

Chevron worker convicted in corrup

JAKARTA

BY JOE COCHRANE

An Indonesian court convicted a local employee of the U.S. energy giant Chevron of corruption on Wednesday in a case that has prompted government officials to criticize state prosecutors and has escalated uncertainties for foreign investors in the Southeast Asian nation's huge oil and natural gas sector.

In a 2-to-1 decision, a three-judge panel at the Central Jakarta State Anti-corruption Court sentenced Kukuh Kertasafari, 36, an environmental manager for Chevron Pacific Indonesia, to two years in prison for abuse of authority in connection with causing \$9.9 million in losses to the state related to a soil cleanup program dating to 2006 that the company undertook on the island of Sumatra.

Two other Indonesian employees of Chevron Pacific Indonesia were also tried separately by the same court, and the verdicts in those cases are scheduled to be announced Thursday and Friday, respectively.

A fourth Indonesian employee's trial has just begun, and a fifth employee, who was in the United States last year when her colleagues were arrested, remains overseas and would face arrest and prosecution upon return to Indonesia.

The case drew an unusual amount of attention in Indonesia — a nation that increasingly relies on foreign investment and expertise to help harness its natural resources — partly because several Indonesian government agencies, as well as the country's independent Supreme Audit Agency, had gone on record saying that no laws were broken.

Lawyers representing Chevron expressed dismay at the ruling Wednesday.

"The court did not consider the opinion from experts," said Maqdir Ismail, the lead trial lawyer for Chevron Pacific Indonesia, who said the conviction would be appealed. "It's not fair."

Foreign and Indonesian executives of Chevron attending the court hearing Wednesday declined to comment on the verdict, but the company released a statement immediately afterward expressing disappointment.

"No actual evidence of any state loss or any illegal activity by Chevron Pacific Indonesia employees has been presented in court," the statement said. "Our thoughts are with our colleague and his family during this difficult time."

The Indonesian attorney general, Basrief Arief, did not respond to a written request for an interview about the Chevron case, and his spokesman Setia Ari Muladi did not respond to telephone calls seeking comment on the verdict. The three state prosecutors at the courthouse refused to take questions after the verdict.

Chevron's is just one of several high-profile cases recently pursued by Indonesia's top government prosecutors to have raised concerns among foreign investors and drawn criticism from other authorities within the Southeast Asian nation.

On July 8, the anti-corruption court sentenced an Indonesian executive of IM2, a local Internet service provider owned by Indosat, to four years in prison for corruption in the sharing of a broadband frequency. Indosat is one of the country's biggest telecommunications companies and is partly owned by

the government.

Senior Indonesian officials, as well as experts in the energy and telecommunications sectors, have questioned the way state prosecutors have pursued their cases against Chevron and IM2.

In the Chevron case, the National Commission on Human Rights accused prosecutors of professional misconduct and violating the defendants' human rights in a scathing 400-page investigation report submitted in May to President Susilo Bambang Yudhoyono. Among other things, the report detailed how Chevron employees had been arrested last year and held for 62 days without being informed of the charges against them.

One official with the Indonesian Ministry of Energy and Mineral Resources, who asked not to be identified, questioned why one of the defendants, who had joined Chevron Pacific Indonesia only six months before the official investigation began, was being prosecuted for a project from seven years earlier.

At the same time, the criminal prosecution of local Chevron employees has sent a wave of fear through Indonesia's oil and natural gas sector at a time when the country increasingly needs foreign investment and expertise to support this key driver of the economy. Oil and gas account for about 8 percent of the country's gross domestic product and 28 percent of state budget revenue, according to the Indonesia Petroleum Association.

Indonesian oil production has steadily dropped during the past decade from 1.4 million barrels a day in 2000 to less than 900,000, according to the energy ministry. The decrease prompted Indonesia to give up its membership in the Organization of the Petroleum Export-

tion case that has split Indonesia

ing Countries in 2008 after it became a net oil importer. In 2012, Indonesia's reserve replacement ratio for oil was only 52 percent, meaning new discoveries amounted to about half of what it extracted that year.

Indonesia is increasingly reliant on the technical expertise and investment dollars of multinational energy companies for future exploration because most of its untapped oil reserves are in deepwater areas in the eastern part of the archipelago.

Dipnala Tamzil, executive director of the petroleum association, said Indone-

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sia would require an estimated average of \$23 billion a year for capital expenditure and exploration in the oil and gas sector between 2021 and 2025, slightly more than double the current amount.

"There is a need to find more reserves, otherwise production will continue to decline. There's a lot of capital needed, and not many companies can afford it. So criminalization is a very worrying trend," Mr. Tamzil said, referring to the charges brought against Chevron.

The Chevron case centers on a so-called bioremediation program to remove oil contamination from soil at the company's onshore facilities in Riau Province, on Sumatra. Chevron Pacific Indonesia appointed two Indonesian contractors, Green Planet and Sumigita, to do the work.

State prosecutors claim the companies were neither qualified nor had the proper permit to conduct bioremediation activities; and that the cleanup was unnecessary because the area was not sufficiently contaminated.

In May, the anti-corruption court convicted the two directors of Green Planet and Sumigita of corruption and sentenced them to five and six years in prison, respectively.

Mr. Tamzil of the petroleum association said the Chevron employees and contractors had been carrying out a project that was approved by the central government, and the ruling could jeopardize the production sharing contracts that govern the activities of all foreign and local energy companies in Indonesia.

"What's the point of a contract if it can be disregarded by prosecutors?" Mr. Tamzil said. "People are scared because they think that if it can happen to Chevron, it can happen to them too."

During the trials of the three Chevron Pacific Indonesia employees, prosecutors contended that the employees had violated Indonesian corruption laws by causing losses to the state, because the company was entitled to reimbursement from the state for the cleanup as part of its production sharing contract.

Defense lawyers for Chevron Pacific Indonesia rejected the prosecution's claims, saying the company had been reimbursed for its own outlays, so the state could not have lost any money. The defense also contended that the two contractors had not needed permits and said that its own scientific analysis had confirmed without doubt that the soil was sufficiently contaminated to warrant bioremediation.

"If the prosecution has no capability

to understand bioremediation, then something is not quite right with this case," said Renni Suhardi, an associate professor of bioremediation and environmental microbiology at the Bandung Institute of Technology, who was an expert witness for the defense.

Defense lawyers and Chevron also called into question the credibility of the state's expert witness on bioremediation, whose company had failed to win the tender to conduct the soil cleanup project.

The prosecutors had "a clear conflict of interest with their witness," said T. Mulya Lubis, lead defense lawyer for Chevron Pacific Indonesia. "If there was any violating, it should be a civil case that would be dealt with through mediation and arbitration, not criminalization."

Officials from the Indonesian Ministry of Environment and the Special Task Force for Upstream Oil and Gas Business Activities, which regulates exploration and production, testified during the trials that Chevron Pacific Indonesia's staff had not violated any laws.

Reading out the majority opinion in the ruling Wednesday, the head judge, Sudharmawatiningsih, who goes by one name, said, "The crime has been proven, because the defendant's actions caused an unlawful monetary gain through the cost recovery process."

Judge Slamet Subagjo, the sole dissenting member of the panel, said Mr. Kertasafari was not guilty because "any intentional actions or intentions cannot be proven."

"As team leader in the project, the defendant had no intention to work with the contractors with the intent to commit corruption," he said in his opinion.