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REVIEW

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In this edition of Mayer Brown's *Global Energy Industry Review*, we look at Iraq's efforts to increase its energy reserves and oil production by hosting several oil and gas licensing rounds over the past four years. The latest round was not well received by the word's leading international oil companies, however, and we examine some of the reasons why this may have occurred.

In Africa, Angola has become a hot location for foreign investment. We highlight some of the economic and civil transitions that have helped make it so. Staying in Africa, we look at Nigeria and discuss the current state of their energy issues and consider what the future may hold.

We then put the spotlight on Brazil, where that country's pre-salt discoveries have resulted in an increasing number of foreign companies entering into joint venture investments with Brazilian companies. We highlight the types of Brazilian joint ventures as well as the Brazilian government's efforts to enhance their oil and gas industry.

Turning to the United States, we feature the ongoing issue of natural gas versus coal regarding the best method for generating energy in America—which energy source currently has the competitive edge?

This edition of the *Global Energy Industry Review* showcases current energy-related trends around the world. We regularly publish legal updates on timely industry issues. Please visit our Energy News and Publications page to view a complete list of our energy updates.

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Gas Generation Shift Still Questionable

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The ideal mix of energy sources for generating power in the United States has long been debated. The "right" answer depends on a host of factors, including economics, stability and political acceptability. Recently, coal has been losing ground to natural gas in this discussion, as evidenced by President Obama failing to mention coal in his recently announced "all of the above" energy strategy. There are two main reasons for this development: increased natural gas supplies and increased regulatory hostility to coal.

The domestic gas supply changes are largely the result of the successful development of US shale gas reserves. The combination of hydraulic fracturing and horizontal drilling has dramatically increased US technically and economically recoverable natural gas resources. While uncertainty is inherent in those estimates, there has been a substantial increase in the number of producing natural gas wells. That increase, in turn, has yielded a glut in the domestic gas market, much to the financial consternation of gas producers. Recent Henry Hub gas prices have been near historic lows. Low prices and abundant supply currently are giving natural gas a huge advantage over coal, as well as over renewables, in power producers' decision making, even as several utility executives warn of an overreliance on gas.

At the same time, the US Environmental Protection Agency (EPA) has been accused of waging a war on coal. The basis for this charge is a slew of regulatory actions having the effect of discouraging coal mining and coal combustion. These include trying, retroactively, to veto a US Army Corps of Engineers permit for disposal of mine fill, objecting to proposed state permits for discharges of wastewater from coal mines, promulgating new restrictions on mercury and other air emissions from coal-burning power plants, and proposing that new power plants meet carbon dioxide emissions standards based on the performance of combined cycle natural gas plants, which likely will require new coal plants to use commercially unproven carbon capture and sequestration technology.

Coal currently is used to generate approximately 45 percent of US electricity, and, for now, it appears likely to remain a substantial part of the mix. Between market and regulatory forces, however, older coal-fired plants are being taken out of service, coal mines are closing and US thermal coal consumption is falling. Thus, in the EPA's words, natural gas generation "is already the technology of choice for new and planned power plants."

Still, the picture could change. Natural gas producers recently have been shifting away from dry gas and have been focusing on wells producing oil and natural gas liquids, which are providing superior economic returns. That move may help ease the natural gas supply, but those wells will yield some additional gas as well. The industry also is looking at gas-to-liquids (GTL) technology to boost received prices.

In addition, the low Henry Hub prices are drawing the attention of foreign energy players looking for alternative supplies of liquified natural gas (LNG) for their home countries. Asian buyers, in particular, are seeing that US LNG priced to Henry Hub levels can be competitive with LNG priced to Japan Crude Cocktail (JCC). At present, Henry Hub-linked LNG appears to have an advantage over JCC-linked LNG of approximately $10 per mmbtu on a delivered basis. Not surprisingly, a US LNG export market is starting to take shape.

The proposed Cheniere LNG export terminal appears to have secured purchase interest from foreign buyers for most of its LNG, and several additional applications for export approval are before the US government. However, adding GTL or LNG infrastructure takes time (if it happens at all). Moreover, further environmental regulation remains a significant wild card going forward. Environmentalists have been attacking oil and gas, including fracturing and LNG exports, while the EPA appears inclined to impose additional requirements on the use of fracturing. Also, it is possible that sometime after this election year, Congress will take additional steps to address greenhouse gases or energy diversity.

In the near-term, natural gas can be expected to maintain its current competitive advantage in US power generation. In the longer term, much will depend on whether or not the oversupply of domestic natural gas continues. If it does, gas will likely continue to gain ground in power production. If it does not, its current price advantage over coal and renewables will dissipate, and power producers will have more of an incentive to pursue their own “all of the above” strategies. We expect the next two years to be critical in seeing how the power generation market is most likely to move. ◆

Iraq's Fourth Oil and Gas Licensing Round

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Since 2008, Iraq has been conducting a series of high profile oil and gas licensing rounds, with the Iraqi government's strategy being to increase its energy reserves and raise oil production from current levels of 2.5 million barrels per day (BPD) to 6.5 million BPD by 2014.

With the country having among the highest oil and gas deposits in the world (with proven reserves of 143.1 billion barrels of oil and 111.9 trillion cubic feet of gas), the previous three licensing rounds have been hugely popular, with the major international oil companies (IOCs), including BP, Shell, Total and Eni, competing hard and, in the process, accepting tough contract terms to secure a foothold in the region.

The fourth licensing round involved the auction of seven gas and five oil sites, with the focus for the first time being on the gas sites.

The results were announced on 30 May 2012 and, for the reasons considered below, display a far more muted response from the IOCs, with successful bids being received for just one of the gas exploration sites and two of the oil exploration sites.

Lack of Proven Reserves

Each of the previous three licensing rounds offered rights to immediately commence or raise output at large and medium-sized sites with proven reserves. The fourth licensing round on the other hand, only involved areas with undetermined levels of hydrocarbons on offer.

There was, therefore, little or no guaranteed return for the bidding IOCs; Abdul Al-Ameedi, the director general of Iraq's Ministry of Oil (the "Ministry"), the government body responsible for the licensing rounds, admitted as much in an interview leading up to the fourth round when he said that "there is a higher risk [in the fourth licensing round sites] since the contractor could spend millions of dollars and find dry holes and lose everything he spent."

Use of Service Contracts

Production sharing models, which typically give foreign companies the right to a portion of oil produced or profit made from sales, are used in Kurdistan and are the most commonly used model for exploration work of this type. The Iraqi government's belief is that such a model would be in contravention of Iraq's constitution (which states that the oil and gas in Iraq is the property of the Iraqi people and therefore should not be shared).

The Ministry therefore, as with the previous rounds, insisted on using a "service contract." Under the service

contract model, IOCs are paid a fixed fee per barrel of oil or gas equivalent, subject to a tax at 35 percent. Furthermore, this fee is only payable once prescribed production targets have been reached.

While service contract terms have been acceptable to the IOCs in the previous licensing rounds, those have all concerned already producing, or production-ready, fields where the spoils on offer have been greater and more certain. It is almost unseen in the industry to ask companies to accept service contract terms for oil and gas exploration work. In particular, agreeing to a fee per barrel, which may be redundant or inappropriate when it comes to the point of production, carries with it considerable risks.

Tougher Contract Terms

Throughout the licensing rounds, one of the few redeeming features of the service contracts from the perspective of IOCs has been the fact that a service contract model does not impose a ceiling on costs and, under the terms of the contracts already signed, all costs are entirely repaid by the Ministry.

This benefit, however, has been countered in the revised service contract for the fourth licensing round, which introduced a new formula for the calculation of the fee per barrel (FPB), meaning that the IOC will only be paid the FPB on the remaining production after deduction of costs. This is aimed at increasing the cost-efficiencies of the IOCs with the cost of the subcontractors being deducted from total production (on which the contractors fee is determined). The example provided by the Ministry is that if total production is 1 million barrels and the contractor has spent the value of 300,000 barrels on a subcontractor, the contractor will receive payment only for the remaining production, or 700,000 barrels.

While one can see the reasoning behind this amendment from the point of the Ministry, it has seemingly done little to incentivize the IOCs, which were already being asked to stretch themselves into accepting service contracts terms for exploration licenses, into bidding again, particularly as the terms of the revised service contracts on offer were otherwise broadly the same as those that have been signed in the previous licensing rounds, which involved production sites.

Restraints on Exploration and Production

The winners of the gas contracts on offer in the fourth licensing round are entitled to proceed to production immediately on discovery as the Ministry believes that gas is currently in short supply. Conversely, a clause has been inserted into the services contracts for oil sites giving the Ministry the right to impose a potential seven-year holding period on oil field discoveries, the purpose being to avoid the market being oversupplied and overwhelming Iraq's underdeveloped infrastructure.

The effect of impending OPEC quotas (which the Iraqi government has indicated they could agree to as early as 2014) were also of concern to the bidding IOCs. The quota figure that Iraq could be subject to is yet to be determined; however, it is thought likely to be around the 4.5 million BPD mark, which would make the Ministry's plans to produce 6.5 million BPD by 2014 redundant.

The oil fields on offer are only exploration fields at this point; when combined with the fact that the contracts did not in any way account for the effects of OPEC quotas, it is easy to understand why the majority of the 48 IOCs that qualified for the fourth licensing round were put off by the prospect of investing in the exploration of oil fields. The possibility that any resulting production (and their potential for return given that rewards are linked solely to the FPB) may be curtailed by the need to constrict Iraqi oil production to within the confines of the OPEC quotas, as well as by Iraq's underdeveloped infrastructure, would have clearly influenced the IOC's decisions.

Infrastructure Concerns

It is widely acknowledged, and has been a concern of the IOCs throughout the licensing rounds, that in order to handle the planned increases in oil and gas production, much of the existing infrastructure for both oil and gas production will have to be upgraded, and a considerable number of new structures will have to be built both inside and outside of Iraq.

Of particular relevance to the fourth licensing round—when, for the first time, the focus has been on gas—is the view strongly held by the IOCs (and shared in Iraq) that, in the long term, a more

extensive gas infrastructure will be required to enable the country to access the gas pipeline routes in Turkey that supply the European markets.

Kurdistan

The Kurdish regional government has signed 48 production sharing contracts with numerous IOCs, all of which the Iraqi government views as illegal. These agreements are far more lucrative for the IOCs than the service contracts offered by Iraq, because companies receive a share of the oil produced.

Controversially, several companies that are party to these agreements have been excluded from the licensing rounds in Iraq: Sinopec was excluded from the second licensing round, and US oil firms Exxon Mobil (which has signed six Kurdish production sharing contracts) and Hess were excluded from the fourth licensing round, as a result of their dealings with Kurdistan.

The Iraqi government has formalized and strengthened its position in this respect by inserting a provision into the service contract on offer in the fourth licensing round that gives the government an automatic right of termination should a contractor subsequently engage in agreements with Kurdistan (or any other regional government).

Conclusion

It seems that the fourth licensing round saw the Ministry, buoyed by the successes of the previous rounds, asking IOCs to take too great a leap of faith. No attempt was made to address the IOCs' concerns in the service contract structure for exploration work; indeed, if anything, the terms of the contract were made even harder to swallow.

The possible impact of OPEC quotas tied with the inclusion of a provision in the service contracts granting the Ministry complete autonomy over when to produce from an oil field in which reserves are discovered, makes it easy to see why the majority of the prequalified IOCs chose not to participate in the bidding process. The reality is that the gamble the Ministry took by asking IOCs to bid a fixed fee (albeit slightly higher than the fees that have been on offer in the previous licensing rounds) on unknown reserves and production proved unsuccessful.

Nevertheless, the fourth licensing round was not all bad news: Block 9 near Basra, with its potential as an extension to the already producing Azadegan field on the Iranian side of the border (thus making it unlikely to be subject to a holding period once reserves are confirmed), may prove to be greatly profitable for the successful bidder, Kuwait Energy.

In the immediate aftermath of the fourth licensing round results, the Ministry announced that the state-owned Oil Exploration Company will search for oil and gas in the nine exploration blocks that were not awarded to IOCs and is planning a $160 million expansion to more than double seismic crews and equipment. The Ministry also announced that a fifth licensing round of 60 new sites would take place in the near future (with no date confirmed as yet).

It is hoped that the Ministry will have learned lessons from the results of the fourth licensing round and will look to revise its contract terms to make them more suitable to exploration areas and work. ◆

Investing in Angola: Between Extremes

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Angola is a land of extremes. While many Angolans live in deepest poverty, the Angolan economy is the third largest in Sub-Saharan Africa, with annual GDP growth regularly topping 10 percent over recent years. In a country which spent nearly 30 years in a state of civil war, peace has now firmly taken hold. While Angola ranks 172nd out of 183 for ease of doing business (IFC "Doing Business" Report 2012), record foreign investment is flowing into the country.

At the heart of the story is Angola's wealth of natural resources. Angola is the second largest oil producer in Sub-Saharan Africa, and it holds substantial and varied mineral reserves, including diamonds, iron ore, phosphates and gold. Its agricultural and fishing potential are also considerable. Public and private investment are at record levels with no signs of abatement. Much of the investment is being directed toward infrastructure development, which, with housing, is an urgent priority following the devastation of the decades of civil war.

Foreign construction companies wishing to do business in Angola must meet a series of legal and economic requirements. Angola's position in the "ease of doing business" rankings warns us that clearing these hurdles will not be easy and can be time-consuming and bureaucratic. However, the significant business opportunities may well justify the time and effort involved.

Private Investment Framework

In 2011, Angola passed a Private Investment Law requiring foreign investors that wish to establish a company or branch office in Angola to have their venture approved as a "Private Investment Project" by the Angolan Private Investment Agency (*Agencia Nacional de Investimento Privado* or ANIP). To qualify under the Private Investment Law, ventures must comply with the following legal and financial requirements:

- Foreign investment projects require a minimum investment of US$1 million (in goods and/or cash).
- The company or branch registered in Angola must agree to an investment contract with ANIP. This confers a right to repatriate profits (subject to the control of the BNA, the Angolan central bank).
- An investor cannot simply repatriate profits as it wishes. Repatriation is instead governed by conditions negotiated with ANIP on a case-by-case basis and incorporated into the investment contract.
- The extent of repatriation permitted (and its timing) depends on a number of factors, including the

amount and duration of the investment, the profits made and the impact of repatriation on national reserves. For example, a foreign entity investing US$1 million in a project in the Luanda area would currently only be allowed to repatriate profits two years after full implementation of the project.

Once the investment is approved, ANIP issues a Private Investment Registry Certificate (*Certificado de Registo de Investimento Privado* or CRIP), which is required before the investor can take further steps such as importing capital, establishing a local company/branch office or pursuing the necessary permits and licenses.

Permits and Licenses

Construction work in Angola is governed by the Ministry of Urbanism and Construction. If a company wishes to become directly involved in construction works, a General Construction Permit from the ministry is a prerequisite. There are a number of categories, subcategories and classes of the General Construction Permit (as per Decree No. 09/1991). The particular (sub)category determines the type of construction activities the holder may engage in, and the particular class relates to the value of the construction works; the higher the class of permit, the greater the value of the construction works permitted.

The performance of private construction work in Angola also requires a license (an authorization for construction, known as an "*Alvará*") issued by the governor of the province where the work is to be undertaken. An application must be made to the relevant provincial government in accordance with Decree No. 80/2006.

And the Reward?

Although the regulatory requirements governing investing and doing business in Angola are numerous and complex, and compliance in most cases is likely to be laborious, they do not appear to be deterring foreign investment in Angola: UK investment currently exceeds US$3 billion per annum, which is second only to China's investment. A bilateral investment treaty between the UK and Angola has already been signed. If and when it is brought into force, it will likely provide further security to UK investors and spur further investment.

In any event, with careful consideration and advice, and a measure of patience and persistence, meeting the regulatory requirements is certainly achievable. The reward is gaining access to one of the fastest-growing markets in Africa. ◆

Joint Ventures in the Oil and Gas Supply-Chain in Brazil*

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Suppliers to the oil and gas industry in Brazil are expected to see substantially increased sales as a result of pre-salt discoveries that can potentially generate significant volumes of oil. In fact, Petrobras, Brazil's national oil company, intends to invest US$142 billion until 2016 in exploration and production to take advantage of this potential. With this expansion, however, come supply-chain challenges, and so the government has established a local content policy that aims to enhance the national industry.

Over the past few years, foreign companies have been entering into substantial joint venture investments in emerging market jurisdictions, including Brazil. The companies enter these joint ventures in order to grow the scale of their business and capture operational synergies (costs or revenues). The investments also allow the foreign companies to diversify their portfolios, establish broad strategic alliances and combine their assets or establish scale platforms in new markets. Meanwhile, the foreign investments bring new capital to existing domestic businesses, and reduce ownership and exposure in certain segments.

Types of Joint Ventures in Brazil

Different joint venture structures offer different levels of influence and ownership. These structures include (from less integration to more): franchise agreements, long-term purchase or supply agreements, distribution agreements, research and development partnerships and licensing agreements, as well as shared equity or nonequity relationships (e.g., joint ventures) and owned-equity relationships (e.g., merger and acquisitions).

Despite the risks of investing in emerging markets, there are certain key benefits to joint ventures with local Brazilian companies: foreign companies are able to enter into the Brazilian market, and local companies can increase local market competitiveness, particularly with regard to price, delivery schedule and quality requirements. Also, Brazil normally has no restrictions on distributing and sending profits, dividends and interest on capital investments abroad.

Joint ventures allow companies to preserve autonomy, share the investment risk and enhance competitiveness. Small companies can increase their market participation,

their know-how and their technology, without making greater investments. However, as these joint ventures are complex transactions, they require a careful analysis of each party's aims and objectives. Participants should have clear and common objectives, as well as balanced expertise, investments and power of management.

From the legal perspective, Brazil has no definition of "joint venture." Joint ventures are generally strategic alliances among companies that engage their resources and expertise in order to achieve a specific project or business. In this sense, there a combination of specific know-how among the participants, who share in the enterprise's risks and rewards.

Joint ventures may be corporate or contractual. In the corporate joint venture, the participants create a new, separate corporate entity to execute the project or business, or they acquire equity in an existing Brazilian corporation. Corporate entities in Brazil are basically regulated by the Civil Code and by Law no. 6404 of December 15, 1976 (the "Corporation Law"). There are several types of corporate entities contemplated by these laws, and the most widely used in Brazil are the limited liability company (sociedade limitada or "limitada") and the joint-stock corporation (sociedade anônima or "S.A."). The liability of quotaholders or shareholders both in limited liability companies and joint-stock corporations is generally restricted to the amount that they paid for their quotas or shares. Deciding on which corporate entity to form will depend on the investments that the participants wish to make and the complexity of the venture transaction.

A limitada is required by law to have at least two quotaholders; with a few exceptions, these quotaholders can be individuals or corporate entities, and need not be Brazilian nationals. Quotaholders that do not reside in Brazil must be formally represented by a person residing in Brazil who is authorized to receive service of process.

In the joint-stock corporation, the shareholders can establish terms with regard to the purchase and sale of their shares, preemptive rights for the acquisition of shares and the manner in which the shareholders exercise their voting rights. A shareholders' agreement is recognized under the Corporation Law, which provides that such agreement is binding on the company's management as long as it is duly filed at the company's headquarters.

Contractual joint ventures (or noncorporate joint ventures) are alliances established by a contract that sets forth the rights and obligations of the participants, without creating a corporate entity. A clear advantage of such ventures is the fact that the participants are in equal positions; thus, there is no corporate subordination in pursuance of the common objectives.

In general, implementing a joint venture involves, at the beginning, mutual disclosure of confidential information in order for the participants to evaluate each other. Next, the participants prepare a protocol, or letter of intent, which covers such issues as the proposed entity's structure, objectives and management, the financial contributions and liabilities of the participants, the agreed upon methods of dispute resolution and the ownership of intellectual property. This document sets out the essential elements of the joint venture; however, it is a preliminary document, subject to the satisfaction of determined conditions to achieve the successful execution of the business.

Government Efforts to Enhance the Oil and Gas Industry

The Brazilian government's objectives in developing its local content policy was to benefit local oil and gas suppliers, regardless of their source of investments; local content policy is a mechanism for raising domestic income levels and, as consequence, benefitting the government through an increase in the tax base. The National Agency of Petroleum, Natural Gas and Biofuels (ANP), has established as a criterion in the auction processes commitments to the concessionaires to purchase from local companies. Additionally, Petrobras' purchasing policy includes mandatory demands for minimum local content in the purchasing auctions. Local suppliers also can become eligible for special financing terms from the federal development bank, BNDES.

Notwithstanding these efforts, recent studies show that of the 24 categories of equipment needed for oil and gas exploration and production, Brazilian suppliers are only able to supply material in five of the categories. Brazil's domestic manufacturing sector will have to face the challenge of becoming more competitive with international rivals, particularly with regard to price, quality and delivery schedule. Thus, partnerships between foreign and domestic companies, which stimulate cost reductions and quality improvements, are seen as a reasonable solution to the current challenge of developing the national industry.

The Brazilian government has also been stimulating technology transfers between foreign and domestic companies. These technology agreements must be recorded with the Brazilian Industrial Property Institute (INPI) to be enforceable in Brazil; only after this governmental body's approval do these agreements become binding on third parties. The most recent case was the 33 drilling rigs purchased by Petrobras from national yardships, which were encouraged by the government to have technology participants in order to develop the projects. Participating in technology transfer activities allows foreign investors to share intellectual property with companies that have knowledge of the market, and to obtain royalties from the transfer.

Conclusion

A key factor to doing business with local companies is to develop a personal relationship with the owners and representatives. This is even more important in Brazil, where many of the businesses are family controlled companies. In light of this aspect, besides the financial and legal analysis, negotiators must endeavor to develop a personal relationship with the representatives of these national companies.

Selecting the structure of a joint venture depends on the nature of the project or business, its scope and the participants desired liabilities. To help decide what form of joint venture is best for a company, it is advisable to consider whether the participant wishes to be involved in managing the enterprise. Also, it is important to evaluate what might happen if the venture goes wrong and how much risk the participants are prepared to accept.

It is important to obtain legal advice to help identify the best option because the way that the participants set up the joint venture will affect how it is run, how any profits are shared and taxed, how liability will be shared by the participants. ◆

The Present and Future of Nigerian Energy

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This year there have been a number of acquisitions and proposed acquisitions of onshore oil and gas assets in Nigeria. In August 2012, Eland Oil & Gas completed the indirect acquisition of a 45 percent interest in OML 40, an onshore oil and gas license area in the Niger Delta, from sellers including a subsidiary of Shell. Heritage Oil and Afren have also acquired onshore assets in Nigeria from Shell in the recent past. Such onshore assets have been typically underdeveloped by incumbent license holders. These recent activities indicate that independent operators now have the confidence to seek to acquire interests in these onshore license areas. So, in the most petroleum-rich nation in Africa (with estimated reserves of between 16 and 22 billion barrels) why are these recent activities particularly noteworthy?

The problems faced by oil and gas operators in onshore areas such as the Niger Delta have been well documented, with some reports estimating that nearly 200,000 barrels of oil are stolen each day from pipelines and wells by criminal gangs, in a practice known as "bunkering."

Oil and gas exports account for 77 percent of Nigeria's revenue. Thus, declining output prompted by theft and violence in onshore fields, which also pose a risk to future investment, is a significant problem for the Nigerian government.

The government of Nigeria has initiated policies that aim to deter further theft and violence and to address some of the underlying disenfranchisement issues. For example, the government has recently increased the frequency of military patrols in affected areas (such as the Niger Delta), with some success. However, the government seems to have abandoned its attempts to outsource this security mission to private contractors after experiencing domestic political criticism.

Other, less direct, measures taken by the Nigerian government include encouraging foreign investors to partner with Nigerians along the oil and gas value chain, and implementing an amnesty program for erstwhile militants. Another measure is the Petroleum Industry Bill (PIB), an executive bill to reform the regulatory framework of the industry, which includes proposals to align the interests of local communities and oil companies by compelling oil companies to make payments to those communities.

Although indigenous oil companies have a number of advantages over foreign oil companies (for example, preferential consideration in the

allocation of acreage and other contracts in the oil and gas industry), a company may be classed as indigenous even if up to 49 percent
of its share capital is owned by foreign entities. This policy has encouraged joint ventures between local and foreign oil companies. However, over the long term, the government may need to liberalize the industry by reducing the advantages offered to indigenous companies in order to allow domestic and foreign oil companies to compete on a level playing field. However, there appears to be little domestic political will to move away from the somewhat protectionist status quo.

The PIB includes proposals to modernize the award and management of oil and gas acreage. For example, it proposes introducing a "drill or drop" system (where companies must propose and adhere to exploration or production work programs, or else the asset reverts to the government for reallocation in future bidding rounds), which should help to remedy the underdevelopment of certain license areas. The PIB also includes helpful proposals for the implementation of production allowances and enhanced production allowances for dry gas producers. Nevertheless, since 2008, the PIB has been in legislative limbo, and foreign oil companies will have to endure an uncertain regulatory environment until a form of the bill is passed into law. The sooner the government can offer a stable and predictable regulatory environment, the better to retain the participation of foreign oil companies in Nigeria.

In addition, much still needs to be done to improve the transparency of the oil license bidding process. There has been a notable improvement since 2000, with the introduction of competitive bid rounds. However, past bid rounds have been widely criticized, with complaints of irregularities. As a result, some of the majors did not participate in the last bid round (held in 2007). The first bid round under the current government is expected to be held later this year; many will note with interest the extent of the participation mix of the majors and independents and whether the round is conducted in accordance with industry leading practice.

It remains to be seen whether the newfound willingness of independents to operate in onshore areas of Nigeria will remain undiminished in light of the continuing issues facing the oil and gas industry in the region. If progress is not made in resolving these issues, oil and gas companies may look for opportunities elsewhere in the region, and the story of the industry in Nigeria in the near future may be one of unrealized potential. ◆

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