

Public Ownership of Oil Resources and Its Impact on the Choice of Contractual model in the upstream Sector of Oil and Gas Industry

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Abstract

Ownership of oil resources has always been one of the challenging issues at national and international levels. The acceptance of public ownership of oil reserves in the Constitution of Iran in the jurisprudential sense of “Anfal” has led to the emergence of this notion by some of the oil industry's leaders and experts, that, apart from the service contract model, the use of other contractual oil models is contrary to the public ownership of oil resources. The precise examination of the status of public ownership of oil resources in the countries of Venezuela, Indonesia, Iraq and Iran on the one hand, and the assessment of the nature of each of petroleum contractual models and their application in these countries on the other, shows that contrary to what is perceived in Iran's oil industry, public ownership of oil resources does not constrain the use of participation method in the upstream sector of oil industry, but that the concession model is the only model contradicting the notion of public ownership of oil resources.

Keywords: Public Ownership, Oil Resources, Anfal, Petroleum Contracts.

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The Impact of Reinstatement of US Secondary Sanctions on Iran's Oil and Gas Sector: Opportunities and Challenges

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Abstract

The Reinstatement of US secondary sanctions on May 8, 2018 has led to a new legal environment with regards to the commercial activities and investment in Iran's oil and gas sector. The economic sanctions targets non-US companies and individuals and affects all the players related to the Iranian market on an extra-territorial basis. This article looks to study the opportunities and threats Iran's economy and oil and gas sectors are facing through comparing the economic sanctions imposed during 2010-2013 with the reinstatement of US secondary sanctions against Iran on May 8, 2018. It further provides policy advising on how to prevent and mitigate the negative impact of these reinstated secondary sanctions.

Keywords: US secondary sanctions, the return of economic sanctions, the oil and gas industry, access to the US market, the Sisaawa law, the US National Defense Authorization Act.

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Critical Study of Laws Relating to the Safeguarding of Surface Water and Groundwater

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Abstract

The water crisis in Iran is a reality. The Iranian legislator, with a view to an effective fight against this phenomenon, has passed several laws in this area. Some laws are effective in this regard and compatible with this goal, such as the 1345 Law on the Protection of Groundwater Sources. However, other laws are not only ineffective but also undermine this goal, such as the Law on the Equitable Distribution of Water of 1361. It should be noted that some articles of this law undermine the safeguarding of groundwater. In particular, the penal sanctions provided for by this law are not severe enough and therefore they are not effective. As a consequence of the inefficiency of these sections, the provisions of the Law of 1361 are not respected. For this reason the law of 1361 needs modification and especially the penalties envisaged by this law must be replaced by the more severe provisions.

Keywords: Water crisis, illegal wells, surface water, groundwater, underground aquifers.

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Liquefied Natural Gas Ship Charter Party Agreements and Their Interrelation with Sale Agreements

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Abstract

In contrast to other energy sources Iran's huge gas resources, its access to maritime routes and increasing Europe's and Asia's need for energy, and easy transformability, makes LNG a priority for Iran. Exclusive ships for shipping LNG provide this opportunity for sellers to enter into charter party contract with owner to take advantage of this industry. However, setting charter party obligations and purchase agreements, due to their interrelation, is really important. In this article, the authors in addition to describing exclusive aspects of this kind of ships, study legal components of these agreements and explain overlaps between charter party and purchase agreements.

Keywords: Charter party agreement; Transportation; Liquefied natural gas (LNG); sale agreement.

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Institutional Fragmentation in International Energy Law

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Abstract

International energy law faces the challenge of institutional fragmentation in its progressive development and evolution process. Lack of comprehensive energy organizations, reactive nature of energy law, variety of energy resources and multidimensional nature of energy issues have led to institutional fragmentation. Due to these reasons, several organizations have been established, causing challenges of efficiency and solidarity of international energy law. Because of limited membership, structural design issues and lack or shortage of commitment, there is not required efficiency and unification among international energy organizations. To manage this undesirable effect, the ideal solution is to establish a world energy organization which could be made by modeling from some international organization through construction or modifying. Absent this organization, the realistic solution to reach the solidarity is division of labor based on prioritization of economic organizations on international organizations in this area.

Keywords: International energy law, institutional fragmentation, world energy organization.

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Knowledge Management in Historical Path of Upstream Contracts of Iran's Oil industry

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Abstract

After a century from the extraction of petroleum in Iran, as the owner of big hydrocarbon reserves in the world, the country has not achieved a fully comprehensive and enhancing technical knowledge of oil contract to maximize its economic capacity in extracting from the national hydrocarbon fields. In this study, considering the importance of knowledge management as a necessary factor, we have investigated concessions, production sharing and service oil agreements in Iran from the aspect of knowledge management before and after the Islamic revolution. The results show that contracted oil concessions are far from being knowledge approached and none of the fields of the knowledge management achievement can be found. Both Production sharing and service oil contracts papered the way only for knowledge acquisition without a letter of guarantee. After the Islamic revolution, in spite of knowledge and technology development in recent decades, there is no strategic condition in buy-back oil contracts for the achievement of the knowledge management dimensions. Technology transfer is only limited to undesirable human resource training in the third generation of these contracts.

Keywords: Oil contracts, Upstream, Knowledge management, Technology transfer, Probst Model.

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Breaching the Principle of *pacta sunt servanda* by Virtue of the Principle of Permanent Sovereignty over Natural Resources: Compensation or Indemnity

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Abstract

The rule of *pacta sunt servanda*, as the most fundamental principle governing international treaties, has been limited under the influence of the actions of governments by other principles such as the principle of permanent sovereignty over natural resources. International judicial procedure indicates that if exercising sovereignty in oil contracts through expropriation and nationalization of foreign investor's properties leads to the termination of a contract, the State should provide compensation based on the book value of the seized property or indemnify on the basis of international law, such that if nationalization and expropriation is carried out by a legitimate authority and with observance of public interests and without any discrimination, the necessity of obtaining compensation from the foreign investor will be raised. Otherwise, indemnification based on international law which includes compensation as well as judgment to compensate the loss of benefits from future advantages should be discussed. But it is necessary that the judgment for compensation or indemnification is issued by a legitimate State in a way that in the situation of identification of governance by other followers of international law in compensation or indemnification can be deemed necessary.

Keywords: Pacta saunt servanda, permanent sovereignty over natural resources, Legitimate sovereignty, compensation, indemnification.

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Developing Industry of Oil and Gas Upstream Equipment Production in Iran: Assessment of the Legal Regime within the Framework of the Overall Policy of "Science and Technology"

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Abstract

The oil industry is the most effective and largest industry in Iran and is without a doubt the most important industry of the country in terms of economic, political and national security. However, the country's upstream oil industry manufacturing sector is still remarkably dependent to abroad. There are several reasons to convince us that the production of oil industry equipment's inside the country is consequential, among them, reducing the costs of oil industry, endogenous growth of national economy and expansion of export markets. The research method is based on a conceptual model, working within the framework of science and technology policies, and it endeavors to review the legal system applicable to these industries, keeping note of the severe challenges faced in production of equipment used in the said industry. This study assesses states and their legal system's weaknesses and provides recommendations in support of the country's upstream oil industry equipment.

Keywords: Overall Policy of Science and Technology, Domestic Production of Oil and Gas Upstream Equipment in Iran, Iran Petroleum Contracts, Service Contracts.

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Strategic Alliance and Its Nature in International Trade (with Emphasis on Oil and Gas Industry)

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Abstract

A glance at oil and gas industry indicates that oil and gas companies are gradually moving towards long-term collaborations. Strategic alliance is the main instrument for these broad collaborations. Although the number and importance of strategic alliances in oil and gas industry are continuously increased, but it has not been adapted with the needs of oil and gas industry and consequently this industry has not been able to use its capabilities, at least in Iran. Although it adapts to the needs of oil and gas industry, the nature of strategic alliances is still vague and this question comes to mind that whether strategic alliance is a kind of contract alongside others or is a general structure that involves different kinds of contracts? Certainly with analysis of its nature, we can determine its purpose of convergence and efficiency. According to studies, strategic alliance is a kind of contract that has specific and distinct nature from other contracts.

Keywords: Strategic Alliance, International Trade, Oil and Gas Law, Partnership, Relational Contract.

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