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EQUATORIAL GUINEA

New Regulations on Petroleum Operations

Last 15 June 2020, the Minister of Mines and Hydrocarbons has enacted the new regulations to the 2006 Hydrocarbons Law (“**2006 HL**”).

Amongst other objectives, the New Regulations on Petroleum Operations (“**NROP**”) are aimed at mitigating the financial impact of the COVID-19 outbreak and avoiding a substantial decrease in Equatorial Guinea’s (“**EG**”) hydrocarbons output. Whilst leaving untouched most of the provisions of the former regulations dated from 2013 (“**2013 ROP**”), the NROP contain a set of new provisions, which may be summarized as follows:

Matter

Extension of Mature Fields’ productive life	<ul style="list-style-type: none">• Mature Fields are defined as <i>“those that have reached their maximum peak of production and have started their declining stage, reaching their economic limit”</i>• Article 41 sets forth new rules on the award and performance of contracts for Mature Fields
Marginal Fields’ exploration and production (“E&P”)	<ul style="list-style-type: none">• Marginal Fields are defined as a <i>“field [sic] where 90% of its proven hydrocarbon reserved have been produced”</i>• Article 41 sets forth new rules on the award and performance of contracts for Marginal Fields
Deep and ultra-deep water ventures	<ul style="list-style-type: none">• Article 41 sets forth new rules on the award and performance of contracts for deep and ultra-deep ventures
Onshore E&P	<ul style="list-style-type: none">• This regime is now established in a new Chapter VII
Petrochemical activities	<ul style="list-style-type: none">• Now clearly subject to the NROP, they share most of the requirements applicable to refining activities• Performance of petrochemical activities (the definition of License/Licensee does not refer to these activities, but solely to Refining and Marketing Activities) is subject to prior licensing by the Ministry of Mines and Hydrocarbons (“MMH”)• The requirements applicable to the design, construction, operation and abandonment of petrochemical plants are set forth side-by-side with the requirements applicable to refineries

Increased role of state companies	<ul style="list-style-type: none"> • Mid and downstream activities (refining, petrochemical and marketing activities) may be carried out by the MMH directly, either in association with private companies or through the EG NOC (GEPetrol) and/or the EG National Gas Company (Sonagas)
Subcontractors	<ul style="list-style-type: none"> • A definition of Subcontractors is added, meaning “a Person or a company that signs a contract to carry out all or part of the contract of a Contractor or of another Subcontractor” • Customs-related provisions are expressly applicable to the Subcontractors • Social projects funding obligations for Subcontractors are included
Customs	<ul style="list-style-type: none"> • MMH is required to assist Contractors and Subcontractors benefiting from customs exemptions with the customs clearance procedures
Integration of national employees	<ul style="list-style-type: none"> • The mandatory rules on employment of EG nationals (unless no EG national with the required qualifications and experience is available) were kept unchanged, being added a new express cross-reference to Ministerial Order 1/2020, of 13 April 2020, which limits the employment of expatriates to a maximum 3-year period
Annual social projects	<ul style="list-style-type: none"> • Funding thresholds and award rules are established for projects implemented by Contractors and Subcontractors
Fines	<ul style="list-style-type: none"> • In certain cases, the fines must be jointly assessed by the MMH and the Presidency of the Government

Although mentioned in Article 104 of the NROP, the lists of technical specifications of refined or marketed products are not attached therein (latest version was published by the MMH in its official website on 23 June 2020).

Powers are granted to the MMH to issue ancillary instructions and take any action required to enforce the provisions of the NROP.

As of its effective date, the NROP shall apply to all Contractors, Licensees and their associates, without prejudice to the terms and provisions of the Contracts or Licenses to which they are a party.

The NROP shall enter into force on the date that, cumulatively, their enactment is advertised at the *national media* (“**NM**”) and published in the EG Official Gazette, being this latter requirement still pending.

Notwithstanding the above, in practical terms EG legal statutes are deemed as entering into force as of the date of the advertisement of their enactment by the NM, without prejudice to its subsequent publication in the Official Gazette.

Therefore, for the sake of caution and unless otherwise declared by the MMH, it is advisable to consider NORP’s date of approval – 15 June 2020 – as its effective for all legal purposes.

We will be happy to expand on any of the above matters should you so wish.

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