

25 January 2010

**THAILAND-MALAYSIA JOINT AUTHORITY ACT
B.E. 2533**

BHUMIBOL ADULYADEJ REX.;
Given on the 3rd Day of February B.E. 2535;
Being the 47th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on the National Energy Policy Council;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting in the capacity of the National Assembly, as follows:

Section 1. This Act is called the "National Energy Policy Council Act, B.E. 253".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.*

Section 3. All other laws, by-laws and regulations in so far as they have already been provided in this Act or are contrary to or inconsistent with the provisions of this Act shall be replaced by this Act.

Section 4. In this Act:

"energy" means an ability to perform the work inherent in the sources capable of generating powers, which are renewable energy and non-renewable energy, and shall include the sources which may generate powers such as fuel, heat, and electricity;

"renewable energy" includes energy obtained from wood, firewood, paddy husk, bagasse, biomass, hydropower, solar power, geothermal power, wind power, and waves and tides;

"non-renewable energy" includes energy obtained from coal, oil shale, tar sands, crude oil, oil, natural gas and nuclear power;

"fuel" includes coal, oil shale, tar sand, oil, natural gas, fuel gas, synfuel, wood, firewood, paddy husk, bagasse, garbage and other sources as prescribed by the National Energy Policy Council and published in the Government Gazette.

Section 5. There shall be the National Energy Policy Council consisting of the Prime Minister as Chairman, a Deputy Prime Minister designated by the Prime Minister as Vice-Chairman, Deputy Prime Ministers, a Minister Attached to the Office of the Prime Minister designated by the Prime Minister, Minister of Defence, Minister of Finance, Minister of Foreign Affairs, Minister of Agriculture and Cooperatives, Minister of Transport and Communications, Minister of Commerce, Minister of Interior, Minister of Science, Technology and Energy, Minister of Industry, Permanent Secretary for Industry, Secretary-General of the Council of State, Secretary-General of the National Economic and Social Development Board, Director of the Bureau of the Budget and Director-General of the Department of Energy Development and Promotion, as members. The Secretary-General of the National Energy Policy Council shall be member and secretary.

Section 6. The National Energy Policy Council shall have the following powers and duties:

- (1) to submit the National Energy Policy and the National Energy Management and Development Plan to the Council of Ministers;
- (2) to lay down rules and conditions for prescribing the price of energy in accordance with the National Energy Policy and the National Energy Management and Development Plan;
- (3) to monitor, supervise, coordinate, support and expedite the operations of all committees with the powers and duties related to energy, Government agencies, State enterprises and the private sector related to energy in order that their operations shall be in accordance with the National Energy Policy and the National Management and Development Plan;
- (4) to evaluate the results of the implementation of the National Energy Policy and the National Management and Development Plan;
- (5) to perform other functions as entrusted by the Prime Minister or the Council of Ministers.

Section 7. At a meeting of the National Energy Policy Council, the presence of not less than one-half of the total number of members is required to constitute a quorum.

At any meeting, if the Chairman does not attend or is not present, the Vice-Chairman shall preside over the meeting. If the Chairman and the Vice-Chairman do not attend or are not present at the meeting, the members present shall elect one among themselves to preside over the meeting.

Section 8. The decision of the meeting shall be made by a majority of votes. Each member shall have one vote; in case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.

Section 9. The National Energy Policy Council may appoint one or more committees to consider any matter or to carry out any act as entrusted by the National Energy Policy Council.

The committees under paragraph one may appoint one or more sub-committees to consider any matter or to carry out any act as entrusted by the committees.

Section 7 and section 8 shall apply mutatis mutandis to the meetings of the committees under paragraph one and the sub-committees under paragraph two.

Section 10. There shall be established the Office of the National Energy Policy Council having the following powers and duties:

- (1) to study and analyse the National Energy Policy and National Management and Development Plan for submission to the National Energy Policy Council;
- (2) to monitor and evaluate, and to act as a coordinating and support centre for the implementation of the National Energy Policy and the National Management and Development Plan;
- (3) to collect data, to monitor the changing situation of energy, to analyse the trend and evaluate the anticipatory impact for the purpose of preparing the proposals in respect of the National Energy Policy and the National Management and Development Plan, and to disseminate, statistics related to energy;
- (4) to perform other functions as entrusted by the Prime Minister or the National Energy Policy Council.

Section 11. In the performance of the functions of the Office of the National Energy Policy Council under section 10, the Office of the National Energy Policy Council may request a Ministry, Sub-Ministry, Department, local administration, State enterprise or any person to submit particulars on technical, financial or statistical matters and other matters as necessary in relation to the National Energy Policy and the National Management and Development Plan.

Section 12. The National Energy Policy Council or the Office of the National Energy Policy Council may invite any person to give statements of fact or explanations, opinions or recommendations as it thinks fit.

Section 13. There shall be Secretary-General of the National Energy Policy Council with the powers and duties to generally supervise the performance of official affairs of the Office of the National Energy Policy Council. He shall be responsible directly to the Prime Minister and shall be the superior official of the Office of the National Energy Policy.

There shall be Deputy Secretary-General of the National Energy Policy Council and there may be Assistant Secretary-General of the National Energy Policy Council to assist the Secretary-General in the performance of official duties.

The Secretary-General of the National Energy Policy Council, Deputy Secretary-General of the National Energy Policy Council and Assistant Secretary-General of the National Energy Policy Council shall be ordinary government officials.

Section 14. The Prime Minister shall have charge and control of the execution of this Act.

Countersigned by:
Anand Panyarachun
Prime Minister

Certified correct translation
(Pornthip Jala)
Office of the Council of State

PART VII REGULATIONS

Section 18. The Minister, with the approval of the Governments, shall have the power to issue Ministerial Regulations in respect of the following:

- (1) the conduct of or the carrying on of any business or service relating to the exploration and exploitation of the natural resources in the Joint Development Area;
 - (2) the payment of any monies due to the Governments from the Joint Authority under Section 10 and Section 13 (4);
 - (3) the terms and conditions of the appointment of, and the emoluments, travelling and subsistence allowances payable to, the Co-Chairman and other members of the Joint Authority;
 - (4) the procedure for the tender and award of any contract that may be entered into under Section 17, including the terms and conditions that may be included in such contract ;
 - (5) the keeping of proper accounts and other records of the transactions and affairs of the Joint Authority in accordance with generally accepted accounting principles;
 - (6) the preparation of annual statements of accounts and, subject to the provisions of this Act, the allocation of
 - (7) the audit of accounts and its subsequent submission to the Governments;
 - (8) the preparation and submission of the annual budget to the Governments;
 - (9) the rules and procedures for the exploration and exploitation of petroleum in the Joint Development Area; and
 - (10) any other matters for the purposes of carrying into effect the provisions of this Act :
- Provided that in respect of the Ministerial Regulations relating to matters referred to under (1), (4), (5), (6), (7), (8) and (9) above, such regulations may be made after consultations with the Joint Authority.

PART VIII OFFICERS AND JURISDICTION OF COURTS

Section 19. Any member, officer, servant, and agent of the Joint Authority and any competent officer who has been appointed by the minister . under Section 5 shall be the officer-designated under the Criminal Code.

Section 20. Notwithstanding the provisions of any other written law, the Provincial Court of Songkhla, the Civil Court or the Criminal Court shall have jurisdiction to try and adjudicate on any case under this Act or Ministerial Regulations issued thereunder.

For the purpose of the exercise of jurisdiction over any offence committed under this Act or Ministerial Regulations issued under Section 18, the provisions of Section 21 paragraph 2 and Section 21 paragraph 6 (2) and (4) shall apply.

PART IX JURISDICTION

Section 21. Subject to paragraph 2 and paragraph 3, the Kingdom of Thailand shall continue to have and exercise jurisdiction over the joint Development Area.

The civil and criminal jurisdiction of

- (1) The Kingdom of Thailand in the joint Development Area shall extend over the area bounded by straight lines joining the following coordinated points:

- (A) N 6 50.00 E 102 21'.2
- (B) N 7 10.25 E 102 29'.0
- (C) N 7 91.00 E 103 02'.5
- (X) N 7 35.00 E 103 23'.0

(2) Malaysia in the joint Development Area shall extend over the area bounded by straight lines joining the following coordinated points:

- (A) N 6 50'.0 E 102 21'.2
- (X) N 7 35'.0 E 103 23'.0
- (D) N 7 22'.0 E 103 42'.5
- (E) N 7 20'.0 E 103 39'.0
- (F) N 7 03'.0 E 103 06'.0
- (G) N 6 53'.0 E 102 34'.0

The provisions of this Act shall not in any way affect the sovereign rights of the Kingdom of Thailand over the joint Development Area, and any waiver of jurisdiction under this section shall have no force and effect beyond the period of validity of the Agreement.

The consent by the Kingdom of Thailand to the exercise of civil and criminal jurisdiction by Malaysia under (2) of paragraph 2 and to the continued exercise of jurisdiction over matters relating to customs and excise, and taxation in the joint Development Area shall be conditional upon a reciprocal recognition of the Kingdom of Thailand's rights under (1) of paragraph 2.

Any jurisdiction that may be vested in the Kingdom of Thailand or Malaysia under this section in respect of the joint Development Area shall only be over matters and to the extent provided for in any law relating to the continental shelf and as recognised under international law. For the purpose of this section-

- (1) "civil and criminal jurisdiction" shall not include jurisdiction over matters relating to customs and excise, and taxation ;
- (2) criminal jurisdiction over an offence committed on a platform or an installation which straddles the line dividing jurisdiction and constructed for the purposes of exploration and exploitation of the natural resources of the sea-bed and subsoil in the joint Development Area is to be assumed exclusively by the Kingdom of Thailand or Malaysia in accordance with the designation of such platform or installation as Thai or Malaysian;
- (3) the determination of whether a platform or an installation which straddles the line dividing jurisdiction and constructed for the purposes of exploration and exploitation of the natural resources of the sea-bed and subsoil in the joint Development Area is part of the Kingdom of Thailand or Malaysia in relation to any question that falls to be determined in any civil proceedings or for the purpose of the assumption or exercise of civil jurisdiction by the Kingdom of Thailand or Malaysia shall be in accordance with the designation of such platform or installation as Thai or Malaysian ; and
- (4) the designation of a platform or an installation as Thai or Malaysian under (2) and (3) shall be determined according to the principle of most substantial location.

PART X
RIGHTS IN SUPERJACENT WATERS

Section 22. The provisions of the Water Resources Act shall neither regulate any rights, Rights or liberties and privileges, including those relating to fishing, nor affect any claims thereof, that the Kingdom of Thailand or Malaysia may have over the superjacent waters of the joint Development Area by virtue of Article IV of the Memorandum of Understanding, 1979 (B.E. 2522).

PART XI
OFFENCES AND PENALTY

Section 23. Subject to Section 25, any person, including a director or officer of a body corporate, who violates Section 17 paragraph 1, shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand Baht or to both; and, in the case of a continuing offence, shall be liable to a further fine not exceeding ten thousand Baht per day or part of a day during which the offence continues after the first day of pronouncement of the judgement; and any machinery, tools, plants, buildings and other properties or things used or intended to be used in the commission of the offence shall be forfeited.

Section 24. Subject to Sections 23 and 25, any person, including a director or officer of a body corporate, who violates any provision of this Act or Ministerial Regulation issued under Section 18 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred thousand Baht or to both; and, in the case of a continuing offence, shall be liable to a further fine not exceeding two thousand Baht per day or part of a day during which the offence continues after the first day of pronouncement of the judgement.

Section 25. Where a person convicted in respect of any offence referred to under Section 23 or 24 is a body corporate, it shall only be liable to the imposition of any fine provided therein.

Section 26. Where a person charged with an offence under this Act or any Ministerial Regulation issued under Section 18 is a body corporate every person who, at the time of the commission of the offence, is a director or officer of the body corporate may be charged jointly in the same proceedings with the body corporate, and where the body corporate is convicted of the offence charged, every such director or officer shall be deemed to be guilty of that offence unless he can prove that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

Section 27. If an agent of a person commits the offences under this Act or any Ministerial Regulation issued under Section 18, that person shall also be deemed to be liable to the same penalty as his agent, unless he can prove that he has taken reasonable precautions to prevent the doing or omission of the thing.