OIL AND GAS IN EMERGING MARKETS: FINDING A NEW WAY FORWARD

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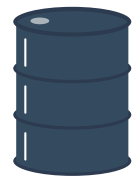
THE GLOBAL OIL GLUT AND THE RESULTING SUSTAINED LOW PRICES HAVE PROFOUNDLY AFFECTED MANY EMERGING MARKET ECONOMIES. FOR MANY EMERGING ECONOMIES HEAVILY DEPENDENT ON OIL REVENUE, THE DRAMATIC FALL IN PRICES HAS UNLEASHED A CHAIN REACTION WITH FARREACHING CONSEQUENCES FOR SOCIAL SPENDING, INVESTMENT, ECONOMIC DEVELOPMENT, GOVERNMENT BUDGETS AND MOST ESPECIALLY FOR THE NATIONAL OIL COMPANIES (NOCS) THAT ACCOUNT FOR AROUND 60% OF GLOBAL PRODUCTION. THE CONSEQUENCES OF THIS NEW ENERGY ORDER ENGENDERED BY SUSTAINED LOW OIL PRICES HAVE ALREADY BEEN EXTRAORDINARY. BUT WHAT KEY CHANGES AND CONSEQUENCES ARE YET TO COME?

A PRICE-SLIDE TSUNAMI

The downslide in oil price began two years ago, when US oil explorers and producers deployed new technologies and innovative approaches to tap tight oil resources. US crude oil production surged to an average 9.4 million barrels per day in 2015,2 rivaling that of Saudi Arabia and Russia.



9.4 MILLION PER DAY

For most of the last two years, because of surging US oil production as well as increases in OPEC and other non-OPEC production, global oil supply has consistently exceeded global oil demand. In late 2014, after OPEC decided to protect market share rather than protect price by reducing production, oil prices began what would be a dramatic decline, falling by more than 70%, dipping below US$30 a barrel.

Prices have stabilized more recently in the low to mid-US$40s as supply not economic at lower prices, has left the market. Total non-OPEC production is expected to average about 700,000 barrels a day lower in 2016, and by April, it was estimated that US production had eased to slightly below 9 million barrels a day.

On April 18, a meeting of both OPEC and non-OPEC producers to discuss capping production at January 2016 levels ended without agreement. Now, with US tight oil production more resilient, and demand growth less robust than anticipated, oil prices look likely to remain at lower levels, absent significant disruptions to global oil supply. We have entered a new oil production era.

A NEW “CONTRACT” WITH THE STATE

Over the past two years, lower oil and natural gas prices have caused government revenues in many hydrocarbon exporting states to plummet, forcing them to curb spending while causing public deficits to grow. But the price slump is transforming for NOCs, triggering cost-cutting and a profound rethink about roles and the fiscal relationships with statal stakeholders. For NOCs, the “contract” with the state, includes multiple elements:

FUND THE STATE REVENUE

SUPPORT STATE INDUSTRIALIZATION

PROMOTE ECONOMIC DIVERSIFICATION

EMPLOY AND EDUCATE CITIZENS AND INCREASE THEIR SKILLS

DRIVE INNOVATION, RESEARCH AND DEVELOPMENT, AIDING THEIR OWN AND NATIONAL DEVELOPMENT.

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VOLUMES, MARGINS AND THE NEW WAY FORWARD

Falling oil prices have reduced the ability of NOCs to fulfil these obligations. Many Middle East producers, and some in Africa, have responded by maximizing volumes, seeking to partially compensate for lower prices by raising output. Others have focused on improving margins, while positioning themselves for more efficient operations — and thus government revenue contributions for when prices recover.

However, some governments are re-examining the relationship between their national oil company and the state while exploring different options. Some NOCs are considering partial privatization, with the sale of a minority NOC stake to private investors. Privatization introduces more market and fiscal discipline into NOC business/operating models. The transfer of state-owned NOC equity to an arms-length sovereign fund is also attracting interest because it also promotes more commercial behavior. A wider privatization and market liberalization program designed to normalize emerging market economies, making them more competitive may accompany such steps. These changes could produce a seismic shift with global implications.

After capital opening, we would expect an NOC to embrace more market-oriented strategies, like those of a margin-oriented NOC or an IOC. Within these companies, cost reduction programs have been broad, often including reduced capital investment in exploration, and delays in new field development, steps which have hit oil field services companies hard, and they too are striving to cut costs.

Persistently lower oil prices and the cost-cutting measures that have resulted, have been a game changer for states or NOCs that rely on IOCs as partners in developing national resources. As NOCs look to IOCs for continued investment while IOCs focus on cutting costs, NOCs may have less leverage in negotiations with IOCs. In fact, there may be competition among NOCs and states to attract foreign capital, which could result in the loosening of production sharing terms and the relaxation of the other more onerous contract terms for oil and gas tenders. For example, the second bidding round of Mexico's oil sector opening to foreign investment was more successful after the government relaxed fiscal and contract terms. Other Latin American states that are keen to attract capital are taking similar steps.

"NOCS ARE BEGINNING TO SHIFT FROM A BUDGET CULTURE TO A MARGIN CULTURE."

FROM COST REDUCTION TO MARGIN MAXIMIZATION

Over the next 2–5 years, as NOCs and states seek to maximize the margins from their hydrocarbon resources, we expect many NOCs to shift from a budget culture to a margin culture. The process is well established. Companies first seek to understand where cost lies in the business, and how they can change the cost base. Next, they consider how best to deploy capital so that it has a measurable effect on profitability. Finally, capital is deployed to maximize margins. IOCs are typically operating in the last phase; many NOCs are still in the first phase. States with more diversified economies, less dependent upon oil revenues, are proving the quickest to embrace this transition.

INSPIRING NUMBERS

From US$100 a barrel in 2014 to US$30 in 2015 — the oil price fall

By late 2017–18 oil prices are expected to stabilize, likely around US$50

Near term, oil prices are expected to move in a range between US$30 and US$50

60% share of NOCs in global production

2–5 years — the window for NOC reform

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World Class Commercial Contracts Drafting, Negotiation and Dispute Resolution For Oil & Gas Excellence 2017

3 Day Master Class

Sheraton Dubai Creek Hotel & Towers, Dubai 6th - 8th March 2017

OVERVIEW

With the increasing number of oil & gas cross-border transactions, understanding how to negotiate, draft and interpret the terms of international business agreements plays a vital role in achieving successful deals. In particular this can also be the first step in order to avoid long and ruinous disputes, and subsequent expensive and complex litigation and arbitration proceedings.

This practical course will first examine the principles of international contract law, with specific reference to the oil & gas industry, using as a basis some standard of EPC Engineering Procurement and Construction Agreement, PSA Production-Sharing Agreement, License-Concession Agreement, Joint- Venture Agreement, and more zn general exploring today's internationally accepted commercial contracts principles. It will investigate the single issues of the contracts in order to understand in detail what it is typical of the oil & gas industry and how to negotiate efficiently any of their material issues. It will include best practice tools, tips and techniques on all key elements that are essential when drafting, negotiating and interpreting oil & gas and international contracts.

The course will also cover both theoretical and practical aspects of the management of oil & gas disputes. It will investigate how to prevent litigation and the ADR (Alternative Dispute Resolution) processes, including early neutral evaluation and expert determination. This course will also discuss the pros and cons of addressing a dispute to "special courts" such as DIFC Dubai International Finance Centre courts and SICC Singapore International Commercial Court, which are growing visibility and importance in today's litigation world.

COURSE LEADER

Pietro is an in-house counsel with a deep direct knowledge of the oil & gas industry. He has more than 20 years of specialized international experience in this kind of projects. After completing 17 years (out of which 11 as its General Counsel) work for , one of the world's leading and most international contractor in the oil & gas industry, he is now a Senior Vice President with which plays the main role in the Africa oil&gas industry.

Pietro has managed upstream, downstream, LNG, FPSO and other projects with values up to $10 billion, located throughout the Middle East, Asia-Pacific, Russia, Africa, Europe and Americas. Among the others, he has dealt with mediations in Brazil, Dubai and New York, and litigation and arbitration in Australia, Bangladesh, India, Qatar, Singapore and UAE. Pietro is a member of the UNIDROIT (International Institute for the Unification of Private Law) Working Group on International Long-Term and Investment Contracts. He has served as a member of the European Advisory Board of CPR International Institute for Conflict Prevention and Resolution, and of the ICC

International Chamber of Commerce task force on the role of in-house counsel in international arbitration. He has delivered highly rated public seminars & in-house programs all across Asia Pacific & Middle East, as well as in Africa, Brazil, Canada, Europe, Indonesia, Malaysia, Kazakhstan, Singapore and UAE. Blending theory, practical advice and in-depth solid expertise, in upstream and downstream oil & gas agreements, and how to prevent serious disputes, is unsurpassed. Saipem Eni, the oil company

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