

Oil and Gas – Myanmar Update

Myanmar (Burma) possesses large reserves of natural resources, with significant oil and gas fields both on and offshore. Owing to the impact of sanctions and the political climate, only 24 foreign companies, mostly from south east Asia, are operating in the oil and gas industry (predominantly in upstream). Myanmar wants to expand its oil and gas industry by opening the sector up to further foreign investment. Many countries have suspended or relaxed, or have expressed an intention to suspend or relax, sanctions, including Australia, the United States and the EU; these and others are monitoring developments and reviewing their position accordingly. The combination of reduced sanctions and a government looking for economic reform means that Myanmar is poised to become a significant oil and gas player in south east Asia.

Upstream

Acquisition of a Block

The mainland and the waters surrounding the coast of the country have been divided into blocks which are awarded to various bidders under Production Sharing Contracts ("PSC"). These blocks are then explored by the successful bidder with the intention to locate oil and gas and extract these products.

The blocks are put out to tender by the government of Myanmar through the Ministry of Energy and the state owned oil company Myanmar Oil and Gas Enterprise ("MOGE"). Direct applications, under certain circumstances, are also considered by MOGE.

Currently 25 contracts are active in 26 offshore blocks. This year the government has announced plans to seek new investors for 7 shallow water blocks and 19 deep water

blocks. Recently 9 onshore blocks were awarded to 7 international companies working with local partners.

The next offshore licensing round, which could be opened later this year, is expected to comprise 9 blocks.

PSC

Three different types of PSCs can be entered into by MOGE and successful contractors. MOGE's role in any of these PSCs is to act as the project owner and to deal with all Myanmar-related issues.

Some General Characteristics of all PSCs include:

- Once petroleum reserves have been located and are deemed exploitable the production period generally lasts for 20 years;
- All PSCs require a signature bonus within 30 days of signing the contract;
- 12.5% of all available petroleum is paid to MOGE as a royalty;
- Income tax is charged at 30%, with a 3 year holiday period (this is currently being reviewed by the

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Government and may be extended to either 5 or 8 years) starting from the production date;

- 0.5% of the contractor's share of profit petroleum must be spent on research and development;
- 20% of crude oil and 25% of natural gas must be sold to the domestic market at 90% of the fair market price;
- MOGE retains all rights to manage the PSC and demands chairmanship of all Management Committees set up in relation to the PSC; and
- All PSCs are governed by the laws of Myanmar.

Downstream

Myanmar's downstream industry is underdeveloped. Largely it centres on fuelling the domestic market. Current initiatives include the establishment of an LPG industry, to provide an alternative to the use of biofuels (e.g. timber).

Myanmar's current LPG consumption is just 0.02% of India, China, Thailand, Indonesia and Vietnam.

Development of a domestic gas market is hampered by lack of supply infrastructure to all parts of the country, an aging system of poorly maintained pipelines and state departments controlling distribution.

Gas to power would aid in the power shortage faced by the country. However, currently, the country's base load power is derived from hydro-power, with 78% of daily gas production being exported.

Conclusion

Provided there is a continued easing of sanctions and political and economic reform progresses, there will be some significant opportunities for the oil and gas sector (and consequently the power sector) within the country.

However, notwithstanding the positive steps Myanmar has made, a number of risks remain. Until all applicable restrictions are amended, suspended or lifted, businesses considering investing in Myanmar should seek legal advice prior to entering into any transaction.

For more information

Members of Clifford Chance's Myanmar Focus Group have extensive experience in Myanmar and continue to monitor developments in the country.

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