



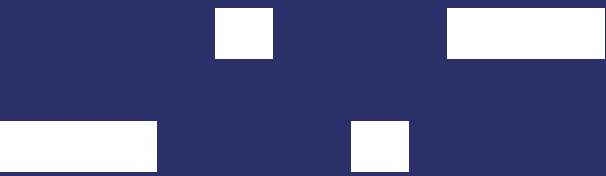
Extractive Industries
Transparency Initiative

Beyond the fine print

Disclosing petroleum contracts to
manage risks and opportunities in
the energy transition

POLICY BRIEF





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Why contract transparency matters for the energy transition

Over the past 15 years, transparency in the energy and extractive sectors has gained increasing attention. This has been driven by pivotal events such as the 2007-09 financial crisis, the 2015 Paris Agreement, global net-zero commitments, and the recent twin shocks of COVID-19 and the ensuing recession. In 2023, COP 28 negotiators agreed to phase out inefficient fossil fuel subsidies and triple renewable energy capacity. The increased scrutiny of fossil fuels further amplifies the demand for a transparent energy transition.

These events underscore the importance of transparency in the allocation and use of financial resources, particularly in the oil and gas sector, given its significant impact on national economies, global energy markets and the environment. As the world transitions to cleaner energy sources, access to clear and reliable information is essential for informed investment decisions, effective fiscal policies, and the adoption of best practices in social obligations, environmental commitments and local benefits.

Contract transparency is also essential for managing risks, optimising benefits and aligning operations with countries' climate goals. By scrutinising contract provisions, stakeholders can better navigate the complexities of the energy transition while safeguarding public interests and promoting sustainable development. Contract publication further reduces the risk profile of projects and is an important measure for companies seeking to meet new environmental, social and governance (ESG) reporting standards.










This policy brief identifies nine key provisions in oil and gas contracts that are critical for risk mitigation during the energy transition, and explains the benefits of disclosing these provisions. Under Requirement 2.4 of the EITI Standard, countries are required to disclose these stipulations when included in contracts, annexes or amendments. This transparency can reduce information asymmetry in contract negotiations, thereby mitigating risks for governments, civil society and the private sector.

Contract transparency is essential for managing risks, optimising benefits and aligning operations with countries' climate goals

Key contract provisions relevant to the energy transition

Transparency in the extractive sector, particularly within the petroleum industry, offers substantial benefits for governments, energy and mining companies and civil society. Disclosing information on the nine provisions outlined below can foster stronger relationships among these stakeholders by addressing three critical aspects of extractive projects: risk, reward and responsibility.

By enhancing transparency, stakeholders can improve risk management, ensuring that projects progress smoothly from planning through construction, operation and ultimately decommissioning, with fewer conflicts or delays. Transparency on issues such as taxation, local content and environmental and climate impacts at the early stages of an operation can facilitate smoother operational activities, reduce the risk of conflict and help create alignment with relevant climate commitments.

	Fiscal regime	Defines how revenues from extractive activities are shared between the state and companies, impacting the transition to a low-carbon economy.
	Stabilisation clauses	Protect investors from changes in laws or regulations, potentially hindering the implementation of energy transition policies.
	Production timeframe	Determines the duration and pace of resource extraction, which may need adjustment to align with net-zero targets.
	Local content and training provisions	Mandate the use of local resources and workforce, potentially offering opportunities to build green skills and support the energy transition.
	Environmental impact provisions	Outline obligations for companies to minimise environmental harm and reduce carbon emissions during operations.
	Decommissioning, restoration and reduction processes	Cover the responsibilities and funding for safely closing projects, restoring sites and managing environmental impacts.
	Clean technology transfer	Require the adoption of best available technologies to reduce emissions and support a sustainable energy transition.
	Dispute resolution procedures	Describe how conflicts are resolved. Not all contracts will provide clarity on the resolution of energy transition and climate-related disputes.
	Force majeure clauses	Excuse contractual obligations during extraordinary events, including climate-related disruptions in some cases.



1. Fiscal regime

The fiscal regime governing a country's extractive sector is crucial for evaluating the impact of net-zero policies on resource production, distribution and commercialisation. It encompasses a set of instruments, laws, regulations, agreements or tools that define how revenues from oil, gas and mining are shared between the state and companies, influencing the country's trajectory towards a low-carbon economy. For instance, incentives and subsidies in the fiscal regime for the petroleum sector can either support or hinder energy transition efforts.

Countries could consider incorporating provisions that incentivise companies and their contractors to adopt clean technologies or implement a renewable energy financial contribution within their operations. Such incentives could be in the form of accelerated cost recovery and/or depreciation, tax breaks, among others, that are linked to the project's fiscal regime. However, these incentives must be carefully designed to avoid distorting the underlying economic principles of the contractual frameworks.

The fiscal regime governing a country's extractive sector is crucial for evaluating the impact of net-zero policies on resource production, distribution and commercialisation

The case for transparent fiscal regimes:

- Citizens can assess how much revenue the country earns from these projects and how incentives impact these earnings.
- Disclosure of contract amendments to the fiscal regime, resulting from energy transition policies, allows stakeholders to evaluate the economic impact of these policies, model future revenues and identify risks for revenue collection.
- Transparency in fiscal matters fosters a balanced relationship among government, companies and citizens by clarifying the distribution of risks and rewards.¹



2. Stabilisation clauses

Stabilisation clauses protect investors from changes in laws or regulations that could negatively affect their investments.² They provide legal and fiscal stability for the agreed-upon terms at the time of contract signing. These clauses are especially prevalent contracts within resource-rich, low- and middle-income countries, where political and regulatory environments may be perceived as unstable.³

Stabilisation mechanisms can take various forms. Some are embedded in national laws, such as foreign investment legislation, while other are directly incorporated into petroleum agreements. Stabilisation clauses might exempt companies from complying with new environmental regulations, or include "economic equilibrium" clauses⁴ requiring the government to compensate companies for losses resulting from legal changes that significantly impact the financial balance of the contract.

However, stabilisation clauses present challenges as they can either offer too little or too much protection. Without specific exclusions, such as those related to environmental protection, these clauses can hinder the implementation of energy transition policies. For instance, Uganda's 2012 stabilisation clause raised concerns in this regard.⁵ Contracts signed after the 2015 Paris Agreement are

expected to impose limits on stabilisation clauses, reflecting global efforts towards a low-carbon economy. However, many contracts have not been updated to align with climate and energy transition policies. For example, Côte d'Ivoire's 2017 petroleum contract still includes broad stabilisation provisions similar to those used before 2015.⁶ To address this, it is crucial that contracts clearly limit the scope of stabilisation clauses, for example by explicitly stating that they do not apply to energy transition policies introduced by the government to meet its Nationally Determined Contributions (NDCs) under the Paris Agreement.

Stabilisation clauses present challenges as they can either offer too little or too much protection

The case for transparent stabilisation clauses:

- Citizens should be aware of any stabilisation clauses that could limit the application of energy transition policies.
- Transparency in disclosing these clauses can help inform the public about the existence of equilibrium clauses, prompting discussions on their economic impact.
- The application of stabilisation clauses can be leveraged to promote fairer distribution of benefits, especially when high prices are high.



3. Production timeframe

Some petroleum contracts lack specific provisions for future production activities, as the volume of planned production often depends on unique parameters of each project. However, certain contracts require that discovered resources be produced in commercial quantities at the maximum efficient rate, adhering to best international oilfield practices.

A potential misalignment exists between production timeframes in contracts and energy transition policies. For example, contracts signed after the 2015 Paris Agreement may not specify the duration of oil and gas production, and these contracts might remain unamended despite the adoption of energy transition policies in some countries. Shortening production periods to meet net-zero targets would impact national revenues and oil companies' returns on investments. While this decision rests with governments, it underscores the importance of fully disclosing contractual terms related to production timeframes. As demand for oil and gas persists, countries should consider using clean technologies such as carbon capture utilisation and storage (CCUS) to reduce emissions. This approach reflects a commitment to repairing environmental impacts.

The case for transparent production timeframes:

- Disclosing the overall production timeframe and any subsequent amendments in petroleum contracts allows citizens to assess whether these contracts align with the country's energy transition policies and net-zero targets.
- Transparency regarding production timeframes and related contracts enables civil society to evaluate the restorative actions taken by companies to mitigate the impact of their activities, including their carbon emissions.



4. Local content and training provisions

In the extractive industries, local content refers to contractual provisions, laws and policies that require the use of the local workforce, services and facilities within the oil, gas and mining sectors.

The energy transition is poised to generate new employment opportunities, often described as the rise of green jobs and the “just transition”.⁷ According to the International Renewable Energy Agency, the transition is expected to create 40 million additional jobs in the energy sector by 2050.⁸ This shift presents an opportunity to build new skills within affected communities and diversify local economies. However, many contracts lack adequate local content provisions that encourage training in green jobs, eco-entrepreneurship, energy transition initiatives and circular economy. Additionally, these contracts often do not specifically address the transfer of technology and training in the renewable energy sector.

Local content provisions and policies could be strategically designed to require companies to invest in training programmes, local initiatives and technologies that enhance climate awareness and support the transition to efficient, sustainable practices across the petroleum sector value chain.

The transition is expected to create 40 million additional jobs in the energy sector by 2050⁸

The case for transparent local content provisions:

- Disclosing local content provisions in contracts enables citizens to understand the extent of a company’s and the industry’s commitment to building skills in communities where they operate.
- Transparency ensures that these commitments include trainings and skills acquisition relevant to the energy transition.
- Disclosures provide crucial information about future job opportunities, ensuring they meet the criteria for “decent jobs” as outlined in UN Sustainable Development Goal 8 (“decent work and economic growth”).



Workers inspecting an oil rig.

PHOTO CREDIT: SHUTTERSTOCK



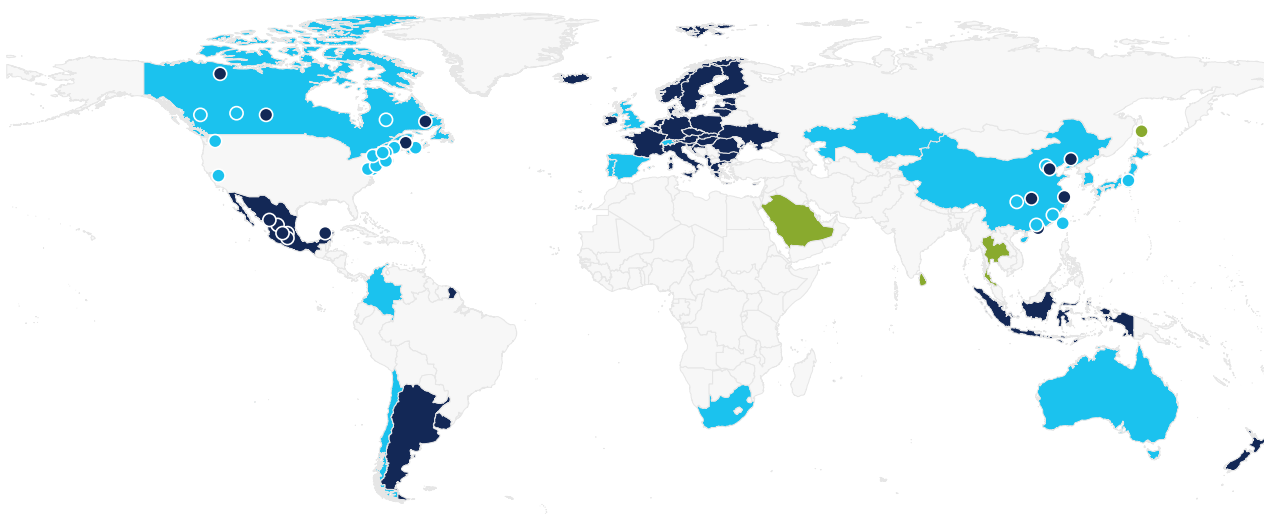
5. Environmental impact provisions

Environmental impact provisions in petroleum contracts specify the obligations of companies to conduct their operations in ways that minimise harm to the environment. These provisions typically include commitments to address incidents related to oil spills, gas flaring, toxic effluent discharge and other environmental risks. However, not all contracts include specific enforcement mechanisms or penalties for issues like gas flaring and oil spills. For example, Nigeria has enacted several laws and policies since 1979 to ban gas flaring, but the effectiveness of these measures is often undermined by gaps in enforcement and transparency, leading to ongoing greenhouse gas (GHG) emissions.

Additionally, many contracts lack specific provisions addressing carbon emissions, carbon pricing, carbon taxes, and the adoption of low-carbon technologies and efficiency standards to mitigate GHG emissions. Where such commitments exist, citizens must be aware to ensure proper monitoring. When these provisions are absent, the disclosure of contracts can spur public debate on the necessity of including them.

Many contracts lack specific provisions addressing carbon emissions, carbon pricing, carbon taxes, and the adoption of low-carbon technologies

Figure 1. Global carbon pricing instruments, 2024



Implemented instruments:

● Compliance
 ● Crediting
 ● Both

This map illustrates jurisdictions that have implemented carbon pricing instruments, including compliance instruments (Emission Trading Systems (ETC) and carbon taxes) and/or domestic carbon crediting mechanisms. Source: World Bank (2023).⁹

The case for transparent environmental impact provisions:

- Citizens should be informed about whether contracts align with broader national commitments to reduce carbon emissions.
- Contract disclosure can encourage public debates and support the inclusion of provisions that strengthen enforcement and transparency, such as regulations on flaring and climate-related disclosures.



PHOTO CREDIT: SHUTTERSTOCK

Gas flaring at an offshore gas platform.



6. Decommissioning, restoration and reduction processes

As an increasing number of extractive projects approach their end phases, effective decommissioning and waste management are becoming critical management issues. Properly restoring sites and minimising environmental impacts are now essential components of project operations. Additionally, unpredictable markets and climate change threats are accelerating the need for decommissioning in many countries.

Contractual provisions related to decommissioning typically cover a range of issues, including the requirement to develop decommissioning plans from the outset, the establishment of decommissioning funds, financial reserve obligations for companies and the commencement of environmental remediation efforts. A crucial aspect that must be addressed is determining who bears the financial responsibility for decommissioning.¹⁰ However, many older contracts lack decommissioning provisions altogether.¹¹ Additionally, some older contracts are transferred from larger oil and gas operators to smaller companies that may not meet decommissioning obligations.

Decommissioning provisions for onshore installations are often included in both petroleum contracts and relevant national petroleum laws, while offshore decommissioning is governed by a combination of international conventions, regional agreements, national laws and host government contracts. These legal instruments typically include provisions for establishing a decommissioning fund, often held in escrow. However, there is frequently a lack of transparency regarding how the entire decommissioning process is managed and administered.

The case for transparent decommissioning and waste management provisions:

- Disclosing contractual stipulations related to decommissioning allows citizens to understand the scope of decommissioning activities and their potential impact on communities.
- Essential components of decommissioning and waste management contracts, such as environmental remediation, decommissioning fees, establishment of decommissioning funds, handover responsibilities, assumption of liabilities, and ongoing relationship management, should be transparent to ensure that all parties benefit throughout the project lifecycle – from planning and construction to operation and eventual decommissioning.
- Citizens should also have access to information about other contractual provisions linked to decommissioning obligations, such as stabilisation clauses, choice of law clauses, arbitration clauses and environmental provisions.

There is frequently a lack of transparency regarding how the entire decommissioning process is managed and administered



An abandoned drilling platform.



7. Clean technology transfer

Provisions for clean technology transfer allow countries to mandate the use of the best available technologies to reduce GHG emissions across the entire value chain of extractive operations. These provisions are designed to ensure that extractive processes and technologies align with net-zero transition objectives and do not contribute to an increase in emissions. For example, remote sensing technologies can enable regulators to better detect, monitor and measure gas venting practices by operators, leading to informed regulatory decisions that effectively prevent both gas flaring and venting. In the era of energy transition and climate change, it is crucial to include clear and specific provisions in petroleum contracts that require companies to use clean, efficient and best available technologies in their operations.¹²

Arbitration clauses may limit the host government's ability to implement energy transition and climate change policies

The case for transparent clean technology transfer provisions:

- Disclosing contracts enables citizens to assess whether companies are committed to using clean technologies, especially in contexts where laws require or incentivise such practices.
- Contract transparency can also spark public discussions about the necessity of including these contractual obligations and the choice of technology used in extractive operations.
- Transparency in this area sheds light on how project developers plan to reduce the overall carbon footprint of their energy business value chains.



8. Dispute resolution procedures

Most petroleum contracts include provisions for international arbitration.¹³ However, these provisions are typically not tailored to address disputes arising from climate and energy transition programmes. Instead, petroleum-related disputes have typically been linked to disagreements by the joint venture partners on the financial viability of the project, particularly obligations to continue investing in the venture following market changes.

When combined with other clauses, such as stabilisation clauses, arbitration clauses may limit the host government's ability to implement energy transition and climate change policies. Experts caution that the cost of facing an arbitration suit may deter some governments from applying new climate regulations to existing projects.¹⁴

To address this, contractual provisions could prioritise expedited national dispute resolution as the first recourse for energy transition and environmental disputes. This approach would allow host countries and relevant stakeholders to resolve disputes within a framework that aligns with the country's energy transition goals and aspirations.¹⁵

The case for transparent dispute resolution procedures:

- Disclosure of dispute resolution procedures could help citizens to understand whether these mechanisms are structured to be expeditious and whether they favour the government or the private sector.
- Transparency of such provisions will also allow citizens to evaluate whether dispute resolution procedures limit the application of national energy transition policies to existing projects due to potential long-term costs or commitments to traditional energy operations, where climate-friendly policies might be constrained.

Force majeure clauses may unintentionally limit a government's ability to implement new regulations aimed at facilitating the energy transition



9. Force majeure clauses

Force majeure clauses excuse a contractual party from its obligations when extraordinary and unforeseen events, such as wars, natural disasters or blockades, prevent performance. Natural disasters triggered by climate change, such as flooding, hurricanes and storms, can significantly disrupt petroleum operations, potentially reducing revenue that would otherwise contribute to the national treasury.

While nearly all petroleum agreements include force majeure clauses, these provisions often do not address how climate-related disruptions should be managed. This lack of clarity can lead to disputes and increased risks, particularly as such events become more frequent due to climate change. Moreover, these clauses may unintentionally limit a government's ability to implement new regulations aimed at facilitating the energy transition and combatting climate change.¹⁶

The invocation of force majeure provisions could reduce and limit the flow of revenue needed to support economic diversification and social development in resource-dependent countries. Given predictions that climate-related disruptions will intensify over the coming decades, it is crucial for citizens to understand the scope of force majeure provisions and their potential impact on the liabilities of the parties involved. Reviewing these provisions would ensure that operators are better prepared to anticipate and limit such disruptions.

The case for transparent force majeure provisions:

- Transparency in force majeure provisions allows citizens to understand how the anticipated increase in extreme weather events due to climate change might lead to more frequent declarations of force majeure by companies. This ensures that affected parties play a central role in decisions that could impact them.
- Disclosure of force majeure provisions enables assessments to be made about the need for proactive steps to mitigate or reduce disruptions caused by climate change¹⁷ or other extreme events.

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