SOME ISSUES OF THE CONTRACTUAL REGULATION OF HYDROCARBON DEPOSIT DEVELOPMENT RELATIONS

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This article examines peculiarities of the contractual regulation of transborder carbon deposit development relations. Unitization agreements between subsoil users have become the most widespread. International unitization agreements acquire particular significance. The most efficient exploitation of a field that crosses the border between states requires close cooperation between such states and the contractors or license holders operating in the corresponding field. The main goal of a unitization agreement is that if a field is developed jointly by several subsoil users, the latter, although acting on their own behalf, will do good and facilitate the activities of other parties to the agreement for the purposes of the most efficient exploitation of the field. The author studies varieties of a unitization agreement, gives examples from the law enforcement practice.

Keywords: *energy law, contractual regulation, unitization agreements.*

Domestic subsoil laws of many states include the provisions on the regulation of transborder hydrocarbon deposits requiring subsoil users to cooperate with each other in the development of deposits as such cooperation has a positive impact on the use and protection of subsoil.

Unitization agreements between subsoil users in the development of transborder hydrocarbon resources have become the most widespread. Synonyms of such agreements are: coordination agreement, joint venture agreement, cooperation agreement or conciliation agreement. It should be noted that the Russian law addresses unitization as a form of cooperation between two or more subsoil users entitled to develop and exploit a single field in the Regulation on the Procedure for Licensing of Subsoil Use [1]. Unitization implies that all transborder field users enter into a single unitization agreement granting certain rights and imposing certain obligations on each party in terms of the joint field development. Not only individual subsoil users, but also states can be parties to a unitization agreement.

Thus, the main goal of a unitization agreement is that if a field is developed jointly by several subsoil users, the latter, although acting on their own behalf, will do good and facilitate the activities of other parties to the agreement for the purposes of the most efficient exploitation of the field.

The following types of agreements can be singled out in this sphere: international unitization agreement referring to an interstate transborder field, where the subjects are

the states whose borders are crossed. In this case, the parties agree on a single fundamental action plan in relation to the use of the transborder field.

Another type of a unitization agreement appears when a field is located in a federal state on the border of two subjects of a federation (for example, if a hydrocarbon field in the Russian Federation is located on the administrative border between the constituent entities).

One more type is a unitization agreement in the transborder field use that is concluded between the direct holders of rights to the transborder field, namely, between subsoil users.

As a general rule, unitization agreements have a certain structure used as a basis, and vary depending on the necessary features in each particular case. States most often develop special model agreements that are used to unite the federal lands with the lands of the constituent entities of the federation.

A unitization agreement is a document that quite extensively and comprehensively regulates:

- territory of the agreement consisting of several sites;
- obligations of the parties, namely the obligation to develop the deposit based on a single project and a common approved cost estimate;
- shares in the unitization agreement and the share revaluation procedure;
- procedure for assessing and reevaluating of mineral reserves for the distribution of extracted products;
- procedure for the distribution and redistribution of extracted products and costs between subsoil users;
- establishment of a governing body to oversee transactions under the agreement;
- appointment of an operator, his rights and obligations;
- procedure for drawing up and approving of cost estimates and development programs, etc.

All fundamental provisions that are applied within the state in relation to subsoil users need to be clearly regulated at the level of national as well as international laws.

International unitization agreements acquire particular significance. The most efficient exploitation of a field that crosses the border between states requires close cooperation between such states and the contractors or license holders operating in the corresponding field. The main principles of operations in this sphere are the need to establish adequate international standards for the rational subsoil use that will be common for two or more states being the owners of transborder resources; in the exploitation of natural resources shared by two or more states, each state should act on the basis of prior consultations with other states that own the same natural resource object in order to achieve the optimal resource use scheme and inflict no damage on the legal interests of other states. These principles are reflected in the United Nations General Assembly Resolutions 3129 (XXVIII), 1973, December 13 [2]; 3281, (XXIX), 1974, December 12 [3].

The examples of using the above principles are the UK-Norway Frigg Reservoir Agreement [4]; the Australia-Indonesia Timor Gap Treaty [5]. ■

References

1. Resolution of the Supreme Council of the Russian Federation No. 3314-1 of July 15, 1992 On the Procedure for the Enactment of the Regulation on the Procedure for Licensing of Subsoil Use // Bulletin of the Congress of People's Deputies of the Russian Federation and the Supreme Council of the Russian Federation. August 20, 1992. No. 33. Art. 1917.
2. United Nations General Assembly. Resolutions of the 28th session (1973) // United Nations. URL: https://www.un.org/ru/ga/28/docs/28res.shtml
3. United Nations General Assembly. Resolutions of the 29th session (1974) // United Nations. URL: https://www.un.org/ru/ga/29/docs/29res.shtml
4. United Kingdom of Great Britain and Northern Ireland and Norway. No. 16878. URL: https://treaties.un.org/doc/Publication/UNTS/Volume%201098/volume-1098-I-16878-English.pdf.
5. Kaye S. The Timor Gap Treaty / S. Kaye // Natural Resources & Environment. 1999. Vol. 14. Iss. 2. P. 92–94, 143–144.