

ENVIRONMENTAL CONSIDERATIONS IN THE PETROLEUM CONTRACTS

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Abstract

Third world countries leading by Iran and Iraq, have paid less attention to pollution due to their rich oil resources in the world. It seems that the problems in the world and the sanctions against Iran had left the focus only on discovery, drilling and extraction. But recently, Iran and other third-world countries have also paid attention to this important issue, because they have faced the problem of pollution, its consequences and heavy costs for the country and its citizens. However, the problems of pollution from mining are not limited to humans. Oil pollution poses a serious threat to aquatic life and the ecosystem cycle. This study, by expressing the legal and contractual considerations of environmental protection in various Iranian oil contracts, examines the environmental rules and requirements in some oil-rich countries such as Norway, Thailand, Indonesia and Kurdistan, and analyzes the concluded contracts and binding laws and regulations. Environmental studies have conducted comparative studies on the observance or non-observance of legal and contractual requirements in the field of pollution control in the oil and gas industry of those countries and Iran. As a result, it has become clear that over time, environmental regulations have been established and implemented by host governments for companies active in the exploration, extraction and transportation of hydrocarbons.

Keywords

Pollution, Environment, Oil contracts, Iran.

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SHIP-SOURCE OIL POLLUTION FROM INTERNATIONAL CRIMINAL LAW POINT OF VIEW

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Abstract

Marine oil pollution usually is caused either due to marine casualties that occur for oil tankers or related to oil offshore rigs and installations. The international legal regime regarding ship-source oil pollution formed on the basis of the conventions on prevention, intervention, and compensation. However, the question remains that in addition to the legal considerations, whether the adoption of criminal measures would be necessary? In this article, based on the descriptive-analytical method, it is endeavored to discuss the necessities of criminalization and adoption of criminal liability in oil pollution cases for individuals and legal entities who are active in marine transport industry.

Keywords

Criminal Liability, Legal Entities, Marine oil Pollution, Ship-source Pollution.

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RISK MANAGEMENT OF IRAN UPSTREAM OIL AND GAS INVESTMENT CONTRACTS, GROUNDED THEORY METHOD (GTM) & TEFCEL APPROACH

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Abstract

The declining trend in the dependence of the global oil and gas market on Iran production has made sanctions against Iran's oil and gas industry easier. Dealing with this challenge requires maintaining and increasing current and potential production capacity. A large amount of technical knowledge and many financial resources are necessary for development of the upstream sector of Iran's oil and gas industry. For this purpose, after the Islamic Revolution, service contracts such as buyback has been used. The latest development in this field is IPC contractual model. These contracts are exposed to many risks. In this research, systematic grounded theory approach with TEFCEL guidelines was applied for a comprehensive understanding of risks. Findings in the initial part revealed that two categories namely "international political evolution" and "Economic evolution" are composed of 44 risks which are categorized in five clusters, i.e. technical and technological, financial, finance and commercial, environmental and political risks. Strategies such as "investment security", "investment facilitation" and "encouraging investment" lead to an influential role in the global oil and gas market and effective presence in the global investment market. Underlying conditions which affect strategies are the mechanism of decision-making and the nature of upstream investment projects. Moreover, governance and sovereignty and ability of engineering services and internal capabilities were identified as intervention conditions.

Keywords

Policies, Risks, Strategies, Sanction, TEFCEL, GTM.

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ENVIRONMENTAL SELF-REGULATION; CONCEPT, BASICS AND TOOLS (LOOKING AT IRANIAN LAW)

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Abstract

Environmental self-regulation was shaped by new tools of environmental legislation in response to government inefficiencies in regulating the environment, which, by incorporating pluralism and accepting the vital principle of goodwill, regulated it to others. The global environment is global and cannot be limited to countries at this level. The use of self-regulation is also based on it in countries and by nine national diseases, or it creates different forms at the international level and has different advantages and disadvantages because there are more benefits to self-regulation in the region and there are also disadvantages. In this article, using the conceptual explanation of environmental self-regulation and its advantages and disadvantages, there is a new and more effective method in environmental law and also the possibility of applying it in Iran.

Keywords

Environmental standard, standard contract, legal pluralism, environmental codes.

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OWNERSHIP OF LANDS AND PROPERTIES OF PRIVATE PERSON BY MINISTRY OF PETROLEUM AND COMPENSATION OF LOSS

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Abstract

One of the epitomes of interference of the government and the public institutions in the social life, is the authority and power of expropriation of lands and the properties of persons with the target of provision of public interests. Such an interference, which is accomplished based on giving order, public welfare and social advisable affairs, may create a field for establishing civil liability for the government based on specific basis, such as the principle of equality against the law and the theories of organizing the loss, public service and social interrelationship. At this juncture, in consideration of the important duties of Ministry of Petroleum in the field of implementation of the public and civil projects, based on the different rules, such as the legal bills for procedures of purchase and ownership of the lands and properties in order to implement the public, civil and military plans within the scope of outspread authority of the said Ministry in the field of expropriation, taking of properties and lands for Ministry of Petroleum, the said ministry is liable to compensate for loss and damages of the persons in accordance with the related Act and Laws. Yet, by this presumption that the public actions in this area are not based on the legal conditions, or if such actions are instances of forcible detainer, there are different solutions for filing action against the government before Administrative Justice Tribunal, and public and civil courts, and we explicate and verify such actions and petitions in this article.

Keywords

Government, civil liability, expropriation (taking of property, dispossession), public welfare.

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ANALYZING THE POSSIBILITY OF JUDICIAL MODIFICATION OF OIL CONTRACTING IN CONDITIONS OF SANCTIONS

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Abstract

Judicial modification of oil contracting contracts during sanctions is among legal-economic concepts which is the result of recent sanctions based on suggested legal-economic concepts to modify contracts in conditions of sanctions. It seems that the reduction in oil value is an appropriate criterion. But juridical modifications of contracts in the Iranian legal system is not accepted except for special exceptional cases. The reduction of oil value, considering its nature, can be guaranteed and amended. But the significant point is to keep its former nature before analyzing its juridical modification. Thus, in some cases, the modification of contracts is not justifiable. Noting the absence of a comprehensive system of administrative contracts in Iran's legislative system and non-specification of the sources for the formation of modifications in contracts, the subject of modification oil juridical contracts during sanctions is a controversial topic whose aspects will be discussed in this paper.

Keywords

Oil contracts, Judicial adjustment, Oil contracting, Sanctions, Force Majeure.

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EVOLUTION OF PRICE REVIEW CLAUSE IN ASIAN LNG SALE AND PURCHASE AGREEMENTS

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Abstract

LNG sale and purchase agreements in Asia are changing under influence of structural changes in the Asian LNG market, including a gradual move towards market liberalization, the establishment of gas trading hubs and the emergence of new players. It is expected that the price review clause as one of the key terms of these agreements will also be affected by these changes. Accordingly, the direction of evolution of this clause in Asian LNG sale and purchase agreements can be questionable. This study intends to look at the history of the price review clause in Asian LNG sale and purchase agreements, the sample of these clauses and its structure and conditions as well as differences of this clause in Asian and European agreements to examine the path of evolution of this clause in Asian agreements and in light of changes in the Asian LNG market. With the increase in price review requests and the number of disputes related to LNG pricing in Asia, we can expect that the price review clauses in these agreements will be more accurate, contain more details and at the same time be more flexible and specific.

Keywords

Flexibility, Market liberalization, Price adjustment, Sale and purchase agreement, Structural changes.

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LEGAL ASPECTS OF GOOD REGULATION IN GOOD GOVERNANCE OF IRAN'S OIL SECTOR

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Abstract

The quality of public administration, based on the quality of the institutions, which determines the abundance of natural resources can be a blessing or curse. To avoid the impact of the abundance of natural resources on the low institutional quality of countries, good governance theory can be used. This paper has been arranged in two sections by a descriptive analytical method. The first part is devoted to how this theory is applied in the oil sector. It is clear that good governance requires good regulation for public policy purposes. Therefore, while explaining the concept of good regulation, its position along with public policy is considered as the functions of good governance of the oil sector. The good regulation of this section also begins with the establishment of a regulator government and with the help of sectoral regulatory bodies, evolving with regulatory governance. In the second part a good regulation will be considered in the good governance of Iran's oil sector. As a policy recommendation, the findings of this research show with a paradigm shift and departing from the previous pattern of statutory regulation, good regulation of Iran's oil sector will be achieved by co-regulation *i.e.* statutory regulation through the addition of self-regulation.

Keywords

Good Governance of Oil Resources, Good Governance, Good Regulation of Iran's Oil Sector, Good Regulation of the Oil Sector, Good Regulation.

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IMPACT AND LINK BETWEEN ENERGY TRADE REGULATIONS AND THE WORLD TRADE ORGANIZATION

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Abstract

Economic development and international trade have led to the formation of a global interdependent economic system, which is becoming a unique international system due to the development of human societies and basic needs in the present era, and in this regard, the international institutions have played a major role. If the business rules are clearer and more predictable, they can, at the same time, meet mutual interests of energy exporting countries. In fact, globalization of energy trading has increased the importance of its role in economic relations between countries through the international investment, deregulation of domestic markets of countries, and a new connection between the area of energy in different countries and the political economy in the world. The present study is descriptive and explores international energy rules as well as energy trade multilateral system and tries to determine whether energy products are different from other products and require certain trade rules. It also examines the obstacles to making regulations in the area of trade and energy taking into account characteristics of different kinds of energy.

Keywords

World Trade Organization (WTO), Energy, Trade, multilateral system, Globalization.

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FUNDAMENTALS & MODELS OF COMPENSATION VALUATION BASED ON MARKET APPROACH AND ITS IMPLEMENTATION IN OIL INDUSTRY ARBITRATION

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Abstract

Volatility in Oil industry leads to disputes in investment agreements. Compensation valuation is the most critical factor in resolving disputes. One of the famous compensation valuation is market approach which has pros and cons. Price volatility in share markets, non-comparability of previous transactions and unfair prices are obstacles of resorting to this approach for use in arbitration valuation. Calculating average of prices, ratio normalization and considering differences of companies, are solutions for using this approach which are described in this survey. Normally, market approach price is more than asset-based approach and less than income-based approach. In the Iran oil industry, we can only use ratios and for implementing this method, lots of modifications are required and this makes it difficult to have agreement by tribunal of arbitration for the application of this method.

Keywords

Market-Based approach, comparable valuation, multiple valuation, compensation calculation, arbitration in oil industry.

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NATURE OF INTERNATIONAL PETROLEUM INDUSTRY PRACTICES AND THEIR IMPACTS ON LAW GOVERNING UPSTREAM CONTRACTS

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Abstract

International petroleum industry practices represent activities of industry players aiming to optimize the procedures and increase the efficiency of production, safety of petroleum operation and environmental protection. In this paper, first, nature of these practices and similar concepts are examined and their sources are described. Then, having reviewed the characteristic of upstream contracts, impact of these practices on the law governing such contracts has been studied. It was shown, using the Dépeçage theory, that international petroleum industry practices, as set of transnational rules, play the role similar to applicable law, as agreed by the parties in an upstream contract. Finally, by analyzing the international arbitration tribunal in the petroleum industry, it was revealed that despite the host countries' efforts to apply national law on all aspects of an upstream contract, these tribunals tend to prioritize international law over the national one regarding the international commitments of the host country.

Keywords

Applicable law, upstream contracts, generally accepted petroleum industry practices, petroleum arbitrations.

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CHALLENGES IN THE ASSIGNMENT OF UPSTREAM OIL AND GAS CONTRACTS IN THE IRANIAN LEGAL SYSTEM

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Abstract

The assignment of a contract is referred to as the situation where the contract status of one of the parties is transferred to a third party that is considered alien to the contract being assigned. Given the specific conditions of oil and gas upstream contracts, and their compliance with public law principles besides the rules of private law, the assignment of such contracts should be taken into account considering their inevitable challenges. Focusing on the current regulations and conducting a comprehensive study of scientific texts, the present study identifies and discusses important challenges such as the commitment to comply with the host government's specific laws, the effect of the contract party's personality at the oil and gas upstream operations, the problems caused by the public ownership of the oil and gas resources, the requirements for an efficient and well-planned production, the need for transfer of knowledge and technology, compliance with the environmental requirements and public order restrictions in the assignment of the upstream oil and gas contracts with the aim of observing these considerations during the assignment of such contracts.

Keywords

Oil and gas contracts, Challenges of contract assignment, Host country, Investor or foreign contractor, Principles of public law.

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