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CONGO-BRAZZAVILLE
SPOTLIGHT

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CONGO-BRAZZAVILLE

IN NUMBERS



Proven Oil Reserves: **2,98 million barrels**



Proven Gas Reserves: **400bn standard cubic meters**



Oil production: **over 300,00 bopd**



Major players:



SNPC

Total E&P Congo

Chevron Overseas Congo

Eni Congo

Perenco Congo

*Sources: OPEC, Government of Congo



OVERVIEW:

Oil has dominated the economy of Congo Brazzaville since the entry of supermajors Total and Eni in 1968. The country's first oilfield, Pointe Indienne, was discovered in 1951 and production started in 1957. According to an EITI report, oil accounted for 80 percent of government revenue and 90 percent of exports before the plunge in oil prices.

The Republic of the Congo is currently the third largest oil producing country in sub-Saharan Africa, after Nigeria and Angola. In 2016, Congo Brazzaville's oil production was 238,000 barrels of oil per day. Today, the country's oil production has risen to over 300,000 barrels a day. In the same vein, proven oil reserves have increased from 1.5bn barrels in 2000 to 1.98bn barrels in 2019, according to the latest OPEC Annual Statistical Bulletin.

Congo Brazzaville is a mature petroleum province, and has been one of Africa's largest oil producers since the 1970s. Although output fell during the 2000s, the entry of deep-water fields since 2008 provided a temporary production boost. With new projects scheduled to boost output by more than 30 percent by 2020, production is expected to increase to 350,000 barrels per day as new offshore fields come online.

LEGAL REGIME: OHADA

GDP: 8.73 Billion USD

POPULATION : 5.261 million

BIDDING ROUNDS

The results of the Phase 2 Licensing Round of the Republic of Congo were announced in November 2019. The Ministry of Hydrocarbons is now in negotiations for the following blocks: Marine XXII (Kosmos Energy), Marine XXIV (Eni/Lukoil), Marine XXI A/B (Eni, Lukoil), Youbi (Perenco).

In addition, the Ministry of Hydrocarbons called for expression of interests on the formation of a contractor for the exploitation permit of Kombi-Likala-Libondo II, and interested parties have until April 30th, 2020 to submit their offer.

Finally, the Republic of Congo has recently embarked on a promotion of all its open blocks, which include five open blocks in the interior Cuvette Basin and ten open blocks in the Coastal Basin. These blocks can be awarded on the basis of direct negotiations.

OIL AND GAS PROSPECTS AND PROJECTS

Decreasing gas flaring and monetizing gas across various industries is a key target for the Republic of Congo. A landmark FLNG project has been in the doing for a while but has so far remained at a planning stage. On the oil production side, the country's output and exports are expected to remain steady over 300,000 bopd in the near term thanks to recent discoveries and new fields being brought on stream, especially offshore.

DEVELOPMENTS IN DOWNSTREAM AND MIDSTREAM

In February 2020, Eni installed the third gas turbine at the Centrale Électrique du Congo gas-to-power station in Pointe-Noire. The new turbine increases the plant's capacity to 450MW, further ensuring reliable power supply to Congo. It also puts Congo on step further in its march to gas monetization as the country tries to develop downstream infrastructure to process its natural gas and create local value through petrochemicals, power and fertilizers. Also downstream, Congo's sole refinery, CORAF, is being expanded from 1 to 1.2 million tpy.

LEGAL FRAMEWORK

The Hydrocarbons Code (Law n° 28-2016 of October 12, 2016) is the main legislation of Congo-Brazzaville for petroleum activities and gas.

This new Code includes 146 new provisions that take into account the various concerns expressed previously by the oil companies operating in the area. After the promulgation of the law n° 28-2016 of October 12, 2016 bearing Hydrocarbons Code, the experts of the Ministry of Hydrocarbons is engaged in writing texts applicable to this law. The texts were completed in the fall of 2018. Laws governing the petroleum sector and gas in Congo-Brazzaville are the following:



- Law n ° 28-2016 of October 12 2016, the Hydrocarbons Code repealed and replaced the old code of Hydrocarbons, Law n ° 24-94 of August 23, 1994 in its entirety. The Hydrocarbons Code regulates legal regimes, , customs and exchange rates applicable to operations and activities upstream in the sector, as well as the rights and obligations of companies active in the sector, and sets out rules and policies on health, safety, the environment and of local content.
- Law No. 1-98 of April 23, 1998, which created the national oil company, the Société Nationale des Pétroles du Congo (SNPC).
- Law No. 4-98 of August 28, 1998, which defines the responsibilities for decommissioning and rehabilitation for oil companies.
- Law No. 6 2001 of October 19, 2001 (amended March 1, 2002), which sets out the legislation regulating refining, import, export, transit, re-export, storage, bulk transportation, distribution and the marketing of hydrocarbons and by-products.

Three decrees govern the VAT in the oil and gas sector (2001-522 of October 19, 2001), the rates and the levies including the local levies (2000-186 of August 10, 2000) and the granting of mining titles of hydrocarbons (2008 15 February) 11, 2008 - known as the attribution decree).

The investment also applies to companies active in the oil and gas sector of Congo-Brazzaville. These include:

- Law No. 003/91 of April 23, 1991 concerning the protection of the environment.
- Law No. 6-2003 of January 18, 2003 (as well as the CEEAC n ° 17/99 / CEMAC-20-CM-03 of December 17 1999) which establishes the investment charter.
- Law n ° 2017-24 of June 9, 2017 which creates special economic zones and determines their regime and processes.
- Law No. 10-2017 of March 9, 2017 on transparency and accountability in the management of public finances, which provides, in particular, for the preparation and presentation of public budgets, the monitoring of policies and financial transactions, the implementation of legal procedures for the revenue collection, implementation of public expenditure and the legality and regularity of operations of all public financial transactions.

Congo-Brazzaville, like its French-speaking regional neighbours, adheres to the OHADA law, which means that companies working in the country are subject to specific legislation for companies common to the member states. With regard to the hydrocarbons sector in the Republic of Congo, certain opportunities exist in onshore prospecting, research and development, refining and services (for example, logistics, construction, drilling, maintenance and supplies).

With the Ministry of Hydrocarbons which administers and regulates the petroleum industry, the SNPC acts as a participating agent of the State in oil and gas development. Thanks to its interests in the fields in production, the national oil company represents the majority of government revenues.

LOCAL CONTENT:

The new legal framework for Congo's local content, in addition to the Hydrocarbons Code and PSCs, is regulated by four new decrees:

- Decree n° 2019-342 of November 15, 2019 establishing the terms and conditions for the exercise of subcontracting in the oil sector.
- Decree n° 2019-343 of November 15, 2019 establishing the terms and conditions for the exercise of services in the oil sector.
- Decree n° 2019-345 of November 15, 2019 regulating the employment, promotion and training of Congolese personnel in the oil sector.
- Decree n° 2019-344 of November 15, 2019 establishing the sanctions linked to the breach of the provisions related to local content in the oil sector.

The local content of Congo is regulated by these legal texts that establish a nationalization regime of almost all the parameters that are used to measure local content, from the hiring of personnel, subcontracting, the promotion of local workers, and the acquisition of goods and services, among others. Subcontracting companies in the upstream sector are subject to a tender procedure. Only companies with an approval issued by the Ministry of Hydrocarbons are authorized to send in tenders for activities related to subcontracting services in the upstream sector.

Decree n° 2019-342 of November 15, 2019 limits which companies can apply to be subcontractors in the sector. It is observed that there is a substantial inclination to local companies or companies that have a greater participation of local citizens. For example, priority is given to:

- Companies that have at least 30% of their capital stock held by Congolese citizens.
- Companies associated with local companies through joint contracts.
- Companies with temporary establishment authorization or
- those that have a tax exemption issued by the Ministry of Commerce.
- Companies with 60% of technical staff or Congolese executives.

The new regulation of local content in Congo is very clear in terms of its objectives. To this end, after a period of 10 years from its date of the establishment of the company, Congolese staff must represent at least 90% of the workforce, respective of which at least 80% must be company directors or hold managerial positions.

The newly established companies have 90 days after creation to present their nationalization and job creation plans for Congolese citizens, a plan that must be completed effectively in 10 years.

One of the main problems that African countries have in the oil and gas sector is precisely the fact that they do not get a transfer of specialized technology. To prevent this, Decree n° 2019-345 of November 15, 2019 regulating employment in the sector limits work licenses for foreign workers to a maximum of five years. This measure obliges companies to look for alternatives to replace these workers with local personnel and as a consequence, are compelled to provide them with the appropriate practice and knowledge to perform these functions.

INSURANCE

The Hydrocarbons Code requires any company carrying out activities in the upstream sector to conclude an insurance contract with insurance companies approved through insurance brokerage companies, in order to cover the risks linked to its activities in upstream in Congo-Brazzaville.

TAX SYSTEM

According to the conditions of the production sharing contracts signed in Congo-Brazzaville, the allocation of the cost of oil in relation to the interest held by the contractor is limited to 60% of annual production and to 70% in exceptional cases (deep water and high technology, for example). The profit oil share is calculated based on total production less petroleum and mineral costs. If no oil is found, the company assumes all costs. The accounting procedures are also specified in an annex to the production sharing contract. The oil profit shares allocated to the contractor and to the State are determined by the contract and not by the hydrocarbons code. Profit oil is determined by the ended with annual net production and is adjusted each year according to the evolution of production.



The net profits (net asset value less oil cost, recovery provisions and other costs) of the oil companies are subject to income tax at 30%. Premiums for exploration and exploitation permits are payable and determined by the relevant decree. A 0.2% pollution tax on producing companies, paid quarterly, is applied.

Annual surface rent of XAF 3,000 per square kilometer is payable for exploration permits, and USD 800 per square kilometer is payable for exploration permits. There is no difference between the royalty rates for on-shore and offshore activities. A mining royalty of 15% is due monthly on petroleum that is produced, stored and used for operations other than reinjection.

The Hydrocarbons Code provides for depreciation rates: exploration costs incurred at 100% and all other capital expenditure at a rate of 20% compared to the first commercial production for five years.

HOW CAN WE HELP YOU?

Centurion Law Group is a pan-African corporate law conglomerate, with a specialized focus on cross-border business and energy law. We help you navigate the legal and regulatory environments of Africa's many jurisdictions and ensure that deals are done and completed as efficiently and cost-effectively as is possible.

Centurion with its large network of lawyers and on-demand specialists are ready to be mobilized to undergo your full suite of legal and advisory work. We currently have a regional office in Nigeria and our strong knowledge of the Nigerian oil and gas sector enables us to provide clients with the best advice possible. We can help you facilitate your entry into the market, and help you navigate through established industries through our relationships with key stakeholders in Nigeria's and Gas industry.

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