committee, established under the Petroleum Act, BE 2514 (1971), as amended.

The Petroleum Act provides that the rights to explore and produce can be in three forms (ie, the concession, PSC and SC). The form of contract is determined when the bidding is announced, and must be in accordance with the form prescribed by a ministerial regulation issued under the Petroleum Act. The cost and timeframe for applications shall be as announced at the time of the relevant bidding.

Law stated - 7 March 2024

Government participation

Does the government have any right to participate in a licence? If so, is there a maximum participating interest it can obtain and are there any mandatory carry requirements for its interest? What cost-recovery mechanism is in place to recover such carry? Does the government have any right to participate in the operatorship of a licence?

The government has no right to participate in a petroleum concession, and generally, an applicant for a concession and a PSC must be a juristic person.

However, the bidding for offshore blocks G1/61 and G2/61 and 24th bid round allowed for state participation. In this regard, the Ministry of Energy (MOE) allowed a government agency to participate as an investor in the PSC for the exploration and production of petroleum for these blocks up to 25 per cent.

Law stated - 7 March 2024

Royalties and tax stabilisation

If royalties are paid, what are the royalty rates? Are they fixed? Do they differ between onshore and offshore production? Aside from tax, are there any other payments due to the government? Are any tax stabilisation measures in place?

Royalties

Rates of royalties under Thailand III concession terms are imposed at progressive rates ranging from 5 to 15 per cent.

In deep-water blocks, the royalty is 70 per cent of the designated rates. The government has the authority to fix lower rates in special situations.

Royalties under PSCs are set at 10 per cent. No royalties are specified for SCs.

Royalties in cash are based on posted, realised or market price. Royalties in kind are volumes equivalent in value to royalties in cash.

Income tax

Petroleum concessionaires and contractors under the PSCs are also subject to income tax under the Petroleum Income Tax Act, BE 2514 (1971), as amended.

Income tax is 50 per cent of net annual income (or 35 per cent on profits plus 23.08 per cent profit remittance tax);

Special Remunerative Benefit

In addition to royalties, petroleum concessionaires under Thailand III terms are subject special remunerative benefit (SRB).

The SRB is payable only in years that the concessionaire has petroleum profit and not applicable to those concessionaires awarded concession blocks under the Thailand I term. In calculating such profit or loss, capital expenditure, operating costs, a special reduction (an expense uplift) for the year and petroleum loss carried forward indefinitely from prior years may be deducted. The special reduction was specified as zero per cent. SRB is calculated in ranges based on the income per one-metre depth of well and subject to a ceiling of 75 per cent of petroleum profit in each year.

Law stated - 7 March 2024

Licence duration

What is the customary duration of oil leases, concessions or licences?

The durations of the licences under the Petroleum Act are as follows:

- Concession and PSC: the exploration period is up to six years, with a renewal of up to three years. The production period is up to 20 years from the end of the exploration period, with a renewal of up to 10 years.
- SC: the exploration and production period is up to 30 years in total.

Law stated - 7 March 2024

Extent of offshore regulation

For offshore production, how far seaward does the regulatory regime extend?

Thailand has published the limits of its continental shelf for the purposes of mineral exploration.

In 1979, Thailand and Malaysia agreed on a joint development area to resolve a dispute about marine boundaries. In 1997, Thailand and Vietnam agreed on their marine boundaries in the Gulf of Thailand, and in 1980, Thailand and Myanmar agreed on their lateral boundary. There is a substantial offshore area between Thailand and Cambodia that is subject to overlapping claims (ie, the overlapping claims area (the OCA)). As of 2024, negotiations are being initiated by the government of both Thailand and Cambodia to resolve the OCA issue.

Law stated - 7 March 2024

Onshore offshore regimes

Is there a difference between the onshore and offshore regimes? Is there a difference between the regimes governing rights to explore for or produce different hydrocarbons?

There is no difference between onshore and offshore regimes in Thailand. There are different regulations in place for deep-sea exploration, but the MOE regulates both exploration and production.

Law stated - 7 March 2024

Authorised E&P entities

Which entities may perform exploration and production activities? Describe any registration requirements. What criteria and procedures apply in selecting such entities?

Applicants for petroleum concessions must be a company (either Thai or foreign in the latest bidding round), and have equipment, personnel and financial resources capable of performing exploration and development work obligations. If the applicant does not possess such characteristics, it will be required to submit a guarantee from an affiliate that is deemed acceptable to the MOE, and has a relationship in capital and management with the applicant.

The Petroleum Act sets forth the basic qualifications of bidders for petroleum concessions, which may be further specified in the invitation to bid

Law stated - 7 March 2024

Regulatory powers over operators

What controls does the regulatory body have over operators? Can operatorship be revoked?

The Petroleum Act is silent on joint operating agreements (JOAs) and on the roles of the operator under a JOA. In the past, the DMF has shown no interest in JOAs. The model PSC includes clause 20 (Joint Operating Agreement), which prescribes certain rules applicable to JOAs. The DMF is not a party to a JOA but must be kept informed about amendments to the JOA and related matters.

Law stated - 7 March 2024

Joint ventures

What is the legal regime for joint ventures?

Generally, contractual joint ventures are recognised under Thai law for income tax purposes under the Revenue Code and may be established between parties under a joint venture agreement. The Petroleum Act does not prescribe any rules concerning joint ventures other than that parties to a joint venture are jointly and severally liable for their mutual obligations.

At present, there is no requirement that a joint venture agreement or joint operating agreement between the joint venture partners be approved, filed or registered.

Law stated - 7 March 2024

Reservoir unitisation

How does reservoir unitisation apply to domestic and cross-border reservoirs?

Section 72 of the Petroleum Act provides that the government may order unitisation. However, there are no regulations governing how this power is to be exercised.

Thailand and Malaysia cooperate on a joint development area in the Gulf of Thailand under the auspices of a joint authority. The negotiations on the OCA between Thailand and Cambodia continue in 2024, Thailand and Cambodia have resumed the negotiations on the OCA in February 2024 with a focus on sharing the benefits from petroleum exploration with an expectation that it will be resolved within the year.

Law stated - 7 March 2024

Licensee liability

Is there any limit on a party's liability under a licence, contract or concession?

There is no express limit on the liability of a concessionaire under a petroleum concession or contractor under a PSC. If there are multiple parties to a concession or a PSC, the companies will be jointly and severally liable for the obligations under the governing instrument.

Law stated - 7 March 2024

Guarantees and security deposits

Are parental guarantees or other forms of economic support common practice or a regulatory requirement? Are security deposits required in respect of any work commitment or otherwise?

Parent company guarantees are required under section 24 of the Petroleum Act in cases where the applicant for concession does not 'have capital, machinery, equipment, tools and specialists' to explore for, produce, sell and dispose of petroleum. The MOE has wide discretion on the acceptable guarantor and in practice, the MOE almost always requires a parent company guarantee.

Law stated - 7 March 2024

LOCAL CONTENT REQUIREMENTS

Minimum requirements

Must companies operating in your country prefer, or use a minimum amount of, locally sourced goods, services, capital or personnel?

In several sectors, there are requirements to use local goods and services. There are a number of laws that require majority Thai ownership in a company to operate certain business. Under the Foreign Business Operations Act, BE 2542 (1999), many businesses (including petroleum service business) are subject to restrictions and require foreign service companies to obtain a foreign business licence. However, exploration and production are not subject to any general foreign ownership limitations.

Law stated - 7 March 2024

Social programmes

Describe any social programme payment obligations that must be made by a licensee, lessee or contractor.

Most petroleum concessions include special advantages, such as scholarships, training, contributions to support petroleum development and community development, among others.

The Ministerial Regulation Prescribing Production Sharing Contract, BE 2561 (2018) provides that special advantages shall be in accordance with the invitation for proposal or as per the production-sharing contract's contractor offer.

Law stated - 7 March 2024

TRANSFERS TO THIRD PARTIES

Approval to transfer interests

Is government consent required for a company to transfer its interest in a licence, concession or production sharing agreement? Does a change of control require similar approval? What is the process for obtaining approval? Are there any pre-emptive rights reserved for the government?

The Petroleum Act, BE 2514 (1971), as amended, permits:

- farm-in arrangements;
- transfers of concessions to affiliates; and
- transfers to third parties.

Under section 48 of the Petroleum Act, a concessionaire may transfer its interest in a concession to certain affiliates by notifying the Ministry of Energy (MOE). The MOE may require a substitute parent company guarantee. The transfer will take effect from the date on which the MOE confirms that the transfer was made in compliance with section 48.

Under section 50 of the Petroleum Act, transfers of concessions to third parties require permission from the Minister of Energy after obtaining approval from the Petroleum Committee. Transferees must possess all qualifications under the PA to be eligible to receive a concession block from the transferor. There is no prescribed timeline but, in practice, it may take between three to six months (or longer) to obtain this approval.

Neither the Petroleum Act nor petroleum concession agreements contain provisions concerning change of control (except those arising from transfers of interests in a concession). However, in practice, the Department of Mineral Fuels and the MOE have the ability to scrutinise indirect transfers of interests in a petroleum concession if the parent company guarantee issued pursuant to section 24 of the Petroleum Act is not within the transaction perimeter, as the identity of any new guarantor will need to be approved by the MOE.

The government has no pre-emptive rights.

Law stated - 7 March 2024

Approval to change operator

Is government consent required for a change of operator?

In principle, government consent is not required for a change of operator. However, if a change of operator is proposed in connection with a requested change in the concessionaire under section 50 of the Petroleum Act, then the Minister of Energy is likely to take into account the qualifications of the potential transferee in considering the transfer application.

Law stated - 7 March 2024

Transfer fees

Are there any specific fees or taxes levied by the government on a transfer or change of control?

Transfers of interests in a petroleum concession, production sharing contract or service contract may trigger income tax liabilities. Changes of control by way of a transfer of shares in a parent company outside Thailand do not trigger income tax liabilities in Thailand.

Law stated - 7 March 2024

TITLE TO FACILITIES AND EQUIPMENT

Title holder

Who holds title to facilities and equipment used for oil exploration, development and transportation activities during the term and on termination of a licence, PSC or service contract?

The concessionaire is the owner of facilities and equipment used in exploration and production activities during the term of the concession. However, in the production-sharing and service contract regimes, the title to facilities and equipment belongs to the state.

At the end of the concession term, if the state deems that the facilities or installation are still useful, the Department of Mineral Fuels may serve a written notice on the concessionaire identifying which installations are to be delivered to the state. The concessionaire must deliver these installations without charge.

Law stated - 7 March 2024

DECOMMISSIONING AND ABANDONMENT

Laws and regulation

What laws or regulations govern abandonment and decommissioning of oil and gas facilities and pipelines? In summary, what is the obligation and liability regime for decommissioning? Are there any other relevant issues concerning decommissioning?

The Petroleum Act, BE 2514 (1971), as amended, provides the Ministry of Energy with the authority to prescribe regulations concerning decommissioning-related activities, including, inter alia, security placement and asset transfer. The specific procedures, rules and timelines are outlined in a ministerial regulation relating to decommissioning from 2016.

The obligation of the concessionaire to begin decommissioning will be triggered by any of the following:

- the concessionaire not using the installations continuously for more than one year;
- petroleum reserves of the concession are less than 40 per cent of the sum of the accumulated petroleum production and the petroleum reserves;
- the remaining time for petroleum production as specified in the concession is five years; or
- the concessionaire wants to commence decommissioning activities.

The concessionaire will be obligated to make a security deposit to the Director-General of the Department of Mineral Fuels (DMF). The decommissioning regulation leaves a few rules and procedures open, to be determined later by the Director-General of the DMF.

Law stated - 7 March 2024

Security deposits for decommissioning

Are security deposits required in respect of future decommissioning liabilities? If so, how are such deposits calculated and when does their payment become due?

Under the Ministerial Regulation on Decommissioning, BE 2559 (2016), the concessionaire is obligated to make a security deposit. The security is equivalent to the estimated decommissioning cost, as approved by the DMF. The timing of the obligation to deposit security is set out in section 24 of this decommissioning regulation. Security can be in the form of cash, cashier cheque, Thai government bond, bank guarantee, irrevocable standby letter of credit or other forms prescribed by the Director-General of the DMF.

Law stated - 7 March 2024

TRANSPORTATION

Regulation

How is transportation of crude oil and crude oil products regulated within the country and across national boundaries? Do different government bodies and authorities regulate pipeline, marine vessel and tanker truck transportation?

There are few private pipelines for the transportation of oil products. However, the transportation of crude oil and petroleum products is regulated by the Department of Energy Business (DOEB) under the Fuel Oils Control Act, BE 2542 (1999) and the Fuel Oils Trading Act, BE 2543 (2000). Any entities engaging in the transportation of crude oil and petroleum products must, depending on the type and quantity of fuel, notify the DOEB for a registration or obtain a licence as specified under these regulations.

Other government bodies are concerned with the transportation of petroleum, which may be subdivided into the following categories:

- marine: the Water Transport and Merchant Marine Department, and the Ministry of Transport (MOT);
- railway: State Railways of Thailand; and
- tanker trucks: the Department of Land Transport and the MOT.

Law stated - 7 March 2024

COST RECOVERY

Determining recoverable costs

Where oil exploration and production activities are conducted under a production sharing contract, describe how recoverable costs can be determined and how recovery can be realised.

Under the production-sharing contract regime, all actual expenses in petroleum operations are to be borne by the contractor and deducted from production, as detailed in the contract, and in accordance with work plans and budgets annually approved by the Director-General of the Department of Mineral Fuels. Deductions may not exceed 50 per cent of the value of total production. The excess can be deducted in the following year if such expenses for that year do not exceed 50 per cent. Up to 50 per cent of the remainder of the total production, after deduction and payment of royalty, is shared between the state and the contractor, and the contractor's share shall not exceed 50 per cent. The contractor is to pay a royalty of 10 per cent on the total production and income tax of 20 per cent of the net profits from the petroleum business.

Law stated - 7 March 2024

HEALTH, SAFETY AND ENVIRONMENT

Requirements

What health, safety and environment requirements apply to upstream oil-related facility operations onshore and offshore? What government body is responsible for this regulation; what enforcement authority does it wield? What kind of record-keeping is required? What are the penalties for non-compliance?

The Occupational Safety, Health and Environment Act, BE 2554 (2011) and its subordinate regulations generally govern the duty of an employer to arrange and maintain safe working conditions and environment, and to prevent physical and mental harm to its employees. These regulations apply to employees working in upstream oil-related operations onshore and offshore. They also address certain standards and safety measures for the workplace.

For labour and environmental-related legislations, concessionaires and contractors are subject to the Labour Protection Act, BE 2541 (1998) (LPA); the Enhancement and Conservation of the National Environmental Quality Act, BE 2535 (1992), as amended (the Environmental Act); the Fuel Oils Trading Act, BE 2543 (2000), as amended (FOTA); and their subordinate regulations of general application.

The LPA is administered by the Ministry of Labour and Welfare, and applies to any employer with 10 or more employees. The labour inspection officer, appointed by the Minister of Labour and Welfare, enforces the LPA, which covers all general employment practices. Non-compliance with the LPA may result in criminal penalties.

Under the Environmental Act, the Ministry of Natural Resources and Environment, in conjunction with the National Environment Board, prescribes categories of industrial projects subject to regulation and approval by the Office of Natural Resources and Environmental Policy and Planning. An environmental impact assessment report must be filed before receiving approval for a regulated industrial project.

The FOTA, under the administration of the Department of Energy Business, requires major oil traders to obtain a licence from the Ministry of Energy and to keep records regarding the purchase, refining, production and disposal of fuel oil. Penalties under the FOTA include licence revocation and criminal penalties.

Law stated - 7 March 2024

LABOUR

Local and foreign workers

Must a minimum amount of local labour be employed? What are the visa requirements for foreign labour? Are there anti-discrimination requirements? What are the penalties for non-compliance?

The Working of Aliens Act, BE 2521 (1978) and the Foreign Working Management Emergency Decree, BE 2560 (2017), as amended, mandate work permits for foreign nationals working in Thailand. A work permit is required for foreign workers. The Petroleum Act, BE 2514 (1971), as amended, provides a procedure that facilitates the issuance of work permits, which is administered by the Department of Mineral Fuels and the Petroleum Committee.

Concessionaires and production-sharing contractors are required to employ Thai nationals to the maximum extent possible and to train Thai nationals to be qualified to take up positions at all levels in petroleum operations within a reasonable time.

Law stated - 7 March 2024

TAXATION

Tax regimes

What is the tax regime applicable to oil exploration, production, transportation, and marketing and distribution activities? What government body wields tax authority?

Petroleum concessionaires are subject to income tax at 50 per cent under the Petroleum Income Tax Act, BE 2514 (1971), as amended, which is administered by the Revenue Department. Concessionaires may also be subject to a special remunerative benefit.

Contractors under production-sharing contracts are subject to income tax at 20 per cent.

Petroleum service companies and operators of transportation, marketing and distribution activities are subject to income tax at 20 per cent under the Revenue Code, which is also administered by the Revenue Department.

The Excise Tax Act, BE 2527 (1984) applies to the production and sale of certain petroleum products.

Law stated - 7 March 2024

COMMODITY PRICE CONTROLS

Crude oil mining

Is there a mandatory price-setting regime for crude oil or crude oil products? If so, what are the requirements and penalties for non-compliance?

Export sales are made at a free-on-board posted price fixed by the concessionaire or production-sharing contractor and agreed to by the government. Domestic sales, in the absence of regular exports, are made at a price not exceeding that of imported crude oil. Otherwise, they are made at the average realised price of exports by all concessionaires.

The government occasionally prescribes prices for the retail sale of petroleum products.

Retail petroleum companies are required to make contributions to the Oil Fund.

Law stated - 7 March 2024

COMPETITION

Competition enforcers

What government bodies have the authority to prevent or punish anticompetitive practices in connection with the extraction, transportation, refining or marketing of crude oil or crude oil products?

The Trade Competition Commission is empowered under the Trade Competition Act, BE 2560 (2017) (TCA) with general regulatory oversight for anticompetitive or unfair practices, other than in sectors with specific trade competition regulations.

In 2022, the Energy Regulatory Commission (ERC) issued regulations for merger controls and anti-competition regulations in the energy industry under the Energy Industry Act, BE 2550 (2007). This applies to holders of electricity and natural gas industry licences.

Therefore, extraction, transportation, refining or marketing of crude oil and crude oil products are not under the supervision of any specific trade competition regulations, but are governed by the TCA.

Law stated - 7 March 2024

Obtaining clearance

What is the process for procuring a government determination that a proposed action does not violate any competition laws? How long does the process generally take? What are the penalties?

The Trade Competition Commission (OTCC) is the regulator with supervisory authority for the Trade Competition Commission and is empowered under the the TCA. A request may be made to the OTCC for a ruling on whether a proposed action violates the TCA. The OTCC is required to issue a decision within 60 days of the date of receiving the request. The review period may be extended, if necessary, with the total duration not exceeding 90 days. Sections 54 and 55 of the TCA proscribe specific conduct that is anticompetitive or an abuse of a

dominant operator's market power (ie, price-fixing, market allocation, bid-rigging, horizontal restraint or other types of joint agreement in other manners as prescribed by the OTCC).

The TCA divides regulated mergers into two categories: those that require approval (a pre-merger filing) from the OTCC and those that only require notification to the OTCC (a post-merger notification). Essentially, submission of a pre-merger filing will be required if the merger may result in the creation of either a monopoly or a business operator with a dominant market position. Failure to conduct a pre-merger filing will result in a fine of not exceeding 0.5 per cent of the total value of the transaction.

Otherwise, a post-merger notification to OTCC within seven days of the completion of the merger is required if the merger may substantially lessen competition in the market. Failure to conduct a post-merger filing will result in a fine not exceeding 200,000 baht, and a daily fine not exceeding 10,000 baht throughout the period of violation.

Law stated - 7 March 2024

DATA

Seismic data

Who holds title to seismic data collected during the term of and on termination of a licence, PSC or service contract? Can the regulator require the data owner to report or release the data?

The Petroleum Act, BE 2514 (1971), as amended, is silent on title to seismic and other data. However, according to section 76 of the Petroleum Act, a concessionaire and party to a production-sharing contract shall report the results of the petroleum business operation and annual working plan and budget to the Department of Mineral Fuels (DMF), covering details and data since the exploration of petroleum began. One year after the DMF has received such information, it may be made available to the public.

Law stated - 7 March 2024

INTERNATIONAL

Treaties

To what extent is regulatory policy or activity affected by international treaties or other multinational agreements?

Thailand is a party to several international treaties, bilateral investment protection treaties and double tax agreements, including those of the World Trade Organization.

Thailand is a member of the Association of Southeast Asian Nations (ASEAN), which integrated with nine other regional economies to form the ASEAN Economic Community (AEC). The five core elements of the AEC are the free flow of goods, services, investment, capital and skilled labour.

ASEAN members have ratified enhanced dispute resolution mechanisms under the ASEAN Protocol on Enhanced Dispute Settlement Mechanisms (2004) and member states afford one another certain investment guarantees, as agreed within the ASEAN Comprehensive

Investment Agreement (2009), with the goal of economic integration in line with the AEC blueprint.

ASEAN integration includes plans for the interconnection of current and planned pipelines among member states. Such integration will require regulators and governments to collaborate, creating a regulatory framework for trans-border trading of energy and natural gas.

Thailand is not a party to the International Centre for Settlement of Investment Disputes (1965) or the Extractive Industry Transparency Initiative Index, but is a party to the United Nations' New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) and the United Nations Convention on the Law of the Sea (1982).

Law stated - 7 March 2024

Foreign ownership

Are there special requirements or limitations on the acquisition of oil-related interests by foreign companies or individuals? Must foreign investors have a local presence?

Petroleum concessionaires may be 100 per cent foreign-owned. A foreign oil company must have a registered branch or subsidiary in Thailand.

Retail petroleum businesses are subject to ceilings on foreign ownership of businesses under the Foreign Business Operations Act, BE 2542 (1999).

Oil refinery business is not restricted activity for foreign companies or individuals. In addition, it is a promoted activity under the [Investment Promotion Act, BE 2520 \(1977\)](#).

Law stated - 7 March 2024

Cross-border sales

Do special rules apply to cross-border sales or deliveries of crude oil or crude oil products? Are there any volumetric supply obligations for the local market that prevail over the export rights of the oil producer?

Cross-border sales or deliveries of crude oil and products are subject to Customs Department, and, with respect to products, Excise Department regulation.

Section 61 of the Petroleum Act, BE 2514 (1971), as amended, allows the Minister of Energy to temporarily restrict petroleum exports from Thailand. Since 2014, the DMF has requested that concessionaires not export crude oil, but allows those who wish to do so to submit a request for an exemption from the DMF, which would be granted on a case-by-case basis. However, in 2015, the DMF provided a general approval to all concessionaires whose crude oil entitlement is in the Gulf of Thailand for crude oil exports, upon notification to the DMF and adherence to their regulations and guidelines. In practice, upon submission of notification for export of each shipment, the DMF will issue a letter to the Customs Department requesting facilitation for the export process.

Law stated - 7 March 2024

UPDATE AND TRENDS

Current trends

What are the current trends in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory frameworks? What areas may be of particular interest to foreign investors?

There has been a substantial shift in Thailand in terms of public policy and measures to achieve decarbonisation goals. As such, the Department of Mineral Fuels issued a specific regulation – namely, a notification concerning the criteria for reporting and accounting of greenhouse gas emissions from upstream petroleum operation, which provides duties for petroleum business operators on accounting and reporting of greenhouse gas emissions for upstream petroleum operations annually by March of the following year.

In 2023, a proposal was put forth to amend the Petroleum Act, BE 2514 (1971), as amended, primarily focusing on three key areas: (1) the regulation of carbon business operation, (2) revisions to decommissioning provisions and (3) adjustments to penalties. This is still in draft form and in the process of being tendered for an approval by the cabinet. In light of the trend on environmental regulations and the government's recognition that petroleum is an exhaustible resource, the draft amendment introduces the term 'carbon business' to the act, which is defined as an exploration to locate carbon storage sites or the compression of carbon into storage sites. Consequently, the amendment establishes a licensing requirement for operators engaged in the carbon business, outlining specific duties and liabilities that the operators must adhere to.

Secondly, a withdrawal account system and a withdrawal fund have been introduced to the decommissioning provisions. This change signifies a move from a collateral-based approach to a fund system for the decommissioning process. The rationale behind this change is to empower the regulator to initiate decommissioning processes using the funds, ensuring continuity in petroleum production by allowing the regulator to take charge when needed.

Lastly, the amendment proposes appropriate increments in fine penalties for various violations. Additionally, specific criminal penalties have been redefined as regulatory offenses, granting the regulator the authority to enforce penalties as deemed necessary. This is in line with Thailand's legislative reform to de-criminalised offenses in the law.

Law stated - 7 March 2024