

Angola's Petroleum Reform A Change for the Better

Angola has been for many years a province whose importance as an oil producer cannot be overlooked, frequently fighting with Nigeria for first place as the top sub-Saharan African crude oil producer. As with many other oil provinces, Angola has also been deeply affected by the sharp drop in oil prices in the international market, which has led local authorities to search for ways of successfully increasing the petroleum sector's efficiency, attracting investment and diversifying the economy. With these goals in mind, petroleum sector reform has been one of the main necessary changes claimed by both the government and investors, and which is perceived as a catalyst for solving the country's (financial) difficulties.

A first attempt to review the key aspects of the petroleum sector regulation arose back in 2015-2016, with the approval *inter alia* of the Model for Readjustment of the Petroleum Sector's Organization (Reorganization Model) and the amendment of Sonangol's by-laws, as well as an intention to review upstream terms and conditions, including the rules on exploration activities carried out inside existing development areas and in marginal fields. However, the new rules apparently did not get the expected support of the industry and some sectors held that the reform should go further.

Since the election of Angola's new President in September 2017, and the subsequent change of seats at the national concessionaire, Sonangol, E.P., a new momentum started building up. The Angolan Executive recently approved a legislative package consisting of five statutes of crucial importance to encourage further investment in the Angolan oil sector, and which apply to different segments of upstream activities, being the result of an open dialogue between the governmental authorities and the industry players.

The first statute is Presidential Decree No. 86/18, of 2 April 2018, which approved new rules and procedures applicable to public tenders for (i) the selection of associates of Sonangol EP (i.e., the oil companies that will enter into petroleum contracts), and (ii) the procurement of goods and services for petroleum operations, thus revising the prior rules on this matter. In respect of the selection of the associates of Sonangol EP, the new rules aim at facilitating the process for access to acreage so as to incentivize new prospecting and exploration for oil and gas in the country. Additionally,

in order to address the industry's long-lasting concerns regarding excessive bureaucracy in the approval of oilfield goods and services contracts (mainly surrounding contract approval thresholds that were seen as too low, and Sonangol's delays in responding in contract approval matters) that were hindering petroleum operations, new rules on the procurement of oilfield goods and services were approved. These rules include the introduction of specific deadlines for approvals and an increase of the thresholds for contract approval by the national concessionaire. Under the new rules, oil operators are only required to launch public tenders for contracts exceeding \$1,000,000 (whereas the prior threshold was \$250,000) and, as a rule, only the award of contracts exceeding \$5,000,000 will be subject to prior authorization from Sonangol, E.P.

The second statute is Presidential Decree No. 91/18, of 10 April 2018, which approved the rules on abandonment of wells and decommissioning of facilities in respect of upstream operations, located both onshore and offshore. The new statute sets forth a detailed framework of obligations and requirements to be complied with by operators, adding clarity to a critical area of operations considering that some of Angola's oldest fields are now reaching depletion. In addition to the obligation to prepare provisional and definitive abandonment plans, and the requirements applicable to the drafting and approval thereof, the new statute also covers financial matters relating to the provision of abandonment funds, as well as extensive technical specifications.

The third statute is Presidential Legislative Decree No. 5/18, of 18 May 2018, which sets forth the legal framework on additional exploration activities within existing development areas. This statute introduces a special regime applicable to additional exploration activities to be conducted within existing development areas thus allowing for the exploration for and production of additional resources (notably in new geological horizons not previously tested). Aimed at maximizing the geological potential of existing development areas and as a result,

an increase in production (including by optimizing costs through the use of existing infrastructure), this statute also addresses aspects pertaining to cost recovery and deduction, production sharing and applicable procedures.

The fourth statute is Presidential Legislative Decree No. 6/18, of 18 May 2018, which establishes

“
Under the new rules, oil operators are only required to launch public tenders for contracts exceeding \$1,000,000 (whereas the prior threshold was \$250,000) and, as a rule, only the award of contracts exceeding \$5,000,000 will be subject to prior authorization from Sonangol, E.P.
 ”

incentives and the procedure for adaptation of the contractual and fiscal terms applicable to Qualified Marginal Zones. These new rules are applicable to petroleum concessions with marginal discoveries, as defined in the statute, and also cover tax incentives, namely on petroleum production tax, petroleum transaction tax, petroleum income tax, production premium, investment premium, amortization of expenditures and cost oil.

The fifth and final statute is Presidential Legislative Decree No. 7/18, of 18 May 2018, which approved the legal and fiscal regime on natural gas. This statute, which has long been on the industry's wishlist applies to the prospecting, exploration, appraisal, development,

production and sale of natural gas, and includes rules on rights over natural gas, contractual regime, concession periods and terms, tax charges, deductible costs and tax benefits. This can indeed be a game-changer, considering Angola's previously highly restrictive rules on commercial use and development of both associated and non-associated gas by IOCs.

Even after the enactment of these five statutes, and the opportunities that they opened up, the industry was still anxious to see whether the reform would stop there or if additional steps would also be taken. In line with the voices who argued that the reform should go further, and following an intense public debate – including in the media –, the Executive approved, by means of Presidential Order No. 112/18, of 24 August 2018, the appointment of a Steering Committee for the National Oil and Gas Agency (ANPG), one of the new bodies initially included in the plan for the reform of the oil sector.

The Steering Committee shall be responsible for, *inter alia*, leading the process for creating the ANPG and setting up the framework for the transfer of the national concessionaire role and related assets from Sonangol to ANPG. The idea of creating the ANPG was already foreseen in the Reorganization Model back in 2016, but no substantial progress had been made in this respect. If one assesses the creation of the steering group within the scope of the 2016 Reorganization Model, we may anticipate that this change will also trigger changes to the role of the Ministry of Mineral Resources and Petroleum as oil and gas industry supervisor, and of Sonangol which is expected to hereafter concentrate exclusively in the oil and natural gas core business, leaving its prior regulatory role to the other entities. It is also planned that the transfer of powers from Sonangol to the ANPG will be conducted in a phased manner, which should be concluded by December 2020, and will entail subsequent amendments to the existing statutes


(e.g. Petroleum Activities Law, Law on Taxation of Petroleum Activities and Sonangol's by-laws).

Despite all the changes adopted so far and the amendments that will see the light in a near future, the industry is still waiting for full confirmation of the direction the Executive will follow in terms of a future national policy for the country's petroleum sector.

It is also planned that the transfer of powers from Sonangol to the ANPG will be conducted in a phased manner, which should be concluded by December 2020, and will entail subsequent amendments to the existing statutes ...

In this respect, the National Development Plan 2018-2022, which contains the Executive's priority actions by economic sector, may shed some light on this matter. At a time when the oil and gas industry in Angola is undergoing a significant phase of transformation,

the Executive's priority actions in respect of the oil and gas sector include: (i) preparing a strategic plan / development plan for the petroleum sector, (ii) preparing a natural gas master plan considering the full natural gas value chain, (iii) reviewing and adjusting the terms of reference for tenders for the onshore blocks of the Lower Congo and Kwanza Basins, in order to relaunch the respective bidding round, (iv) preparing strategies for the tender of onshore and offshore blocks, (v) negotiating new petroleum contracts in areas already subject to concessions with improved terms and conditions, (vi) promoting the conducting of detailed studies on the country's pre-salt play, the country's non-conventional oil and gas' potential, and in the country's inland basins, (vii) promoting the commencement of production of non-associated natural gas and developing projects related thereto, and (viii) identifying and implementing the Fast Track gas project within the scope of existing discoveries.

Although it is still early to determine the exact implications of the new statutes, the truth is that some entail changes which have been requested by the industry for a long time, and as such are being well-received by both the major players operating in the country and public opinion. Moreover, the priorities of the Executive for the sector foreseen in the National Development Plan appear to be a good indication that Angola is taking solid steps towards increasing the sector's efficiency and attracting investment. It looks like a change for the better! 

About the Authors

** Ricardo Alves Silva and Sara Frazão are respectively a Partner and Co-Head, and a Senior Associate at Miranda's Energy and Natural Resources Practice and are involved in advising oil and gas companies in their operations in Africa and Asia. Ricardo and Sara may be contacted at Ricardo.Silva@mirandalawfirm.com and Sara.Frazao@mirandalawfirm.com.*

Advertise Here

for just \$ 499



Write advertise@petroleumafrika.com
to book you space