



## Ministry of Mines and Energy

### Legal Advice

#### ORDINANCE No. 213, DATED ABRIL 23, 2019.

Rules the guidelines for calculating compensation due to Petróleo Brasileiro S.A. - Petrobras for investments made in the Development Areas of Búzios, Atapu, Itapu and Sépia related to the bidding of surplus Transfer of Rights volumes.

**THE MINISTER OF STATE OF MINES AND ENERGY**, under the authority conferred on him by Article 87, sole paragraph, item II of the Constitution, in view of the provisions of Article 10 of Law No. 12351, dated December 22, 2010, of Article 2, paragraph 1 of CNPE Resolution No. 2, dated February 28, 2019, of Article 1 of CNPE Resolution No. 5, dated April 11, 2019, and that contained in Process No. 48380.000197/2018-13, decides:

Article 1. Petróleo Brasileiro S.A. - Petrobras shall receive compensation for investments made in bidding areas up to the date of execution of the Production Sharing Agreement(s), as per Article 1, item II of CNPE Resolution No. 2, dated February 28, 2019.

Paragraph 1. In return for the payment of compensation to Petrobras referred to in the **head paragraph** the new entrant shall own a percentage of the existing assets in the area on the date of execution of the Production Sharing Agreement(s), proportional to its participation in the deposit, pursuant to the Co-participation Agreement(s) to be executed between the assignee of the Transfer of Rights Agreement and the contractor(s) under the Production Sharing regime.

~~§ 2º O valor da compensação à Petrobras prevista no caput será calculado com base em parâmetros de mercado atuais, pelo diferimento da produção do volume contratado em regime de Cessão Onerosa, decorrente da assinatura do(s) Contrato(s) de Partilha de Produção, de forma a maximizar o Valor Presente Líquido - VPL da União e manter o VPL da Petrobras calculado com base na data de assinatura do(s) Contrato(s) de Partilha.~~

Paragraph 2. The amount of the compensation due to Petrobras provided in the **head paragraph** shall be calculated based on current market parameters, by deferred production of the contracted volume under the Transfer of Rights regime, resulting from the execution of the Production Sharing Agreement(s), in order to maximize the Net Present Value - NPV of the Federal Government and preserve the NPV of Petrobras, calculated based on the Effective Date of the Co-Participation Agreement. **(As amended by MME Ordinance No. 251, dated June 13, 2019).**

~~§ 3º Poderão ser recuperados como custo em óleo os valores pagos pelo(s) contratado(s) em~~

~~regime de Partilha de Produção a título da compensação de que trata o caput que corresponderem à sua respectiva participação na jazida.~~

Paragraph 3. The compensation amounts referred to in the **head paragraph** shall be recognized as Cost in Oil on the date of transfer of the ownership of the assets. **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

~~Art. 2º O cálculo da compensação prevista no art. 1º, § 2º, deverá considerar as seguintes premissas:~~

Article 2. The calculation of the compensation provided in Article 1, paragraph 2 shall follow the parameters below: **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

I - oil stream prices, after discounting differences in quality in relation to Brent oil, for the purpose of appreciating the cash flows of the Development Areas of Búzios, Sépia, Atapu and Itapu, in the fixed amount of US\$ 72/bbl (seventy-two US dollars per barrel), in constant currency;

II - natural gas prices, after discounting differences in quality, for the purpose of appreciating the cash flows of the Development Areas of Búzios, Sépia, Atapu and Itapu, in the fixed amount of US\$ 5/MMBTU (five US dollars per million BTU), in constant currency;

~~III - a data de referência para desconto dos fluxos de caixa será a data de assinatura do(s) Contrato(s) de Partilha de Produção;~~

III - the discounted cash flow reference date shall be the Effective Date of the Co-Participation Agreement; **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

IV - the cash flow discount rate shall be 8.99% (eight and ninety-nine hundredths per cent) per year, in constant tax-free currency, monetarily adjusted by the Producer Price Index (PPI), published by the Bureau of Labor Statistics;

V - the costs associated with drilling and well completion, subsea equipment and production platforms shall be considered for cash flow purposes as investments (Capex);

~~VI - os investimentos previstos nos fluxos de caixa deverão considerar as seguintes métricas de custos unitários, em milhões de dólares norte-americanos:~~

<b>Campo</b>	<b>Poços</b>	<b>Equipamentos Submarinos</b>	<b>Plataformas de Produção*</b>
Búzios	185,8	94,9	2.314,0
Sépia	172,1	87,8	2.116,6
Atapu	167,1	76,6	1.687,5

Itapu	176,1	95,1	1.629,1
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\* Valor presente da Plataforma alocado na data de 1º óleo de cada projeto.

VI – the expected cash flow investments shall consider the following metrics of unit costs in US million dollars: **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

Area	Wells	Subsea Equipment	Production Platform
Búzios	185.8	94.9	2,314.0
Sépia	172.1	87.8	2,116.6
Atapu	167.1	76.6	1,687.5
Itapu	176.1	95.1	1,629.1

VII – the expected cash flow operating costs shall consider the following metrics of unit costs:

Area	Fixed Operating Cost (US\$ Million/Year/Platform)	Variable Operating Cost (US\$/boe)	Decommissioning (US\$ Million/Platform)
Búzios	244.0	2.0	696.6
Sépia	214.3	1.9	566.9
Atapu	187.8	1.9	456.6
Itapu	208.3	1.9	401.3

~~VIII – a depreciação dos ativos relacionados aos investimentos mencionados no inciso V não poderá contrariar a legislação brasileira vigente à época da assinatura do(s) Contrato(s) de Partilha de Produção;~~

VIII – the depreciation of assets related to investments mentioned in item V may not go against Brazilian legislation in effect on the Effective Date of the Co-Participation Agreement; **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

IX - for the purpose of calculating taxes on cash flows, a single project view shall be considered, i.e., the results of the project shall be taken into account, respecting the deduction limits provided in applicable laws and regulations, rather than the tax situations of each company; and

X – the following volumes per area shall be considered as contracted under the Transfer of Rights regime:

Area	Atapu	Búzios	Itapu	Sépia
Contracted Volume (MM boe)	550	3150	350	500

~~§ 1º As previsões de produção, número de poços e datas de primeiro óleo de cada projeto serão definidos em comum acordo entre a Petrobras e o(s) contratado(s) em regime de Partilha de Produção, com base em parâmetros atuais de mercado, considerando que:~~

Paragraph 1. The expected production, number of wells and first oil dates of each project shall be defined by agreement between Petrobras and the consortium members in the Production Sharing regime, based on current market parameters, considering that: **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

I - the partial development plan for the deposit is that which would have been implemented if there were no contracting of surplus Transfer of Rights volumes; and

II - the global development plan for the deposit is that which will have been implemented considering also the contracting of surplus Transfer of Rights volumes, based on the production development views and the reservoir model defined in the Co-Participation Agreement(s).

Paragraph 2. The amount of the compensation referred to in Article 1, paragraph 2, relative to each area shall be calculated according to the following formula:

$$V_{\text{compensation}} = NPV_1 - NPV_2$$

where:

$NPV_1$  = prospective net present value of cash flow related to the volume production contracted under the Transfer of Rights regime in each area, without concomitant production of surplus volumes under the Production Sharing regime, in US\$ million, calculated based on the partial development plan for the deposit of each area; and

$VPL_2$  = prospective net present value of cash flow related to the volume production contracted under the Transfer of Rights regime in each area, considering the concomitant production of surplus volumes under the Production Sharing regime and the respective participation of Transfer of Rights in the Agreement, in US\$ million, calculated based on the global development plan for the deposit of each area.

~~§ 3º O valor da compensação ( $V_{\text{compensação}}$ ) será atualizado desde a data de assinatura do Contrato de Partilha da Produção até a data de seu efetivo pagamento à Petrobras. **(Revogado pela Portaria MME nº 251, de 13 de junho de 2019)**~~

~~§ 4º Caso haja tributação para a Petrobras devido ao recebimento da compensação ( $V_{\text{compensação}}$ ), essa será arcada pelo(s) contratado(s) em regime de Partilha de Produção.~~

Paragraph 4. The compensation amount ( $V_{\text{compensation}}$ ) shall be grossed up, i.e., include the tax effects related to Income Tax and Social Contribution caused by the transfer of ownership of assets from Petrobras to the Contractors under the Production Sharing regime. **(As amended by MME Ordinance no. 251, dated June 13, 2019)**

Article 3. This Ordinance takes effect on the date of its publication.

**BENTO ALBUQUERQUE**

This document does not replace the one published and republished in the Federal Official Gazette of April 23, 2019 (Extra Edition A and B) - Section 1.