

Gulf of Guinea Region – Oil and Gas Contracting Systems

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*Yemi Akisanya, Esq.
Partner, Adesanya & Akisanya
Barristers, Solicitors and Notaries Public*

The Gulf of Guinea

- The Gulf of Guinea - a dozen African Nations from Ghana to Angola
 - Angola, Benin Republic, Cameroon, Congo-Brazzaville, the Democratic Republic of Congo
 - Equatorial Guinea, Gabon, Ghana, Ivory Coast, Liberia,
 - Nigeria, Sierra Leone, Sao Tome and Principe, and Togo
- The contracting systems in the Gulf of Guinea comprise three main model structures, namely:
 - Concession Contracts;
 - Participation Agreements/Joint Venture Agreements;
 - Joint Operating Agreements;
 - Production Sharing Contracts; and
 - Service Contracts.

The Concession

- The major characteristics of the Concession:
 - Operating Entity – typically IOC.
 - Ownership and Control
 - Ownership of the mineral resources and
 - full rights entire commercial discovery
 - full managerial and exclusive decision in the operations
 - States completely excluded from decision making processes

Concession - Cont'd

- Provided or secured
 - requisite financing
 - technology development, operations and productions
- Formulated and executed policies for:
 - development, operations,
 - productions and
 - marketing of the mineral resources

Concession - Cont'd

- IOC obligations:
 - royalties and taxes;
 - other fixed sums;
 - agreed share of the production; or
 - agreed percentage of the revenues.

PARTICIPATION AGREEMENTS/JV'S

- **PARTICIPATION AGREEMENTS/JOINT VENTURES:**
- **Government or NOC**
 - right to participate in the operations of the IOC
 - contribution of agreed participating interest share
 - the Working Capital
 - operating expenses of the operations

PARTICIPATION AGREEMENTS/JV'S Cont'd

- acquired (supposed to acquire) participating interest share of
 - operations assets
 - all production from the operations.

ISSUES:

- Title: whose? Really?
- Unclear definitions of operating costs and expenses
- Too much leeway to the Operator (carry-over from Concession Days)
- Not surprising – too expensive.

JOINT OPERATING AGREEMENTS

- Used either in Joint Venture Agreements
- More than one individual company or group of companies as Operator, has been contractually or functionally designated as the Operator.
- Term, Joint Operating Agreement (“JOA”), a misnomer.
 - In reality, only one operator, or
 - Operator Group
- Better expression - Operations Management Agreement.

PRODUCTION SHARING CONTRACTS

- First developed and practised in Indonesia in the mid 1960's.
- In last 30 years, probably the most dominant form of granting access to oil and gas exploration and development to international petroleum companies in the Gulf of Guinea Region.
- Main Characteristics:

PRODUCTION SHARING CONTRACTS – Cont'd

- **Enhanced Control** - Ownership and control of mineral resources retained by the State
 - All operations conducted State's name
 - all assets are (become) State's property
 - Oil produced belongs to the State.
 - At commercial discovery, the IOC's were allocated a portion of the discovery to cover their cost ("Cost Oil")
 - Remainder ("Profit Oil") was shared between the IOC's and the State depending on their agreement.
- IOCs also continued to pay Royalties to the State

PSC's – Cont'd

- Tax (Capital Allowances)
controversy/conflict - Who really is entitled to Capital Allowances on the asset cost.
- IOCs continued to
 - be responsible for providing finance and technology
- bear total risk

SERVICE CONTRACTS

- License is held by the State
- Operator designated as service contractor
 - provides all funds
 - recoups costs cost in line with the procedures stipulated in the contract
 - Gets fees
- May span more than two or more licences at a time
- Has fixed five-year period of five years
- Automatically terminates if no discovery
- Only Agip Energy and Natural Resources (AENR) operate SC.

GoG SYSTEMS – HYBRIDS

- None of the concessions and PSCs perfectly match actual definitions
- Each is a hybrid of both or several contracting systems:
 - Diverse
 - Unique from region to region in detail
 - Measure of flexibility desirable
- HOA
- MOU
- **Technical Partnership Agreements**