

# EUCERS Newsletter

Newsletter of the European Centre for Energy and  
Resource Security (EUCERS)

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## Introduction

Dear readers and friends of EUCERS,

It is my great pleasure to welcome you to this edition of the EUCERS newsletter. As always, we present you with two articles concerning the topic of energy security.

In the first article, researchers Fernanda Delgado, Eduardo G. Pereira and Pedro Neves, of Brazil's premier think tank Getulio Vargas Foundation, look into the decommissioning of oil and gas production systems in Brazil.

Within EUCERS' focus on resource security, the second article, written by Angeline Sanzay, a graduate of the College of Europe, analyses the EU single-use plastics directive and the power play behind it.

If you missed the 3<sup>rd</sup> EUCERS-KAS Energy Talk 2019, we invite you to have a look at the presentations by two of our speakers. You can find the links in this newsletter and a comprehensive report of the event will follow shortly.

As always, please feel free to keep us informed about your research projects and findings as we look to remain at the forefront of new knowledge and innovative ideas.

Thank you for your interest in EUCERS and for being part of our community.

Yours faithfully,

**Thomas Fröhlich**

EUCERS Newsletter Editor

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## ARTICLES

### Decommissioning of oil and gas production systems in Brazil

By *Fernanda Delgado, Eduardo G. Pereira and Pedro Neves*

***Given the maturation of some basins and the advanced age of some production facilities, the decommissioning of oil and gas production systems in Brazil has become an important topic. It is useful to observe the decommissioning process in other countries, and to note what practices were implemented in those cases to reduce costs and uncertainties. It is also necessary to understand what regulatory mechanisms already exist in the Brazilian legislation. Finally, the socioeconomic impacts of decommissioning must also be measured qualitatively and quantitatively, as a basis for deciding whether or not to adopt an industrial model for this segment. In Brazil, the decommissioning of oil platforms faces difficulties inherent to an activity that concerns multiple scopes of regulation but does not have many specific norms to guide it. The uncertainties and legal risks involved in the Brazilian regulatory framework make it more difficult for decommissioning initiatives to attract investment.***

Decommissioning in Brazil is oriented largely by ANP<sup>1</sup> Resolution 27/2006, as well as Resolution 46/2016. Resolution 27/2006 sought to regulate the decommissioning process by requiring concessionaires to provide a Facilities Deactivation Programme (FDP) in the event of the production phase coming to an end or the termination of the concession contract. In accordance with the Technical Regulation attached to the FDP, this process may include the entire production system or only a portion of it. Upon decommissioning, it is the concessionaire's responsibility to remove assets that are not subject to reversion or alienation, and to ensure the environmental recovery of the area.

Specifically, regarding maritime installations, Resolution 27/2006 established that these should always be removed from the concession area, unless otherwise specified or by the decision of the Maritime Authority or competent

**Fernanda Delgado** is the head of research into oil, gas and biofuels at FGV Energia, covering subjects such as decommissioning, downstream, electric vehicles and unconventional. She has worked in Brazil and abroad for companies including Deloitte, Vale S.A., Gama Filho University, and Royal Shipping Services.

**Pedro Neves** is a researcher at FGV Energia, focusing on the decommissioning of offshore oil and gas installations. He is also doing a Master's degree at Fluminense Federal University (UFF), studying the decision-making methodologies that affect the environmental impacts of decommissioning.

**Eduardo G Pereira** has been in the oil and gas industry for more than ten years and is an international expert on joint operating agreements. He is a professor of natural resources and energy law as a part-time, adjunct and/or visiting scholar in a number of academic institutions around the world

environmental agency. In addition, the deactivation has to meet the well-abandonment requirements and the specific criteria established by the ANP regarding the material that can be kept on site.

Furthermore, Resolution 46/2016 approved the Operational Safety Regime for Petroleum and Natural Gas Well Integrity, repealing and replacing Ordinance 25/2002. This measure establishes responsibilities for concessionaires regarding the operation of the wells. This includes the abandonment process, where companies must ensure proper sealing and protection of wells to prevent leaks, fractures and similar situations.

It is interesting to note that the concession contracts for oil and gas blocks, organised in rounds by the ANP since 1998, state the actions that should be adopted by the concessionaires for the deactivation and abandonment of blocks, as well as the reversion and removal of property. The contracts state that the deactivation will be regulated by the applicable rules when this process is initiated, and must be guided by the FDP presented to the ANP before the end of the concession. In addition, since 2002, it has been necessary for concessionaires to present some guarantee during the deactivation, such as insurance, a

<sup>1</sup> Brazil's National Petroleum, Natural Gas and Biofuels Agency

letter of credit or a provisioning fund. As for the assets, the contract states the concessionaire's responsibility for their reversion to the Brazilian government when applicable, or removal when unusable.

In Brazil, although decommissioning obligations are clearly imposed on the licensee under the licensing regime, it is difficult to predict the results of such a system. This is because the first licensing round occurred in late 1990s and most operations are still at too early a stage to properly assess the decommissioning risks and costs. Under the Production Sharing Agreement regime, decommissioning is also imposed under the licensee's obligations, but the contracts are still too 'fresh' to be able to gauge the outcome of a decommissioning obligation.

It is difficult, therefore, to analyse the degree of success of the decommissioning regulations in Brazil so far. However, based on international experience, it is positive that the decommissioning costs are required to be secured via provision funds. It is also encouraging to see broader stakeholder debate on all the relevant stages related to decommissioning planning. The Brazilian authorities should consider undertaking wider analyses regarding different international experiences and best practices in the oil and gas industry. They should also make use of the findings from other experiences in order to avoid a painful exercise in the future whenever Brazil's installations require decommissioning.

In addition, it is unclear if Brazil has enough demand to sustain a decommissioning industry in the country. In fact, the demand for decommissioning in Brazil is small and local. Moreover, decommissioning has not yet had a significantly positive socioeconomic impact for the Brazilian population. That is no reason, however, for decommissioning not to be thoroughly addressed by regulators.

Actually, Brazil's entire regulatory framework for decommissioning needs to be updated. Benchmarking international examples has already proved successful in other countries, and in Brazil it could be used as a guideline. Ideas that could be adopted in Brazil include: the obligation for an exploration company to present its decommissioning project for an oilfield as soon as it submits its exploration project; establishing (with clarity and uniformity) the

metrics to be used to assess socioeconomic and environmental impacts; the creation of mechanisms for integration among regulators, making clear the responsibilities and attributions of each one of them; proposing a standard methodology for predicting process costs (both qualitatively and quantitatively); and promoting studies carried out by academic institutions that allow the country to position itself in the international market with updated and innovative practices.

Although the use of examples from other countries such as the United States and the United Kingdom has already improved the legislation and decommissioning plans in Brazil, it is important to remember that each country is different in terms of its infrastructure, socioeconomic impacts and even its geology. Moreover, the US and the UK are already implementing alternatives for the future of installations that will remain offshore. The UK is implementing multiple projects for transforming mature production systems in the North Sea into wind-power plants that can feed newer units or even bring the produced energy onshore to be used elsewhere. This is an intelligent use for old platforms but it is not yet being considered in the Brazilian market.

In summary, demand for the decommissioning of oil and gas production facilities has so far been limited in Brazil, the regulatory framework remains undefined, and there is still no convergence in the decision-making methodology about what should be done. Perhaps most importantly, it is very clear that if a decommissioning industry did develop, a small number of companies would be likely to dominate the market. In order for decommissioning to really get off the ground in Brazil, it will be necessary to think about the process as a whole.

This article was first published in September 2019 edition of the Brazil Business Brief, the publication the Brazilian Chamber of Commerce in the UK, [https://www.brazilianchamber.org.uk/sites/brazilianchamber.org.uk/files/publications/BBB\\_Sept2019\\_WEB.pdf#page=5](https://www.brazilianchamber.org.uk/sites/brazilianchamber.org.uk/files/publications/BBB_Sept2019_WEB.pdf#page=5)

## The Single-Use Plastics Directive proposal: a change in the balance of powers within the European Parliament?

By Angeline Sanzay

***Plastic, since it entered our households and invaded the global market in the 1950s, has been recently pointed out as being the cause of one of the greatest anthropogenic environmental crisis of our time. In reaction to the alarming figures, the European Union (EU) first took the initiative in 2015 to establish a plan of action towards a circular economy, which was followed in May 2018 by a Commission Directive proposal on the reduction of the impact of certain plastic products on the environment. This proposal draws on the EU's international and regional commitments regarding the environment and a strong public support. This Single-Use Plastics (SUP) Directive (2018/0172) particularly targets ten single-use plastic items responsible for a large part of the marine litter issue. These identified plastic items either need to be banned, restricted or redesigned, arousing at the same time concerns from different industrial sectors. On the non-governmental organisations' (NGOs) side, this proposal is a sign of progress but long is the road and some would argue that insufficient are the efforts to put an end to the plastic threat. The EU had to find an appropriate equilibrium between finding sustainable alternatives and the need for harmonisation. The public opinion and media coverage also played an essential role in influencing the final decision, especially as the 2019 Parliamentary elections were approaching. This observation was particularly noticeable as the legislative process, of two years on average, was shorten to less than a year. In this context, the European stakeholders gravitating in the EU's sphere of influence played a leading role, on one side advocating for sustainable and feasible measures, and for ambitious and tangible actions on the other.***

The European Union is a complex lobbying venue. To this day, more than 11,750 entities are listed in the Transparency Register, of which business associations and NGOs represent the greatest share (5,900 and 3,150 respectively). Since 2012, the number of organisations adding their name to the Register continuously increased. Likewise, the number of European Parliament accreditations is continuously on the rise (about 7,000),

Angeline Sanzay is a graduate from the College of Europe in Natolin, specialised in the environmental and energy policy issues at the European level. Her research focuses on the balance of power between environmental non-governmental organisations and business associations within the European Parliament following the Commission Directive proposal on Single-Use Plastics. She studied at the University of Cardiff, followed by a first Master's at the University of Lille.

opening a window of opportunity for the different organisations to represent their interest. Lobbying is a democracy-enhancing tool essential to improve transparent, open and regular dialogues between the European citizens, organisations and the European institutions. However, concerns about potential biases question the legitimacy of interest groups in the EU decision-making process.

For years, the European Parliament was considered as a powerless actor, worthless of lobbying attention. The Treaty of Lisbon turned the situation around as the Parliament became co-legislator by the Council's side and thus more attractive in the eyes of lobbyists, especially as it is one of the most open and accessible institutions of the EU. Yet, it is crucial to remember that access to institutions does not automatically translate into influence. Even though it is a necessary step, it is not essential to nor a guarantee of influence. Accordingly, for the sake of the study, five sources of power were identified to understand and explain the phenomenon of influence, and which are the informative, expertise, financial, perceptual and cooperative sources of power.

On 28th of May 2018, the proposal on the SUP Directive was adopted at first reading by the European Parliament with a substantial majority. In light of the outcomes, it is clear the business and industry associations faced surprisingly unfavourable odds. The latter are traditionally portrayed by scholars as powerful and influential actors since they have access to extensive financial, informative and expertise sources of power. They are more organised and play a more salient role in the national and European economy. Yet, our observations somewhat contradicted these assumptions. Business interests had indeed extensive information, expertise and financial resources, however, they faced

strong opposition from other interest groups, especially environmental associations, but also from the public opinion and the media. Their arguments were also in contradiction with the EU's environmental objectives which explains why it was more tedious than usual to reach Members of the European Parliament (MEPs). Business groups were also internally divided and could not align behind one unified argument as the Directive differentiated and applied different measures to the single-use plastics items targeted. Business and industry associations faced unprecedented hostile circumstances and hence, failed to influence the outcomes of the legislation at the European Parliament. On the contrary, Environmental NGOs (ENGOS) often depicted in the literature as weaker players due to scarce resources were particularly successful to forward their arguments to the decision-makers. Environmental associations are usually perceived as lacking informative and expert sources of power, yet, concerning the SUP Directive, as they worked for years on the issue, they managed to build extensive knowledge on the matter. In addition, they efficiently united under NGO umbrella associations, thus maximising their resources and forming a strong, unified bloc with one clear message. The support from exterior actors also played in their favour. The public opinion, MEPs and other alternative businesses shared similar ideas with ENGOS which reinforced their trustworthy reputation and helped them make inputs in the policy outcomes. Environmental organisations were only experiencing financial and personnel constraints that restrained their actions and initiatives.

From these observations, we can establish that environmental and business interest groups have at their disposal a variety of different pathways to influence the European Parliament. The art of lobbying requires salient sources of power to be able to bargain with the different stakeholders and support their actions. Information, expertise, financing, cooperation and perception by other stakeholders, can greatly vary from one group to another and positively or negatively tip the scale in one side. Every source of power has its importance and can jeopardise one's position or actions. Overall, in the course of the SUP Directive proposal, ENGOS had more sources of power than business groups which lead us to the interpretation that ENGOS have a growing power and influence within the EU framework at the expense of business interest

groups, even though the latter still have greater financial and expert sources of power, at least in the SUP Directive context. The study also highlighted the significant weight exterior factors may have on the overall influence within the European Parliament. In a pre-European election context, the European Parliament was particularly sensitive to public opinion. The issue of marine litter was advocated for years by some parties, and yet it only appeared on the agenda at the end of the mandate. Moreover, the outcomes of the SUP Directive could contribute to their overall legacy and leave a positive image of their assembly, which explains why the process was accelerated.

Nevertheless, the study also revealed how difficult it is to predict and establish a repetitive pattern that can explain interest groups' influence towards the European Parliament to apply to other cases. Variables studied are difficult to measure even when reducing the scope of the study. To conclude, there are many factors that come into play to shape policy outcomes and that may not be restricted to lobbying. Therefore, the final agreements that will be drawn from the SUP Directive might not be the work alone of interest groups. As Maja Kluger Dionigi highlighted in her study *Lobbying in the European Parliament*, "a high potential for influence does not automatically translate into actual political effectiveness."

***The views expressed in this Newsletter are strictly those of the authors and do not necessarily reflect those of the***

***European Centre for Energy and Resource Security  
(EUCERS), its affiliates or King's College London.***

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## ANNOUNCEMENTS

### **Summary: 3<sup>rd</sup> EUCERS-KAS Energy Talk 2019, 23 September**

On 23 September, the third instalment of 2019's EUCERS/KAS Energy Talk Series took place at King's College London. Within this year's theme, "Pathways to Climate Security", the panellists discussed the topic of "Natural gas and 'green gas': Ideal partners for a low-carbon economy?".

The panel explored the potential contributions and drawbacks of natural gas in global efforts to mitigate threats from climate change whilst attempting to maintain economic competitiveness and energy security.

The panel consisted of Prof. Albert Bressand (Energy & International Governance, UCL), Dr. Timm Kehler (Chairman, Zukunft Erdgas e.V.), Mr. Philipp Offenberg (Adviser, European Political Strategy Centre) and the EUCERS Research Director, Frank Umbach. The panel was chaired by the director of EUCERS, Prof. Friedbert Pflüger.

The presentation of Prof. Bressand can be downloaded here [<https://bit.ly/358BnYz>] and Mr. Offenberg's presentation can be downloaded here [<https://bit.ly/2oVUjsX>].

A comprehensive report will be published soon.

## PUBLICATIONS

Umbach, Frank "Rare Earth Minerals Return to the U.S. Security Agenda", Geopolitical Intelligence Service (GIS), 1 August 2019, 9 pp.

(<https://www.gisreportsonline.com/rare-earth-minerals-return-to-the-us-security-agenda,economy,2939.html>).

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