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Angola

ENERGY – OIL & GAS

Contributing firm

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This country-specific Q&A provides an overview of energy – oil & gas laws and regulations applicable in Angola.

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ANGOLA

ENERGY - OIL & GAS



1. Does your jurisdiction have an established upstream oil and gas industry? What are the current production levels and what are the oil and gas reserve levels?

Angola has an established upstream oil and gas industry with a current production level of 1216 BBL/D/1K in September with a decrease tendency due to the current pandemic conjuncture of COVID-19. Angola has been establishing a limit exceeding 1200 BBL/D/1K during this year of 2020.

The ALNG Plant had a production, including LNG, Butane, Propane and Condensates, of 4 121 270 BOE, corresponding to an aggregate average of 137 376 BOEPD (Barrel of Oil Equivalent Per Day). In the same period, the Cabinda Association had a LPG production in the order of 479 505 barrels, corresponding to a daily average of 15 984 barrels, while the production of oil, condensates and LPG was 37 128 133 BOE, which gives an average of 1,237,604 BOE.

The oil and gas reserve levels are not of public access as Angola (although an exporter of crude oil) depends of the importation of refined petroleum products (notwithstanding the ongoing refinery projects that have been considered throughout the years).

Major international oil exploration and production companies active in Angola are Total with 41% market share (800 bpd), Chevron with 26% market share (510 bpd), Exxon I with 19% market share (375 bpd), and BP with 13% percent market share (252 bpd). Other international players include ENI and Equinor.

Ultra-deep-water projects are being explored by Total in Block 32 and BP's "Pluton, Saturn, Venus and Mars" (PSVM) project in Block 31.

Onshore activities are very limited notably by SOMOIL in Soyo, northern Angola, but operations have been delayed. Onshore blocks in the Kwanza basin were offered in late 2015, but final awards were cancelled, and the blocks have been included in the programme for

new concessions initiated in 2019.

2. How are rights to explore and exploit oil and gas resources granted? Please provide a brief overview of the structure of the regulatory regime for upstream oil and gas. Is the regime the same for both onshore and offshore?

There is no specific differentiation between onshore and offshore exploitation rights, notwithstanding specific technical and operational terms and conditions.

3. What are the key features of the licence/production sharing contract/concession/other pursuant to which oil and gas companies undertake oil and gas exploration and exploitation?

The Petroleum Concession includes the following components:

- exploration period comprising prospecting, drilling, well-test activities and evaluation;
- a period for development and production; and
- the framework for prospection within certain special areas (in which oil is very likely to be found), in order to promote the discovery of oil within previously agreed concessions.

The National Concessionaire (ANPG) has been granted powers to associate/partnership with Angolan or foreign entities interested in performing oil operations, in order to share its technical and financial capacity by way of one of the following legal mechanisms:

- an incorporated joint-venture;
- Consortium Agreement;
- Production Sharing Agreement; and
- Risk Service Agreements.

The most common type of association with the National

Concessionaire is through the Product Sharing Agreements, although there are recent associations between ANPG and oil companies by means of a Risk Services Agreement.

4. Are there any unconventional hydrocarbon resources (such as shale gas) being exploited and is there a separate regulatory regime for unconventional?

Angolan legislation does not set forth specific regulations on unconventional upstream interests.

5. Who are the key regulators for the upstream oil and gas industry?

The Ministry for Mineral Resources and Petroleum (MIREMPET), created in 1978, is the main governmental body in Angola responsible for the petroleum activities, mainly focused on political co-ordination and cooperation with other entities. Its organic statute is provided under Presidential Decree 159/20 of 4 June.

Hydrocarbons resources in Angola are of public domain and all rights and obligations have been granted to the new National Concessionaire, the National Agency for Oil, Gas and Biofuels, in Portuguese “Agência Nacional de Petróleo, Gás e Biocombustíveis” (ANPG), which has replaced the state-owned company “Sociedade Nacional de Combustíveis de Angola” (Sonangol). ANPG holds all the mineral rights related to the petroleum deposits in Angola, which may not be ceded in whole or in part under any circumstances under Angolan constitutional principles.

6. Is the government directly involved in the upstream oil and gas industry? Is there a government-owned oil and gas company?

The government involvement in the upstream oil and gas industry is reflected by the active role of the National Concessionaire, in its capacity of State-owned company. Nevertheless, Sonangol group of entities includes a subsidiary entity engaged in the upstream oil and gas industry as an E&P company, Sonangol P&P (in Portuguese “Pesquisa e Produção”)

7. Are there any special requirements for or restrictions on participation in the upstream oil and gas industry by foreign oil and gas companies?

Angolan petroleum sector is subject to specific regulations in respect of investment law. Exploration and Production companies are expressly carved out from the scope of application of Angolan Investment Law and may have a legal and physical presence in Angola without having to submit and wait for the approval of an investment project or to incorporate a subsidiary subject to Angolan Companies Law. Most E&P companies operating in Angola are represented by representative offices for purposes of having a physical (individual) representative in the territory. The holder of the participating interests in block concessions are typically non-resident entities.

Requirements and restrictions to foreign entities intending to operate in Angola are only applicable to foreign petroleum services providers and suppliers which intend to operate in Angola for a period exceeding one year and intend to have a physical presence in Angolan territory. In such scenario, such foreign entities are subject to the general investment obligation of submitting an investment project in order to obtain tax incentives and be granted investor visas so that foreign individuals may be lawfully in Angolan territory for long periods of time.

Most foreign entities engaged in the provision of services in the petroleum industry start negotiations with local partners for the creation of incorporated joint-venture companies which may qualify as Angolan Companies and therefore be eligible to be awarded services contracts with petroleum companies under the *Angolanization* principles and pre-emptive rights granted to Angolan Companies.

8. What are the key features of the environmental and health and safety regime that applies to upstream oil and gas activities?

Angolan regulations on environment protection for the oil and gas industry are applicable to the National Concessionaire and the E&P Companies through the Operator of the Block concessions and other oil companies, which are required to present a number of updated documents for the execution of Oil Activities in any new facility and/or to change any existing facility, as follows:

- Environmental Impact Assessment;
- Oil Spill Prevention and Response Plans;
- Waste Management, Removal and Deposit Plan;
- Operational Discharges Management Plan; and

- Site Abandonment and Rehabilitation Plan.

Angolan petroleum sector is mainly absorbed by offshore block concessions (although there is an increasingly tendency to open to investment on onshore areas). This is why most relevant requirements and regulations applicable to environment regulations are related to oil spill prevention and response plans.

9. How does the government derive value from oil and gas resources (royalties/production sharing/taxes)? Are there any special tax deductions or incentives offered?

The tax charges applying to E&P Companies are the following:

- Petroleum Production Tax at a 5% rate (not applicable in case of Production Sharing Agreement);
- Petroleum Income Tax at a 25% rate – recently adjusted under Presidential Legislative Decree 7/18 18 May 2018;
- Petroleum Transaction Tax (not applicable in case of Production Sharing Agreement);
- Surface Fee annual amount of USD300 per each km²; and
- Levy for the training of Angolan personnel which may vary between USD 200,000 annually, USD0.15 per barrel and 0.5% of gross annual income, depending on the type of payer entity.

Petroleum Income Tax (PIT) and the contractual obligation of payment of profit oil to the National Concessionaire are the most relevant tax revenues to Angolan authorities and the National Concessionaire.

Presidential Decree No. 6/18, 18 May sets forth a new tax regime for marginal field development- less than 300 million barrels of reserves – or fields not economically viable due to lack of infrastructure by way of a reduction to 10% tax rate while reducing petroleum income tax on marginal fields to 25% tax rate.

10. Are there any restrictions on export, local content obligations or domestic supply obligations?

Angola has recently enacted a new local content regulation through Presidential Decree 271/20, 209 October, aiming to integrate the national companies and workforce in the petroleum sector, as well as to

incorporate national raw materials to reduce importations and increase internal production and supply of goods and services.

The petroleum sector in Angola is strongly connected to “*Angolanization*” principles, notably to services providers and suppliers of goods in terms that (i) there are specific types of services that are exclusively awarded to Angolan companies (incorporated in Angola and held by Angolan nationals in more than 50%) and (ii) Angolan suppliers hold a pre-emptive right in the award of contracts if the aggregate amount of the goods and services do not exceed in 10% the aggregate price provided by international suppliers.

In addition to the existing obligation of submitting to the Ministry of Petroleum an annual Human Resources Development Plan, until 31 of October, and executing a Contract-Programme with Ministry of Petroleum, the new Local Content Regime sets forth that all companies engaged in the Petroleum Sector must develop and implement an annual Local Content Plan to be submitted to the National Concessionaire, which must be accompanied by:

- An annual plan of the purchase requirements of goods and services in accordance with each project phase
- A summary of the costs estimated with the implementation of the plan
- A plan for the transfer of internal services to Angola
- Other additional information that may be requested whenever necessary

Commercial relations with Angolan Companies and Angola-Based Companies are subject to an exclusivity regime or pre-emption regime under the terms of a list to be approved and updated periodically by the National Concessionaire, subject to the prior validation of the Competition Regulation Authority.

In all commercial relations not subject to the exclusivity and pre-emption regimes, foreign companies, Angolan Companies and Angola-based companies are subject to the free market competition.

Presidential Decree 271/20 also sets forth a new administrative misdemeanour and sanctions regime, with fines in the amount equivalent in Kwanzas, ranging from USD 50,000.00 to USD 300,000.00.

11. Does the regulatory regime include any specific decommissioning obligations?

Decommissioning regulations have been recently

enacted in Angola through Presidential Decree 91/18, 10 April setting forth the following main obligations:

- Mandatory Provisional Abandonment Plan reviewed and updated every three years submitted to the National Concessionaire 90 days prior to beginning of each subsequent civil year;
- Mandatory Definitive Abandonment Plan submitted to the National Concessionaire 24 months prior to the production termination and subsequently submitted for approval to the MIREMPET;
- Dismantling and delivery of facilities, including inspection and audit activities 18 months prior to the term of the Development Area;
- Creation and funding of specific escrow account to deposit abandonment funds to address corresponding costs.

Models of abandonment plans are made available in Presidential Decree 91/18.

Decommissioning/abandonment procedures are concluded upon issuance of good standing certificate by the National Concessionaire discharging the Block members from any liability and claim (model also enclosed as Annex to Presidential Decree 91/18).

12. What is the regulatory regime that applies to the construction and operation of offshore and onshore oil and gas pipelines?

The construction and operation of oil and gas pipelines are regulated by the following two main acts of legislation in Angola:

- Executive Decree 189/08, 9 September, issued by the Ministry of Petroleum, which regulates and sets forth the main principles for the construction of infra-structures composed by pipelines, distribution networks, compression stations and pressure reduction stations.
- Executive Decree 200/08, 18 September, issued by the Ministry of Petroleum regulates the project, construction, exploitation and maintenance of pipelines.

Under the abovementioned diplomas, the construction of oil and gas pipelines is subject to prior approval of the Ministry of Petroleum, after prior favourable opinion of Employment Ministry, Health Ministry, as well as the

Provincial Government of the envisaged location.

The non-compliance with the abovementioned diplomas will trigger the application of fines in the amount in kwanzas equivalent to USD 50,000.00 up to USD 1,000,000.00.

13. What is the regulatory regime that applies to LNG liquefaction and LNG receiving terminals? Are there any such terminals in your jurisdiction?

Decree 10/07 of 3 October 2007, enacted the special legal regime of the Liquefied Natural Gas Project named Angola LNG Project (ALNG), including specific maritime, tax, customs and foreign exchange regime.

The ALNG is executed and managed by Angola LNG Limited, company held as follows:

- Cabinda Guil Oil Company Limited (CABGOC - Chevron in Angola);
- Sonangol - Gás Natural, Limitada;
- BP Exploration Angola Limited; and
- Total LNG Angola Limited.

The Promoting Entities or their affiliates also held and control:

- "Sociedade Operacional Angola LNG" which undertakes the operations related to Territorial and Maritime Facilities for ALNG; and
- "Sociedade Operadora dos Gasodutos de Angola" which undertakes the operations related to pipelines.

The most relevant regime related to ALNG is the Port Concession Agreement executed by the Angolan State and Angola LNG Limited, under which Angola LNG Limited has been granted the right to use the public domain related to the relevant maritime territory of interest to the ALNG project, notably in the Soyo Area and including powers to appoint the Terminal Operator of Soyo which in turn is allowed to appoint and hire any required services providers subject to ALNG special rules.

14. What is the regulatory regime that applies to gas storage (not LNG)? Are there any gas storage facilities in your jurisdiction?

Presidential Decree No. 7/18 of May 18, 2018 is the first law enacted to regulate natural gas exploration,

production, monetization and commercialization due to the fact that the Petroleum Activities Law only includes reference to petroleum/oil activities.

For that reason, the Presidential Decree 7/18 sets forth the terms and conditions of natural gas exploitation and commercialization by reference to petroleum related regulations.

15. Is there a gas transmission and distribution system in your jurisdiction? How is gas distribution and transmission infrastructure owned and regulated? Is there a third party access regime?

The development of the natural gas market is headed by Angola LNG. There is no official Government information in respect of natural gas imports and subsequent distribution and transmission. It is expected that at least one third of the country's energy needs, addressed mostly to the industrial sector, is provided by the Angola LNG Project.

16. Is there a competitive and privatised downstream gas market or is gas supplied to end-customers by one or more incumbent/government-owned suppliers? Can customers choose their supplier?

The downstream gas market is headed as mentioned below by Angola LNG project and such other natural gas projects will continue to be controlled by petroleum companies as Angolan legislation has been prepared mostly for petroleum products. The transition and application by reference of petroleum regulations.

17. How is the downstream gas market regulated?

Please refer to comments in 16 above. Natural gas has not yet been

18. Have there been any significant recent changes in government policy and regulation in relation to the oil and gas industry?

The most relevant change of law of the past year of 2019 was the replacement of Sonangol E.P. as the National Concessionaire and creation of the ANPG and

the gradual transition of powers from Sonangol to ANPG. The members of the Board of the new Oil and Gas Agency have already been appointed during the year of 2019.

In addition, the Presidential Decree 52/19, 18 February approved the General Strategy for the Allocation of Petroleum Concessions for the period 2019-2025. Presidential Decree 52/19 sets forth the strategy and contractual/tender procedures to be adopted for the upcoming five years in Angolan petroleum concessions with the following two main purposes:

- increase of petroleum and gas production in Angola; and
- assure the petroleum reserves substitution as a result of the clear decrease of production registered in past years.

19. What key challenges have been identified by the government and/or industry in relation to your jurisdiction's oil and gas industry? In this context, has the Covid-19 pandemic had an impact on the oil and gas industry and if so, how has the government and/or industry responded to it?

The most significant challenge related to Angolan oil and gas sector is related to the foreign exchange control regulations which evidence clearly the economic dependence of foreign currency reserves and the long-lasting economic crisis and foreign currency reserves shortage.

The significant decrease of the oil price greatly impacted by the COVID-19 pandemic has slowed the implementation and promotion of new petroleum block concessions initiated in 2019. Having said this, Angola is a jurisdiction greatly dependent of oil and gas. For that reason, petroleum operations have been qualified as exceptional activities to be kept mandatorily active during the State of Emergency in Angola due to the COVID-19 outbreak. The State of Emergency was declared in 25 March and entered into force on 27 March and ended on 25 May 2020 and petroleum operations have not been suspended by government order during such period.

20. Are there any policies or regulatory requirements relating to the oil and gas industry which reflect/implement the

global trend towards the low-carbon energy transition?

Resolution of the Ministers Counsel 52/08, 5 June 2008, approved the National Strategy for the Implementation of the United Nations Framework Convention on Climate Change, approved in Rio de Janeiro (Brazil) in June 1992, and of the Kyoto Protocol (Kyoto), adopted in Kyoto (Japan) in December 1997.

More recently, Executive Decree 98/19, of 10 April, has approved the Internal Regulation of the Climate Change Office of the Ministry of the Environment (GABAC), for

the implementation of the National Climate Change Program and integration of policies related to sustainability of emissions reduction and programs and projects offsetting greenhouse gas effect.

However, until now no specific actions have been undertaken on climate change regulations specifically addressed to the petroleum sector in Angola as the Angolan economy is significantly dependent of oil and gas and is not yet familiarized with low-carbon energy transition measures.

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