

**THE MINISTER OF ENERGY AND MINERAL RESOURCES OF
THE REPUBLIC OF INDONESIA**

**MINISTER OF ENERGY AND MINERAL RESOURCES REGULATION
NO. 22 OF 2008**

CONCERNING

**TYPES OF OIL AND NATURAL GAS UPSTREAM BUSINESS ACTIVITY
COSTS NON-RECOVERABLE TO THE CONTRACTORS OF PRODUCTION
SHARING CONTRACT**

THE MINISTER OF ENERGY AND MINERAL RESOURCES

Considering:

- a. that the upstream oil and natural gas business activities should be carried out by means of effectiveness and efficiency principles to protect and enhance the state revenue to be optimally used for welfare of the people;
- b. that in performing oil and natural gas upstream business activities, the Contractor shall bear all costs and risks, the cost repayment (Recovery of Operating Cost) of which needs to be limited to the activities that are directly related to the oil and natural gas upstream business activity operation;
- c. that based on the above-mentioned consideration as mentioned in items a and b, and to implement the provisions of Article 56 of the Government Regulation No. 35 of 2004 concerning oil and natural gas upstream business activities as amended by Government Regulation No. 34 of 2005, it is necessary to stipulate types of oil and natural gas upstream business activities non-returnable to production sharing contractors by a Minister of Energy and Mineral Resources Regulation;

In view of:

1. Law Number 22 of 2001 on oil and natural gas (State Gazette No.136 of 2001, State Gazette Supplement of the Republic of Indonesia No.4152) as amended by the Constitutional Court Decision No. 002/PUU-I/2003 on 21

December 2004 (State Gazette of the Republic of Indonesia No. 1 of 2005);

2. Government Regulation No. 35 of 1994 concerning the terms and guideline of oil and natural gas production sharing contract (State Gazette of the Republic of Indonesia No. 64 of 1994; State Gazette Supplement of the Republic of Indonesia No. 3571);
3. Government Regulation No. 42 of 2002 concerning oil and natural gas upstream business activity executive agency (State Gazette of the Republic of Indonesia No. 81 of 2002, State Gazette Supplement of the Republic of Indonesia No. 4216);
4. Government Regulation No.35 of 2004 concerning oil and natural gas upstream business activities (State Gazette No. 123 of 2004, State Gazette Supplement No. 4435) as amended by Government Regulation No. 34 of 2005 (State Gazette of the Republic of Indonesia No. 81 of 2005, State Gazette Supplement of the Republic of Indonesia No. 4530);
5. Presidential Decree No.187/M of 2004 of 20 October 2004 as several times and last amended by Presidential Decree No. 77/P of 2007 of 28 August 2007;
6. Minister of Energy and Mineral Resources Regulation Number 0030 of 2005 of 20 July 2005 concerning the organization and procedures of the Ministry of Energy and Mineral Resources;

HAS DECIDED:

To stipulate:

MINISTER OF ENERGY AND MINERAL RESOURCES
REGULATION CONCERNING OIL AND NATURAL GAS
UPSTREAM BUSINESS ACTIVITY COSTS NON-
RECOVERABLE TO THE CONTRACTORS OF
PRODUCTION SHARING CONTRACT

Article 1

- (1) The Contractor of Production Sharing Contract shall entitle to recover the cost (cost recovery) that has been spent for the execution of exploration and exploitation of

the said working area after reaching the commercial production as stipulated in the relevant Production Sharing Contract.

- (2) The cost recovery as mentioned in paragraph (1) shall be taken out from the oil and/or natural gas production in the relevant working area, unless stated otherwise in the Production Sharing Contract.
- (3) The cost recovery during the exploration and exploitation as mentioned in paragraph (1) shall not apply to costs as mentioned in the attachment to this Minister Regulation.

Article 2

In the event that working area as mentioned in Article 1 paragraph (1) does not reach the commercial production, all costs that have been spent shall completely be borne by the Contractor.

Article 3

The Head of the Oil and Natural Gas Upstream Business Activity Executive Agency ("BP Migas") shall supervise the execution of the Production Sharing Contract as mentioned in Article 1 paragraph (1).

Article 4

This Minister Regulation shall take into effect on the date of its promulgation.

Promulgated in Jakarta
On 30 June 2008

THE MINISTER OF ENERGY AND MINERAL RESOURCES

[signature]

PURNOMO YUSGIANTORO

ATTACHMENT:
REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES
NO. 22 OF 2008
DATED 30 JUNE 2008

TYPES OF OIL AND NATURAL GAS UPSTREAM BUSINESS ACTIVITY
COSTS NON-RECOVERABLE TO THE CONTRACTORS OF PRODUCTION
SHARING CONTRACT

1. Costs related to the private/personal interest of the PSC Contractors' workers including: personal income tax, losses due to the sale of private cars and houses.
2. Incentives granted for the employees of PSC contractors constituting Long-Term Incentive Plan (LTIP) or other similar incentives.
3. Employment of foreign employees/expatriates not in compliance with the Expatriate Manpower Utilization Plan Procedures (RPTKA) and without being furnished with Expatriates Work Permit (IKTA) in oil and gas sector issued by BP MIGAS and/or the Directorate General of Oil and Natural Gas.
4. Legal consultant fee that is not related to PSC contractor's operation.
5. Tax consultant fee.
6. Charges of oil and natural gas marketing costs borne by the PSC contractors and costs arising from intended mistake, related to oil and natural gas marketing activities.
7. Charges of unlimited Public Relations costs for any types and amounts in the absence of the nominative list of beneficiaries as stipulated under the tax regulations, including costs related to: golf, bowling, credit card, membership fee, family gathering, farewell party, contribution to the PSC contractor's educational institutions, the PSC contractor's anniversary, contribution to the association of employees' wives, exercise, nutrition and fitness.
8. Environmental and community development costs during the exploitation stage.
9. The management and depositing of reserve fund for the abandonment and site restoration under the PSC contractor's account.

10. Costs related to all types of technical training activities for foreign employees/expatriates.
11. Costs related to merger and acquisition.
12. Costs for loan interest of Petroleum Operation activities.
13. Costs for third party's income tax.
14. Procurement of goods and services as well as other activities which exceed the Authorization Financial Expenditure/AFE approval by more than 10% (ten percent) from the AFE rate and not completed by sufficient justification.
15. Excess material surplus due to improper/mistaken planning and purchase.
16. The establishment and operation of Placed into Service (PIS) Projects/Facilities that are not able to operate in accordance with the economic life due to the PSC contractor's negligence.
17. Transactions with affiliated parties that cause losses to the Government, without tender, or contradictory to Law No. 5 of 1999 concerning Anti-Monopoly Practice and Unfair Business Competition as well as tax regulations.

THE MINISTER OF ENERGY AND MINERAL RESOURCES

PURNOMO YUSGIANTORO