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**IMPROVING MALAYSIAN PETROLEUM INCOME TAX ACT:
INTERPRETATION OF CHARGEABLE PERSON AMONG OIL
AND GAS INDUSTRY PLAYERS**



By

WAN RAMIZA BINTI WAN GHAZALI

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In Fulfilment of the Requirement for Doctor of Management**



OTHMAN YEOP ABDULLAH GRADUATE SCHOOL OF BUSINESS
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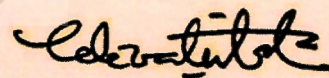
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ABSTRACT

The Petroleum Income Tax Act of 1967 (PITA) governs the taxation of joint ventures and implements the ring-fencing concept for upstream activities taxation in Malaysia's oil and gas sector. However, robust interpretative frameworks are essential to prevent revenue leakage and protect the government's tax base. This study examines the interpretation of chargeable person (CP) among oil and gas industry taxpayers within the context of Malaysia Petroleum Income Tax Act of 1967 (PITA), focusing on joint ventures (JV) status. Using action research methodology, this study engaged 18 participants involved with oil and gas industry who are IRBM auditors, taxpayers and policymakers through focus group discussions. The research was conducted in two systematic cycles. The first cycle encompassed planning, observation, action, and reflection, addressing critical issues identified in the preliminary study: ring-fencing, selling price determination, and cost allocation. These issues were analyzed and presented to the focus group for comprehensive discussion until theoretical saturation was reached. The second cycle developed an interpretative model based on the focus group findings. The intervention results confirm that JVs qualify as CPs under PITA despite their status as unincorporated partnerships. This interpretation stems from the binding nature of memoranda of understanding between parties, which provides legal standing for dispute resolution through court proceedings. The findings provide a detailed framework for interpreting CP status, strengthening tax compliance and protecting government revenue. While participants did not recommend PITA amendments, they emphasized the need for comprehensive rulings and guidelines for taxpayers. This research significantly expands upon the public ruling issued in November 2023, providing an analytical framework for interpreting JV status as CP under tax law. The findings contribute to theoretical understanding and practical application of petroleum taxation in Malaysia.

Keywords: Chargeable person, Petroleum income tax, Action research, Joint venture, Ring-fencing.

ABSTRAK

Akta Cukai Pendapatan Petroleum 1967 (PITA) mengawal percukaian usaha sama dan melaksanakan konsep 'ring-fencing' untuk percukaian aktiviti hulu dalam sektor minyak dan gas Malaysia. Walau bagaimanapun, rangka kerja tafsiran yang kukuh adalah penting untuk mencegah kebocoran hasil dan melindungi asas cukai kerajaan. Kajian ini mengkaji tafsiran orang dikenakan cukai (CP) dalam kalangan pembayar cukai industri minyak dan gas dalam konteks Akta Cukai Pendapatan Petroleum Malaysia 1967 (PITA), dengan fokus kepada status usaha sama (JV). Menggunakan metodologi penyelidikan tindakan, kajian ini melibatkan 18 peserta dari industri minyak dan gas termasuk wakil LHDN, pembayar cukai, dan pembuat dasar melalui sesi perbincangan kumpulan fokus. Penyelidikan ini dijalankan dalam dua kitaran sistematik. Kitaran pertama merangkumi perancangan, pemerhatian, tindakan, dan refleksi, menangani isu-isu kritikal yang dikenal pasti dalam kajian awal: ring-fencing, penentuan harga jualan, dan peruntukan kos. Isu-isu ini dianalisis dan dibentangkan kepada kumpulan fokus untuk perbincangan menyeluruh sehingga mencapai tahap tepu teori. Kitaran kedua membangunkan model tafsiran berdasarkan penemuan kumpulan fokus. Hasil intervensi mengesahkan bahawa JV layak sebagai CP di bawah PITA, walaupun status mereka sebagai perkongsian tidak diperbadankan. Tafsiran ini berpunca daripada sifat mengikat memorandum persefahaman antara pihak-pihak, yang memberikan kedudukan undang-undang untuk penyelesaian pertikaian melalui prosiding mahkamah. Penemuan ini menyediakan satu rangka kerja untuk mentafsir status CP, seterusnya mengukuhkan pematuhan cukai dan melindungi hasil kerajaan. Walaupun peserta tidak mencadangkan pindaan PITA, mereka menekankan keperluan untuk ruling dan garis panduan yang komprehensif untuk pembayar cukai. Penyelidikan ini mengembangkan secara signifikan ruling awam yang dikeluarkan pada November 2023, menyediakan rangka kerja analitis yang menyeluruh untuk mentafsir status JV sebagai CP di bawah undang-undang cukai. Penemuan ini menyumbang kepada pemahaman teoretikal dan aplikasi praktikal percukaian petroleum di Malaysia.

Kata kunci: Orang dikenakan cukai, Cukai pendapatan petroleum, Penyelidikan tindakan, Usaha sama, Pengasingan aktiviti.

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LIST OF ABBREVIATIONS

AR	Action Research
BBP	Brent Based Pricing
CP	Chargeable Person
CPP	Company Petroleum Production (Return Form)
CPE	Company Petroleum Exploration (Return Form)
CIK	Specialized Industry Branch
CITA	Income Tax Act 1967 (refers to Corporate Tax)
DGIR	Director General Inland Revenue
E&P	Exploration and Production
GDP	Gross Domestic Product
JA	Additional assessment raised, outcome of audit activity
JDA	Joint Development Area
JV	Joint Venture
JOA	Joint Operating Agreement
IOC	International Oil Company
IRBM	Inland Revenue Board of Malaysia
ITA	Income Tax Act 1967
LBATA	Labuan Business Activity Act 1990
LNG	Liquefied Natural Gas
MITI	Ministry of International Trade and Industry
MTJA	Malaysia Thailand Joint Authority
NOC	National Oil Company
OECD	Organization for Economic Cooperation and Development

O&G	Oil and Gas
PDA	Petroleum Development Act, 1974
Petronas	Petroleum National Berhad
PO	Petroleum Operation
PITA	Petroleum Income Tax Act 1967
PSC	Production Sharing Contract
RSC	Risk Service Contract
SC	Sole Cost
SP	Selling Price



CHAPTER 1

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

In Malaysia, the oil and gas industry is a significant contributor to the nation's economy, and taxation on this sector plays a crucial role in generating government revenue. The primary tax imposed is the Petroleum Income Tax 1967 (PITA), which is levied at a rate of 38% on upstream activities, such as exploration and production of oil and gas. In addition to PITA, companies in the sector are also subject to corporate income tax at a lower rate. PITA is imposed on upstream activity while other activities involving downstream is taxed under the Income Tax Act 1967 (CITA). Malaysia's fiscal regime for oil and gas aims to balance revenue generation for national development while encouraging investment and exploration in the industry. However, there is a different interpretation concerning the provision in PITA that may reduce the country's revenue, and this needs further attention.

The present research stems from a notable concern regarding the inconsistency in interpreting the term *person* to be charged to tax within the framework of the PITA. This study delves into a critical area of investigation directly relevant to PITA, specifically addressing the significant issue of tax gaps resulting from the aforementioned interpretational disparities. The differing interpretations of the chargeable person (CP) within PITA by stakeholders in the Oil and Gas (O&G) industry and the Inland Revenue Board of Malaysia (IRBM) have significant implications for the correct application of tax laws in the petroleum sector. This concern serves as the primary impetus behind the present study, which seeks to rectify

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Appendix A: Percentage of Tax Collection from Upstream Petroleum

Table below shows the revenue for 2020 decreased due to the pandemic, and the lower price of crude oil at USD40 per barrel contributed to the lower taxes received from PITA in 2020. Column 7 delineates the percentage of PITA contribution to direct taxes. It reveals that the percentage of revenue derived from PITA in relation to the total direct taxes fluctuated between 9% and 13% over the years. Notably, in 2022, this percentage decreased to 9.7%. However, the subsequent year, 2023, saw a notable resurgence as the price of crude oil experienced an upturn, resulting in a PITA-derived tax contribution of about 11.9% from direct taxes.

Percentage of PITA To Direct Taxes Collected (RM Million)

Year (1)	PITA (2)	Direct Taxes (Dt) (3)	Tax Revenue (Dt + Indirect Tax (It)) - (4)	Total Govt Revenue (Dt + It + Non-Tax Rev) - (5)	% of Direct Tax To Tax Rev (6)	% of PITA To Direct Tax (7)
2019	18,084	135,068	176,152	261,814	76.7%	13.4%
2020	12,772	112,511	154,398	225,076	72.9%	11.4%
2021	11,570	120,048	161,830	221,023	74.2%	10.3%
2022	12,400	127,334	171,374	234,011	74.3%	9.7%
2023	20,520	173,020	229,020	303,200	75.5%	11.9%

Source: Federal Government Revenue Fiscal Outlook from 2019-2023 (Kerajaan Persekutuan)

The percentage of PITA to direct taxes fluctuated based on the global price, assuming that all other provisions of PITA were adhered to by industry players. The discovered gap from the audit needs to be addressed to ensure that the basic provision is applied correctly.

Appendix B: Particulars of Focus Group

- a. Eighteen participants were involved and divided into three groups. Participants were selected based on their active involvement as MNE players in the industry. They hold the primary and most significant contracts in the O&G sector in Malaysia.
- b. The participants also included IRBM officers who manage upstream activities at both branch and policy levels and representatives from the Ministry of Finance (MOF) who frequently interact with oil and gas industry players.
- c. Discussions with each focus group were carried out within 90 minutes:

Focus Group (FG)	1 st Focus Group	2 nd Focus Group	3 rd Focus Group
Venue	IRBM Nakhoda 2, Level 18, Menara Hasil.	IRBM, Discussion Room, Level, Menara Hasil.	Ministry of Finance, Discussion Room, Level 6, Centre Block.
Date & Time	6 July 2023; 2.15 pm to 3.50 pm	3 August 2023; 9.30 am to 11.40 am	29 August 2023; 10.30 am to 12.30 noon
Participants	Six persons comprise of Directors (2), and Senior Officers (4).	Six persons comprise of General Manager (2), Finance Manager (1), Senior Officers (3).	Six persons comprise of Head of Department & Division (3) and Senior Officers (3)

- d. Participants' experiences in the industry: between 1 and 3 years (3 participants) and more than 5 years (15 participants).
- e. The researcher was the primary instrument used to conduct the interviews. Saturated answers were agreed upon or accepted by most participants.
- f. In each focus group, the questions were not identical. However, they could be repeated to check for common or different answers.

Appendix C: Particulars of Focus Group (2nd Cycle)

- a. Seven participants were involved.
- b. The participants were IRBM officers who manage upstream activities at both branch and policy levels.
- c. Participants - Three persons are the Head of the Department & Division and four Senior Officers.
- d. Date organised: 24 July 2024 @ 9.00 am
- d. Participants' experiences in the industry: More than 5 years.



Appendix D: Competition Act 2010 & Guideline on the Anti-Competitive Agreements

The Competition Act 2010 prohibits anti-competitive agreements and the abuse of a dominant position in the market. The Act has been in force since 1 January 2012

- Competition Act 2010 (Act 712)
- Competition Commission Act 2010 (Act 713)

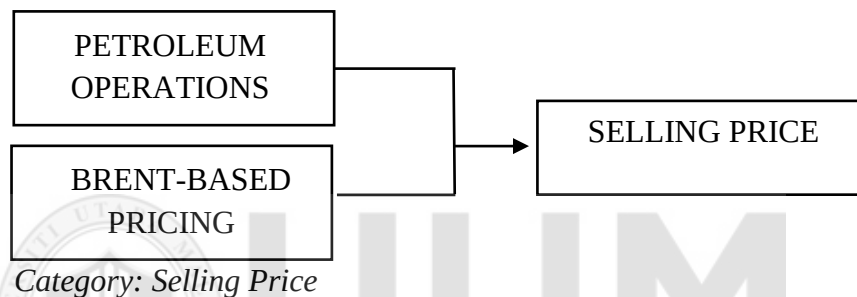
Pursuant to the First Schedule to the CA 2010, commercial activities regulated under the following legislation are excluded:

- Communications and Multimedia Act 1998
- Energy Commission Act 2001
- Petroleum Development Act 1974 and the Petroleum Regulations 1974 in so far as the commercial activities regulated under these regulations are directly in connection with upstream operations comprising the activities of exploring, exploiting, winning and obtaining petroleum whether onshore or offshore of Malaysia; and
- Aviation Commission Act 2015.

Appendix E: Determination of Selling Price in Connection with CP

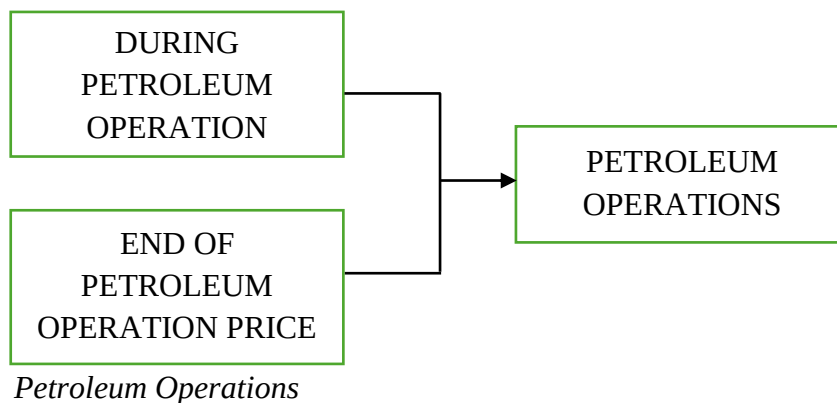
(A) Selling Price

The synthesis of selling price as a category in identifying the CP integrates from data patterns related to petroleum operations and brent-based pricing. This combined framework helps us understand the concept of selling price. The convergence of these codes shows that a joint venture acting as a CP can have an applicable selling price based on the market value to determine the gross income.



(a) Petroleum Operations

The data for During Petroleum Operations and End of Petroleum Operations together enhance our understanding of Petroleum Operations. The shift from individualised projects with increased risks after operations to collaborative efforts with shared costs during production end reflects the industry's dynamic nature.



Determination of Selling Price in Connection with CP (Continued)

(i) *During petroleum operations*

Data cover various activities, challenges, and considerations during the petroleum operation phase. These data include terms such as technology, highlighting elements crucial to producing gross income in the petroleum industry. Costs, both wholly and exclusively incurred, are a central theme, emphasising the complex financial landscape of petroleum operations. Activities during petroleum operations include exploration, mining, production, and significant contributions from partners. Sometimes, despite considerable effort and money, nothing is discovered. Although not part of petroleum operations, marketing activities are mentioned as occurring during this phase. Below is the list of data surrounding the 'During Petroleum Operations'.

Dataset 1: During Petroleum Operations

Cost claimed. Technology wholly and exclusively incurred in the production of income. Cost of research Large capital contribution Expanded block. Exploration cost Mining Cost 'Don't find anything'. Marketing Recoverable cost v non-recoverable cost.
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Eleven data contributed to the subcategory of 'During Petroleum Operations', as shown in *Dataset 1*. The discussion highlights that the sales process may start before the crude is lifted (referring to Marketing in Dataset 1). In pre-lifting preparations, operators meet in advance to identify sellers and plan the sales process. Sometimes,

Determination Of Selling Price in Connection with CP (Continued)

operators can designate their buyer before lifting the crude to determine vessel sizes and destinations. Some operators have their own marketing arms, while others use local entities for marketing. Below are the responses related to this issue.

Respondent 5 (R5) noted, “Actually, there is a process before the lifting occurs. This means that one or two months before the lifting, the operator who wants to sell will be called. There will be a meeting, and they will already know who is going to do the lifting”. R5 highlighted pre-lifting preparations, where operators discuss and plan in advance.

R5 further added, “It’s just that in Malaysia, during the discussion before the lifting, there will be a client. Let’s say they sell to... each operator has its own marketing arm for each client”. This highlights the presence of clients and the involvement of marketing arms in pre-lifting discussions.

Expanding on this, R5 explained, “Because they said that during the meeting for the lifting, when they decide who will get the portion for the lifting, it means that the person who gets it has to determine who their buyer is. They also have to determine how large a ship they need to bring”. R5 underscored the importance of meetings in deciding allocations, buyers, and vessel sizes.

Respondent 1 (R1) added a concise yet critical perspective, stating, “Once you are ready to ship out, you have identified your buyer. You are on the ship to deliver”. R1 emphasised that buyers are identified before shipping.

Respondent 3 (R3) offered a perspective on the process culmination, saying that “When you have shipped to the client, it is no longer...” Although incomplete, R3’s response suggests that a certain phase ends once the shipment reaches the client.

Determination Of Selling Price in Connection with CP (Continued)

R3 added, “Once it is on the ship and moving. Once it is moving towards a client...”

R3 hinted at the significance of the vessel’s departure and movement towards the client’s location as a pivotal moment after petroleum operations.

These responses provide valuable insights into the complexities During Petroleum Operations, including preparatory phases, decision-making, buyer identification, and significant milestones. They specifically illuminate the preparatory phases, decision-making procedures, buyer identification, and significant milestones that characterize this stage of petroleum operation. This collective knowledge contributes to a broader context of petroleum operation. It is important to note that the routine activities that occur during petroleum operation primarily involve E&P activities, which were not extensively discussed or emphasized during the focus group. Instead, the focus primarily revolves around issues related to selling, potential customers, and contracts that may occur at this phase. During this phase, each participant represent a different company or entity. Even if they are in one PSC or under the same JV, they will need to find their own buyer.

(ii) End of production operations

Transitioning to the end of petroleum operations, a new set of data offers insights into this phase. Terms like point of sales, sales lifting, sales transaction, and critical phase relate to determining the price or selling price for a joint venture. Below is the list of data used for the subcategory ‘End Petroleum Operations’.

Determination Of Selling Price in Connection with CP (Continued)

Dataset 2: End of Petroleum Operations

Point of sales. Final moments of petroleum operations to the act of refilling at gas station. Sales lifting. Sales transaction. Critical phase.

Five data contributed to the subcategory of ‘End of Petroleum Operations’, as listed in *Dataset 2*. At the end of petroleum operations includes various perspectives and insights from focus group discussions, as a concluding phase within the petroleum industry. Below are the responses obtained from the focus group that provide an in-depth explanation of the end of petroleum operations within the broader category of petroleum operation. They offer comprehensive insights into the complexities, procedural aspects, and regulatory implications associated with the point of sales, emphasising its vital significance within the petroleum industry.

Respondent 6 (R6), Group 3, stated, “If we look at it, in the context of the PSC, the point of sale occurs when the final routine happens. That’s when we will sell everything”. R6 emphasised the link between the point of sale and the final stages of petroleum operations, underlining the significance of sales during this period.

Respondent 5 (R5) added, “.. that is why the price before it is loaded onto the ship is already fixed.” R5 highlighted the importance of fixing prices before the vessel’s departure, underscoring the importance of fixed prices in the context of the POS.

Respondent 3 (R3) agreed, “I agree (with R5) because I think it falls within the scope of PITA.” R3 acknowledged R5’s viewpoint and relate it to PITA regulations in relation to point of sales.

Determination Of Selling Price in Connection with CP (Continued)

R6 further explained, “The last drop, like when we fill up gas at the petrol station. Hmm. That last drop. Aa that's our point of sale, where we get the sales revenue”. R6 likened the final moments of petroleum operations to refilling at a gas station, emphasising the importance of the last minute in the point of sales.

Respondent 1 (R1) sought clarification, “Okay, I want to understand the sales lifting, which means you load the oil onto the ship until the last drop.” R1 asked about the specifics of sales lifting, elucidating the process of elevating oil to the vessel until the final drop.

R5 explained, “So point of sale, where one host meets another host, that is the point of sale”. R5 described the point of sale as the juncture where one terminal meets another, reinforcing the essence of this phase

Respondent 4 (R4) concurred, “I agree with R5 because they know the process in detail. When we talk about the point of sale, as R5 mentioned, once it's done from that host, it means it's finished”. R4 underscored the importance of expertise and knowledge in understanding the intricacies of the point of sales.

Respondent 2 (R2) added, “I agree with R5, actually when the point of sale occurs, it means the sales transaction has taken place there and the risk has occurred from that point. This means when the transaction happens, whoever bears the risk.” R2 emphasised that the point of sales signifies a sales transaction and risk allocation.

R5, in a follow-up statement, emphasised, “Hmmm okay, as long as we don't amend the act, petroleum operations, because it starts there until the point of sale. So the point of sale means for now, that's how it is. Aa last of fledge, right?”

Determination Of Selling Price in Connection with CP (Continued)

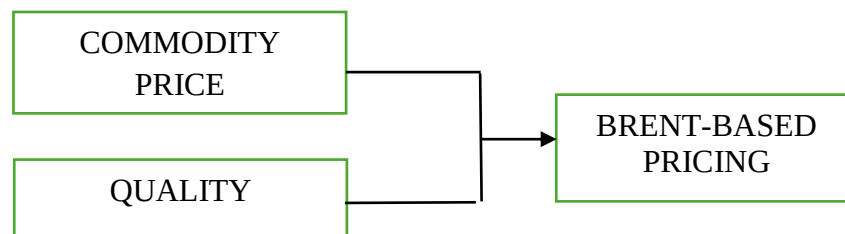
R5 highlighted the regulatory aspect, suggesting that as long as the act remains unchanged, petroleum operations encompass activities from their initiation until the point of sales, constituting the final phase.

R5, in a closing remark, stated, “Because the point of sale is at the lifting, right?” This statement reinforces the proximity of the point of sales to the lifting phase, further anchoring its significance in the petroleum operations context.

In essence, the point of sales represents the concluding phase in the petroleum operation process, just before loading the crude onto the vessel. The focus group consensus is that the price should be determined at the conclusion of the crude loading onto the vessel. Establishing a clear end of petroleum operations is crucial for determining the taxation scope of PITA.

(b) *Brent-based Pricing*

The integration of ‘Quality’ and ‘Commodity Price’ forms the basis for understanding Brent-based Pricing. Quality affects the overall efficiency and reliability of operations, while commodity price influences the economic aspects of pricing structures.



Brent-based Pricing

The above shows the two datasets that contributed to the category known as brent-based pricing.

Determination Of Selling Price in Connection with CP (Continued)

(i) *Commodity price*

The second set of data focuses on the subcategory of ‘Commodity Price’. Key codes include commodity price, reference to brent, negotiation with buyers, geopolitics, and war. These data highlight various factors influencing the commodity price in the oil and gas sector. Below is the list of data used for the category of commodity prices. Nine data contributed to the coding of commodity prices, as listed in Table 5.3.

Table 5.3

Dataset 3: Commodity Price

Commodity Price
Reference to Brent.
What is similar to Brent; Similar to taxing WTI.
Negotiated with buyer and reference to a marker crude.
When the oil price fluctuates - business affected.
Geopolitic - effect of oil price.
War.
Global issue do have effect on the oil price.

In the broader context of ‘Brent-based Pricing’, a significant subdivision concerns commodity price. This category focuses on establishing commodity prices and the factors that shape these pricing structures. The insights from respondents in the focus group contribute to a comprehensive understanding of this subcategory.

Respondent 5 (R5) from FG3 explained, “So actually, we understand that its commodity price has already been fixed. It doesn’t mean its price is based on the current market price.” R5 emphasised that commodity prices are pre-established and not tied to current market prices, highlighting the stability in this pricing approach.

Determination Of Selling Price in Connection with CP (Continued)

Respondent 3 (R3) from FG2 mentioned, “They typically make a reference to Hess, and Brent depending.” This suggests that pricing may involve references to companies like Hess and the Brent crude oil benchmark. R3 further added, “great much in the quality of the oil, what is it similar to Brent, similar to taxes like WTI or so I think they need reference to”. R3 touched upon the relevance of oil quality, likening it to Brent and referencing to WTI (West Texas Intermediate).

Respondent 2 (R2) from FG2 noted, “Is that it’s negotiated with the buyer and it’s in reference to a marker crude. So beyond that we can’t say aa... much details”. R2 indicated that pricing involves negotiation with buyers and is linked to a marker crude, suggesting that specific details may be proprietary or confidential. Building on this, R5 from FG2 expresses the need for assistance, stating, “Yeah, we really need help, especially when the oil price dips very low, we will be disrupted. So that’s where...” R5 highlighted the challenges of pricing during significant declines in oil prices, leading to potential disruptions.

Respondent 3 (R3) from FG2 briefly mentioned, “Oil prices up, down, up, down, you know, just do 6 months.” R3 highlighted the volatile nature of oil prices.

Respondent 2 (R2) from FG1 introduced geopolitical factors, stating, “When the oil prices occur due to geopolitical issues and also what we call government wars, uh... wars... geopolitical wars”. R2 referenced the impact of geopolitical issues on oil prices and alludes to government interventions related to geopolitical concerns.

R2 further elaborated, “Meaning the world issues that lead to control over the oil prices, we cannot fully determine.” R2 emphasised the complex interplay between global issues and oil price control.

Determination Of Selling Price in Connection with CP (Continued)

The responses touched upon the pre-establishment of prices, references to benchmark crude, negotiations with buyers, the impact of oil quality, and the influence of geopolitical factors. These insights contribute to a nuanced understanding of how commodity pricing operates within this context.

Some respondents understood that commodity prices are pre-established and not dependent on prevailing market prices. However, the majority emphasized references to benchmark crudes such as Brent Crude or West Texas Intermediate (WTI), which are the most readily available prices in the public domain. Negotiation with buyers is identified as a factor that may influence the final commodity price, along with various factors in coming up with the agreed price. Furthermore, emphasis was placed on geopolitical factors both within Malaysia and globally, as these factors can significantly impact crude pricing.

(ii) Quality

The set of data focuses on the subcategory of 'Quality', with key data including premium price, premium relates to quality, good and sweet crude, pricing negotiated based on quality, and comparison to Brent with higher quality leading to premium. These data highlight various qualitative aspects that are crucial in determining the overall quality of operations within the oil and gas sector. Below is the list of data used for the coding of quality.

Dataset 4: Quality

Premium price. Premium established before sale. Determination of premium rate can be from average of premiums. Premium relate to the quality of the crude. Premium relate to good, sweet crude. Depending on the quality, price will be negotiated. Compared to brent, maybe higher in quality, lead to premium.
--

Determination Of Selling Price in Connection with CP (Continued)

Identifying the data process reveals a thematic unity under the concept of quality, emphasising the interconnectedness of these qualitative dimensions within the oil and gas industry. Seven data contributed to subcategory of 'Quality', as in table above. This subcategory of Quality explores the intricacies of product pricing. Respondents highlighted the pre-establishment of commodity prices and the influence of crude quality on pricing mechanisms. These insights underscore the multifaceted nature of selling price within petroleum operations and Brent-based pricing, reflecting both regulatory significance and sensitivity to product attributes.

Respondent 5 (R5) from FG3 explained, "He will ask whether there will be a premium on the current price; he will have a little premium. It means before the lifting, he has already set it." R5 emphasized requesting a premium above the market price, set before the lifting phase.

R5 further clarified, "Premium is determined in advance, yes, about a month before, to set the percentage of the premium. They average it out to determine the premium. It's a premium for the discount." R5 elaborated on the advanced determination of the premium, highlighting that it is set a month before based on an average. Additionally, the premium may be set in relation to discounts.

Respondent 3 (R3) from FG2 added, "When it comes to pricing, the quality of oil will have weightage." R3 underscored that pricing is linked to the oil's quality.

R3 further continued, "also you know could be bad, could be good, could be sweet, could be sour, so there's no fixed price, depend on the buyer you know depending the quality it was negotiated". R3 emphasized the variability in oil quality, ranging from bad to good and sweet to sour, highlighting that there is no fixed price.

Determination Of Selling Price in Connection with CP (Continued)

Instead, pricing negotiations are contingent on the buyer and are influenced by the specific quality attributes of the oil.

R3 further underscored the pivotal role of oil quality by stating, “I think the great much in the quality of the oil, what is it similar to Brent sometimes the discount, sometimes is the premium...” R3 reinforced the idea that the quality of oil significantly impacts pricing decisions, sometimes resulting in discounts and at other times premiums, with the Brent benchmark being a point of reference.

These responses collectively provide valuable insights into the Quality subcategory within Brent-based Pricing. They underscore the significance of product quality in determining prices, the advance assessment of premiums and discounts, and the variability of pricing influenced by the oil’s specific characteristics. Including focus group identifiers enhances the clarity and coherence of the information provided.

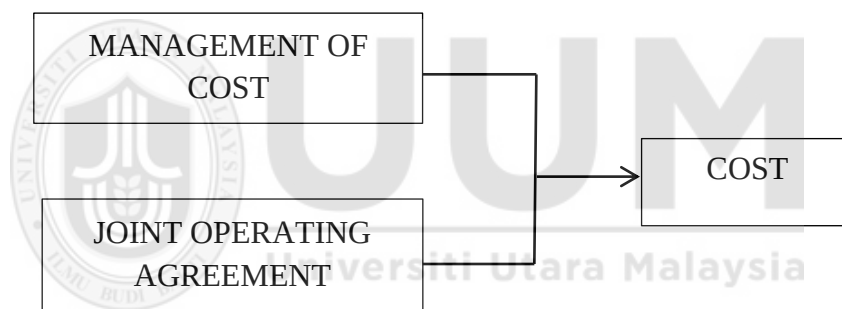
They highlight the pivotal role of product quality in price determination, the proactive assessment of premiums and discounts, and the dynamic nature of pricing influenced by the unique characteristics of the crude. It is emphasized that the price of the crude is established based on a crude marker, with premiums and discounts being contingent on the quality of the crude.

In summary, respondents emphasized that setting uniform selling prices may not be easy to apply as marketing and interaction with buyers occur during petroleum operations. They indicated that while market prices are available, buyers may be willing to purchase crude at different prices during these operations. The respondents recognized that the end of PITA occurs at the point of sale when the crude is uplifted into their vessel.

Appendix F: Determination of Cost In Connection with CP

Cost

In the broad context of cost within PITA, a key subtopic is expenditure. This expenditure is categorised under Management of Cost and JOA. The Management of Cost involves exploring expenses across various operational dimensions, including specific costs outlined in Section 15, exploration and production costs, and recovery costs. These costs are budgeted by individual partners and submitted for audit by Petronas. Sole costs, which are individual costs, must be scrutinised for tax deduction eligibility.



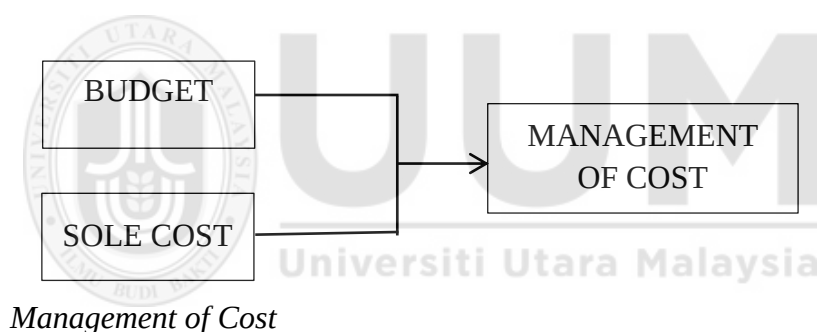
Category: Cost

Within the JOA framework, explicit terms and conditions are outlined. These include considerations such as ‘Sole Projects’, determining whether costs are JV or individual project costs. The JOA also defines the roles of partners within the JV, addressing aspects of risk and responsibility. Additionally, the reporting component involves audits conducted by Petronas to verify submitted expenditures, ensuring compliance and accuracy in financial reporting.

DETERMINATION OF COST IN CONNECTION WITH CP (CONTINUED)

(a) *Management of Cost*

The synthesis of data, specifically under the subcategory of ‘Budget’ and ‘Sole Cost’, forms the foundation for understanding the ‘Management of Cost’ category. The Budget provides an overview of costs within petroleum operations, including exploration and production costs, recovery costs, and operating expenditures, as outlined in Section 15. Scrutinising Sole Costs is crucial, as they represent expenses incurred by an individual party or partner that may not align with the overall JV cost. These costs typically exceed the customary expenditure associated with petroleum operations.



Management of Cost

Figure 5.12 shows the category of ‘Management of Cost’, supported by subcategories of ‘Budget’ and ‘Sole Cost’. The responses from the focus group provide invaluable insights into these components of ‘Management of Cost’. ‘Budget’ addresses the criteria in Section 15, highlights the complexities of cost assessment, and underscores the challenges in categorising expenses related to income production, exploration and production costs, and recovery costs in petroleum operations. ‘Sole Costs’ represent expenses incurred by a single entity that may not align with the costs a JV is willing to absorb.

Determination of Cost In Connection with CP (Continued)

(i) Budget

The first set of data focuses on the subcategory of budget with key codes including sufficient budget, Petronas responsibility, assets belonging to Petronas, how many barrel from Petronas, recovery cost, and operating expenditure relates to Section 15. These codes highlight various qualitative aspects crucial for determining the budget in relation to spending within the oil and gas sector. The coding process reveals a thematic unity under the overarching budget concept, emphasising the interconnectedness of these qualitative dimensions within the oil and gas industry.

A robust budget signifies financial readiness for efficient operations. The concept of NOC responsibility underscores NOC accountability for smooth, responsible, and accurately accounted industry conduct. The code assets belonging to NOC explain the ownership structure, even though costs may be incurred by JV or partners. Determining barrels obtained from NOC offers quantitative insights into production based on cost and profit oil. This includes direct cost components such as exploration and production costs, which are part of the recovery cost, alongside operating expenditures eligible for tax claims. Below is the list of data used for the subcategory of 'Budget'.

Dataset 5: Budget

Sufficient budget. NOC responsibility/audit. Assets belong to NOC. How much barrel get from NOC? Provision of Section 15. Wholly and exclusively incur. Exploration and production cost. Cost for expansion of blocks. Joint cost.
--

Determination of Cost In Connection with CP (Continued)

Nine codes contributed to the subcategory of ‘Budget’, as listed in Table 5.5. ‘Budget’ relates to all components of costs necessary for petroleum operations, which are mutually agreed upon by the JV parties. Below are responses from the focus group:

Respondent 4 (R4, FG1) said, “He said that in terms of costs, there was previously an opinion stating that joint costs are allowable costs”.

R4 continued, “What is allowed, for example, if we refer to Section 15, this means that allowable costs are those directly incurred in generating income from petroleum operations. Therefore, if the costs are not related to the PSC being carried out, they are not permitted”.

Respondent 1 (R1, FG1) introduced specific criteria, “Under the provisions of Section 15, the costs must be wholly and exclusively incurred in the production of the gross income”. R1 emphasised the importance of adhering to the criteria in Section 15, which require costs to be wholly and exclusively incurred in income production.

R4 further expressed the complexity of the issue, stating, “For us, it is also quite difficult to determine whether something is part of the production or petroleum operations or not”. R4 acknowledged the difficulty in discerning whether certain expenses are directly related to production or petroleum operations.

Determination of Cost In Connection with CP (Continued)

R4 added, “We want to determine whether research costs can be allowed for petroleum operations”. R4 addressed the potential allowance of research-related costs for petroleum operations.

Respondent 3 (R3) contributed to the understanding of sole cost, “The sole cost indeed comes from their technologies, which they sometimes allocate”. R3 suggested that sole costs often originate from allocated resources and technologies, reflecting the complexity of cost determination. To allocate may not be the actual cost incurred but more of a provision, therefore, agreement by all partners is needed.

R1 revisited the criteria, stating, “The cost it incurred. But it’s not wholly exclusively in the production of that block of income”. R1 implied that certain costs may not meet the exclusive production criterion if they relate to other blocks in different PSCs.

R1 added, “Yeah. We still have to address that, Madam, because a large amount of money was incurred for that. We can't deny it either, as it clearly shows in the documents that he spent on that block”. R1 acknowledged the financial implications and the need to address substantial expenditures even if they do not align perfectly with the exclusive production criterion.

Determination of Cost In Connection with CP (Continued)

Respondent 5 (R5, FG2) emphasised the need for clear statements, stating, “He needs to state it clearly. Otherwise, there could be misunderstandings regarding additional costs, such as exploration expenses. We handle those as partners, and they are part of mining costs”.

R5 highlighted the importance of clear communication in specifying costs, particularly in the context of exploration.

Respondent 2 (R2) clarified, “Next, I'll clarify the purpose of each one with slight differences. The term 'cost oil' has been mentioned a few times. My understanding of cost oil is the amount of barrels I will receive from Petronas, correct? Naturally, Petronas wants to audit this. Our co-venturers also conduct audits because they contribute to their share of it”.

R5 further explained, “Since we don't conduct exploration ourselves, we rely on external efforts. If exploration doesn't yield results, it's not necessarily a loss (laughed). Moreover, if there's a significant potential expense that isn't part of their key performance indicators (KPIs) and they have their own costs, Petronas audits our costs per barrel. Therefore, it's crucial to manage costs effectively while maintaining quality”.

Determination of Cost In Connection with CP (Continued)

Submitting work programs and budgets to Petronas for approval is crucial in verifying the alignment of costs with essential oil exploration and production activities. For individual tax submissions, it is necessary to verify if such costs qualify under Section 15 guidelines.

The data under 'Budget' represent costs incurred by the JV in income production, verified by Petronas. However, meticulously scrutinising costs under 'Sole Cost' is essential to ensure compliance with Section 15 requirements. For example, though necessary for crude oil sales, marketing costs may not directly pertain to petroleum operations and require careful examination. Additionally, potential overlaps in costs, where expenses from one PSC are claimed under another PSC due to shared partners, introduce complexities. These overlapping costs may include indirect components eligible for claim but not allowable for tax purposes.

(ii) Sole cost

The data set focuses on 'Sole Cost', with key codes, including the cost of technology, cost not wholly and exclusively in the production of a block, non-recoverable cost, marketing cost, additional security offshore cost, and operator and non-operator own cost. These data set highlights various qualitative aspects crucial for determining sole cost in relation to expenditure within the oil and gas sector.

Determination of Cost In Connection with CP (Continued)

The processing of identifying data reveals a thematic coherence within the oil and gas industry, emphasising the interconnected nature of these qualitative dimensions, focusing on 'Sole Cost'. The data under budget represent costs incurred by the JV in income production, verified by NOC. However, meticulously scrutinising the expenses under 'Sole Cost' is essential to ensure compliance with Section 15 requirements. For instance, though necessary for crude oil sales, marketing costs may not directly relate to petroleum operations and require careful examination. Additionally, potential overlap in costs, where expenses from one PSC are claimed under another PSC due to shared partners, introduces complexities. These overlapping costs may include indirect components eligible for claim but not allowable for tax purposes. Below is the list of data used for the subcategory of 'Sole Cost'.

Dataset 6: Sole Cost

Cost of technology Cost may not wholly exclusively in the production of the other block income Non-recoverable cost Marketing for own crude additional security offshore Own cost Non-operator own cost.
--

Seven data above contributed to the 'Sole Cost' subcategory, as listed in Dataset 6. Sole cost refers to expenses incurred solely by one party or entity within a JV or collaborative project. In oil and gas exploration and production, sole costs are those incurred by a specific participant (such as an operator or partner) and are not shared among all parties involved in the JV. equipment, personnel, operations, or others.

Determination of Cost In Connection with CP (Continued)

These costs may include expenses related to activities directly attributable to the individual entity's participation in the project. Below are the responses from the focus group.

Respondent 4 (R4, FG1) said, "There is an opinion stating that sole costs cannot be allowed during the operation period, but using an accepted interpretation, accepted by the committee, it says that costs claimed by partners in the Petronas agreement can be allowed if they comply with statutory provisions, for example, Section 15".

Respondent 1 (R1, FG1) said, "We will now turn to the provisions of Section 15, as Madam mentioned earlier. The issue of joint costs versus sole costs has already been resolved, where we agreed that sole costs incurred by the company, not joint costs, can be allowed under Section 15, provided they meet the conditions outlined in Section 15, namely, they must be wholly and exclusively incurred in the production of gross income".

Respondent 3 (R3, FG1) added, "But I want to add a bit that we need to go back to the industry a bit like R1 mentioned earlier. We use their technology so we need to understand the industry's conditions. So those sole costs indeed come from their technologies that they sometimes allocate. Sole costs can be costs related to technology allocated from their group".

Determination of Cost In Connection with CP (Continued)

Respondent 5 (R5, FG1) offered insights into the concept, stating that “If they have other costs, then those will be considered as sole costs”. R5 suggested that any additional costs incurred beyond a certain point may be considered as sole costs, implying a distinct categorization.

Respondent 1 (R1, FG1) said “We found that some of those sole costs, when we look at the audit documents, are indeed wholly and exclusively incurred. We cannot deny that.” Sole cost which fulfil the requirement of Section 15 and is allowable”.

Respondent 2 (R2, FG2) introduced various types of sole costs, stating, “Thank you for your time. Yes, there are two types of sole costs, actually, a few types. Regarding cost oil, it's about how many barrels I'll need to incur my own costs.” R2 exemplified this with the idea of OTR (Other Than Rig) costs incurred for marketing crude oil.

R2 further illustrated, “If my co-venturers are unwilling to pay, but I'm concerned about my team, I'll cover that cost myself. It's okay, but it comes out of my own pocket. Another example of sole cost is the compressor. That's why even non-operating partners incur costs too, which are their own sole costs”.

Determination of Cost In Connection with CP (Continued)

Respondent 6 (R6, FG3) briefly stated, “We call it sole cost because of that, alluding to the terminology of sole cost.” R5 in FG 3 contributed to the discussion, explaining, ‘Hmm, because like in our PSC, that's why in PSC we also have terms recoverable and non-recoverable, right? So it's like over there, only recoverable expenses are allowed to be spent. Non-recoverable expenses are indeed not allowed”.

Respondent 5 (R5, FG3) highlighted the distinction between recoverable and non-recoverable costs within the context of PSCs. R5 further added, “Well, actually, I feel this issue doesn't arise because if they're JV partners, they have a JOA, so within that JOA, it's already specified who will handle exploration”. R5 added that issues related to sole costs may not arise when JV partners have a JOA that specifies exploration responsibilities.

Respondent 4 (R4, FG3) delved into the historical context, stating that “Well, these sole costs initially had arguments between the government and the industry regarding their recognition as different”. R4 highlighted that the concept of sole costs initially sparked debates between the government and the petroleum industry, as it was recognized as distinct.

R4 continued, “When it comes to sole costs, those actually cannot be excluded. What is considered sole costs should indeed be eligible for exclusion.” underscoring the debate over whether costs categorized as sole costs should be excluded or included in certain contexts”.

Determination of Cost In Connection with CP (Continued)

R6 (FG3) mentioned, “In the case of these sole costs, for example export duties, each party wants to export, so they claim it as a sole cost. For CSR marketing expenses, whether paying Shell or others, they allocate it to &CO. They also have CSR Marketing. We call these sole costs because they are not shared expenses; if disputes arise among them over joint costs, Shell or the operator must have previously agreed on them; if not, each must bear their share...”

The discussion highlighted that sole costs must be scrutinised for tax deduction eligibility under Section 15. These costs may include marketing, research and development (R&D), and administrative costs. Submitting work programs and budgets to Petronas for approval verifies that costs align with essential oil exploration and production activities. However, individual expenditures might not always match those approved by Petronas, so it is essential to verify whether such costs qualify under Section 15.

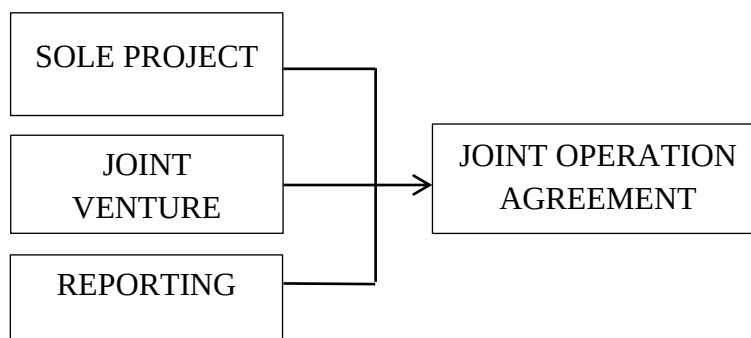
Respondents also relate sole costs to administrative costs incurred by non-operators who contribute cash to the main operator for E&P activities. The PSC differentiates between recoverable and non-recoverable costs, determining their oil barrel. The JOA also specifies how costs will be divided and claimed by partners in the JV, making it easier to recognise allowable costs.

Determination of Cost In Connection with CP (Continued)

(b) Joint Operating Agreement (JOA)

The integration of data, specifically Sole Project, JV, and Reporting forms the foundational framework for understanding the JOA. Within the ‘Sole Project’ dimension, a comprehensive examination of costs within the JV is conducted. The JOA stipulates these costs and require careful consideration to determine their claim ability under the JV. The delineation of partners’ roles within the JV, with the appointed operator representing the JV but all partners being integral to decision-making, emphasises the JV’s collaborative nature and mutually agreed-upon costs. The reporting aspect pertains to the audit conducted by Petronas, which ensures that accurate claims have been submitted.

The category of JOA highlights three primary subcategories: sole project arrangements, joint ventures, and reporting.



Joint Operating Agreement (JOA)

In reference to the governance structure of IOCs, two key agreements are typically involved. Firstly, the PSC entered into by partners, including Petronas, delineates specific rights and obligations. Secondly, the JOA regulates the operations and JV dynamics among operators. Below is the description of the subcategory under JOA.

Determination of Cost In Connection with CP (Continued)

(i) Sole project

The set of data focuses on the ‘Sole Project’, with key codes including specific projects stated in the JOA, big projects, high risks, sole risks, and the KPI of a partner. These data highlight various qualitative aspects crucial for determining the ‘Sole Project’ in relation to expenditure within the O&G sector, specifically a PSC. Below is the list of data used for the subcategory of ‘Sole Project’.

Six data contributed to the ‘Sole Project’ subcategory, as listed in Table 5.7. The processing of data reveals a thematic coherence within the oil and gas industry, particularly highlighting the interconnected nature of these qualitative dimensions, focusing on ‘Sole Project’.

Dataset 7: Sole Project

Project stated in JOA. Big project – Installing. Need to have agreement - between partners . Sole risk project. High risk. May relate to KPI of a partner.

This subcategory encompasses discussions about projects designated as taken up by a minority of participants within the context of PO. The responses from respondents provide insights into this subcategory.

Determination of Cost In Connection with CP (Continued)

Respondent 6 (R6) in FG1 introduced the concept, stating, “Madam, first of all, this will be considered a solely owned project, as already claimed and stated in the JOA.” R6 emphasised that a project is deemed solely owned when explicitly claimed and stated within a JOA. R6 further stated, “When its costs cannot be included in the PSC, the contractor handling this solely owned project must have separate accounting practices. Therefore, the costs cannot be claimed under the PSC because any costs reported in the tax return will go through the operator. The operator controls those accounts. When we review them, we can ask them to show those costs for field purposes”.

R6 emphasised that costs related to sole projects should be discerned by the operator and verified for eligibility as either claimable under the JV or considered sole costs, given that such expenses are associated with projects not involving all partners. R5 explained, “But they also have their own KPI. So that is where you need to come to the agreement because each one has their own...”, suggesting that each company may have its own Key Performance Indicators (KPIs) related to sole projects and costs.

Respondent 2 (R2, FG2) reiterated the notion of Sole Risk Project, stating, “Sole risk project, only for sole risk project... talking about sole risk project is big projects like installing...” indicating that the focus is on substantial projects categorised as sole risk projects.

Determination of Cost In Connection with CP (Continued)

One respondent addressed the term sole project within the context of a JOA, emphasising that the costs associated with the project may be eligible for claimable expenditures under both the JOA and by the JV if the sole project is acceptable to most partners. Respondents emphasised the risk entailed by sole projects, particularly during audits. The scrutiny will predominantly focus on sole costs due to their role in the total claimed, prioritising verification to ascertain whether they indeed pertain solely to a sole project, as mentioned in the JOA.

Normally, costs related to a sole project are highly specific to an individual entity and are linked to the risks borne by that particular entity. Additionally, these costs may also be associated with the KPIs established by each company, justifying the need for the entity to undertake a sole project. A sole project may also relate to a bigger project, such as installation.

Collectively, these responses offer a comprehensive understanding of the subcategory referred to as 'Sole Project' within the broader framework of cost in the context of JOA. They delve into various aspects, including identifying sole projects within JOAs, allocating risk in relation to sole costs, considerations related to audits, the intricate relationship between sole cost and sole risk, and the significance of KPIs in facilitating agreements and decision-making within this context.

Determination of Cost In Connection with CP (Continued)

(ii) *Joint venture*

The data set focuses on the joint venture, including terms and conditions stated in the JOA, functions of operator and non-operator, the obligation of partners to provide cash calls when needed, and the necessity to make decisions even if there are disagreements.

Dataset 8: Joint Venture

Partners' share based on percentage.
Contribution by partners through *cash call*.
Each partner manages their budget.
Operators manage joint cost.
Operators take charged - control accounts and activities / taking significant risks.
JOA allows only one operator.
All partners make decision - agree on technicalities etc.
Agreement needed for action.
Operator struggles for consensus.
Involves intricate cost allocation.
Term *cost oil* emphasized repeatedly.
Collective effort not always necessary.

These data highlight various qualitative aspects crucial for determining the joint venture in relation to expenditure within the oil and gas sector, specifically in a PSC.

Below is the list of data used for the subcategory of joint ventures.

Twelve codes contributed to the coding of Joint Venture, as listed in Dataset 8. This subcategory involves discussions and considerations regarding the allocation of costs among partners in a JOA within the context of petroleum operations. The responses from respondents provide insights into this subcategory.

Determination of Cost In Connection with CP (Continued)

Respondent 5 (R5, FG2): “Ok, so there are actually two agreements that govern us. One agreement is PSC, which involves us as partners with Petronas. Then there’s another agreement, the JOA, that governs the operators as the joint venture.”

Respondent 4 (R4, FG1) discussed the allocation of costs among partners, stating, “So, he divided it among each partner according to their percentage of interest from that 1 million cost,” indicating that costs are divided based on partners’ percentage interests in a JV.

R4 in FG1 also discussed the concept of a chargeable person, stating, “Now, he says that CP refers to the petroleum agreement and also the partner companies within a petroleum agreement”, indicating that the term CP refers to both the petroleum agreement and the partner companies within a petroleum agreement.

R1 in FG1 briefly mentioned the international aspect of business, stating, “Because they are rich businesses. They don’t need to come to Malaysia. They think Malaysia is not a place for them,” suggesting that some international partners may not be inclined to visit Malaysia due to their business stature.

Respondent 5 (R5, FG2) discusses the need for agreement on costs, stating, “So, it’s not that we need to get an agreement to do anything together. So, of course, there is differences. The term ‘cost oil’ was brought up a few times”, highlighting the importance of reaching agreements on costs and the cost of oil.

Determination of Cost In Connection with CP (Continued)

R2 in FG2 discussed the technical aspects of partner agreements, stating, “They give you what we call technical concurrence. So they have to agree to all the technicalities on it before we proceed”.

R2 emphasized the importance of technical agreement among partners before operations proceed.

R4 in FG2 mentioned the responsibility of operators in managing joint costs, stating, “So the operators will need to take charge of the joint cost if all”, highlighting the role of operators in overseeing joint costs within the partnership.

Respondent 6 (R6, FG1) highlighted the role of the operator, stating, “Whatever costs we report in the tax return will go through the operator. So the operator controls those accounts”, emphasising that the operator manages and controls the accounts through which reported costs flow.

Respondent 5 (R5, FG2) discussed the risk associated with the operator, stating, “Petronas, we cannot profit ourselves. That’s the risk the operator takes on significantly,” emphasising that operators take on significant risks in managing operations and costs, particularly in relation to Petronas.

Determination of Cost In Connection with CP (Continued)

Respondent 5 (R5, FG3) mentioned the reference to petroleum agreements, stating, “It’s just that for sole costs, we refer back to the petroleum agreement, right? If the JOA states that there is only one operator, then we allow it”, indicating that sole costs are typically referenced in petroleum agreements, and a JOA allows for a single operator.

These responses provide insights into the subcategory of JV under JOA within the broader context of ‘Cost’. They touch upon the allocation of costs among partners, the importance of auditing sole costs, the concept of a CP, international business considerations, the need for agreements on costs, and the reference to petroleum agreements in cost allocation. Partners’ functions are intrinsic in JV, pertaining to the roles and responsibilities assigned to each partner involved in the agreement. Effective coordination of partners’ functions ensures all partners understand their duties and obligations, contributing to the efficient execution of the project.

(iii) Reporting

The data set focuses on ‘Reporting’, with key codes including KPI, approval of budget by Petronas, and reasons for expenditure. These codes highlight various qualitative aspects crucial for determining reporting in relation to expenditure within the oil and gas sector. Below is the list of data used for the subcategory of ‘Reporting’.

Dataset 9: Reporting

KPI. Deadline. Submission to Petronas. Audit. Evaluation of expenditure.
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Determination of Cost In Connection with CP (Continued)

Five codes contributed to the subcategory of Reporting, as listed in Dataset 9. Below are the respondents providing insights into this subcategory.

Respondent 5 (R5, FG2) discussed the role of Key Performance Indicators (KPIs) and reporting, stating, “They have their KPIs and their own costs, and Petronas checks to ensure the documents, the PBB, are submitted on the first of September, as we started.” R5 highlighted the significance of KPIs, cost reporting, and Petronas’ oversight in ensuring the timely submission of documents.

R5 continued, “No actually like. I start in March. I start the process in March together that by next week on Tuesday when we sit down they all going to agree. I cannot afford on Tuesday, anybody not to agree, I cannot meet my first September deadline. I don’t meet first September deadline my whole budget is gone”. R5 underscored the importance of aligning partners and stakeholders to meet reporting deadlines crucial to budget planning.

Respondent 2 (R2, FG2) discusses Petronas’ role in reporting, stating, “Okay, anything to do with Petronas has to report.” R2 emphasises that Petronas plays a key role in reporting and oversight.

R2 further explained, “Our operator actually highlighted where each individual operators has a sole cost. to get from Petronas. Right? So of course Petronas wants to audit that. Our audits from our co ventures because they are pay for their share of it”.

Determination of Cost In Connection with CP (Continued)

R2 highlighted the auditing process and the importance of ensuring that costs are properly accounted for and audited by both Petronas and co-ventures.

R5 in FG2 discussed the process of evaluating the need for expenditures, stating, “Sometimes... Say I want to build this compressor, okay? They actually check if you actually need that”.

Respondent 4 (R4, FG2) briefly mentioned the reporting of revenue and sole costs by non-operators, stating, “Ventures still have their revenue to report, their sole cost to report. See, it’s only an administrative process”.

These responses collectively provide insights into the subcategory of ‘Reporting’ within the broader context of JOA. They touch upon the importance of meeting reporting deadlines, Petronas’ role in reporting and oversight, the auditing process, and the evaluation of expenditure necessity.

Respondents mentioned the KPI and deadline in reporting to Petronas on their incurred expenditures. Agreement between partners is important to ensure the smooth submission of reports, affecting their budget for the activity. The costs incurred, including the sole cost, will be audited by Petronas to ensure the accuracy of allowable costs in terms of value and type of expenditure.

Determination of Cost In Connection with CP (Continued)

Respondents also mentions that non-operators have their revenue and sole costs to report. These responses collectively emphasise the importance of meeting reporting deadlines, Petronas' role in reporting and oversight, the auditing process, and the evaluation of expenditure necessity.

The JOA framework, which revolves around expenditure, delves into the examination of expenses accrued across diverse operational facets, with a specific emphasis on petroleum production. The JOA's mention of sole project, joint venture, and reporting confirms the cost incurred by a JV and verified either by partners or Petronas. Discussions underscore the importance of transparency and accurate accounting practices to maintain the financial integrity of the JV. In simpler terms, it is about making sure everyone involved knows what expenses are allowed and keeping accurate records.

In summary, respondents noted that costs, especially in joint ventures, are governed by the Joint Operating Agreement (JOA) and monitored by the National Oil Company (NOC). However, respondents stressed that allowable costs under Section 15 should be considered.

Appendix G: The Issues Discussed During The Preliminary Study

- a. Reasons for ring-fencing PITA from CITA.
- b. The compiled information encompasses the justification for preserving the independent status of the PITA and elucidates the factors that contribute to its exclusion from the CITA within the framework of the ring-fencing concept.
- c. Definition of CP in Section 2.
- d. Procedures in reporting gross income.
- e. The issue related to the procedural aspects of sales stipulates that such transactions should ideally transpire at market value.
- f. The delineation of allowable and non-allowable deductions pertaining to expenditures and outlays incurred in connection with the generation of gross income is a focal point of analysis.
- g. The importance of the industry to the government was highlighted, as well as the potential tax gap that might be encountered from the differences in application.

Appendix H: Questions Supporting the Interpretation of CP

- a. The diagnostic process presented the perspectives of both parties, accompanied by a critical examination of their respective supporting rationale.
- b. The literature review findings.
- c. Frequencies and the term CP employed in PITA were scrutinised.
- d. A comparative assessment was conducted to delineate disparities in the utilisation of the term CP used in PITA and the concerning individuals and partnerships subject to tax in CITA. This comparative analysis sought to illuminate variances in the conceptualisation and application of CP within the legal frameworks governing these two contexts.
- e. The diagnostic phase encompassed the examination of pertinent content within the government's guidelines, as articulated by Petronas and other relevant contractual agreements. This multifaceted approach was to elucidate and corroborate the meaning of CP, drawing upon diverse sources to enhance the robustness and comprehensiveness of the diagnostic process.