AN UPDATE ON RECENT ACTIVITIES IN THE NIGERIAN OIL AND GAS INDUSTRY

In the last year, there have been a number of notable activities in the Nigerian oil and gas industry including the divestment by international oil companies of their interests in certain onshore oil blocks; the announcement of a second marginal field licensing round; increased momentum by the local content regulator of the industry to implement the provisions of the Nigerian Oil and Gas Industry Content Development Act, 2010 (the "Local Content Act"); increased efforts by investors in the industry to comply with the Local Content Act, and continued attempts by Nigeria's federal legislature to pass the now infamous Petroleum Industry Bill 2012 (the "PIB") into law.

In the last 3 to 4 years, companies including Shell, Petrobras and ConocoPhillips have divested their interests in various onshore oil blocks in Nigeria. Those interests have been acquired mostly by indigenous Nigerian companies, some of which are in partnership with foreign investors that act as their financial and technical partners. Seplat Petroleum Development Company Plc, which recently carried out a dual listing in Nigeria and London, acquired Oil Mining Leases ("OMLs") 4, 38 and 41 from Shell Petroleum Development Company of Nigeria Limited ("SPDC"). Oando Energy Resources Limited ("Oando") acquired the interests of ConocoPhillips in OMLs 60, 61, 62, 63 and participating interests in the Okpai power plant located within OML 60. Oando also acquired ConocoPhillips' interest in Oil Prospecting Licence 214. First Hydrocarbon Nigeria Limited acquired SPDC's interests in OML 26. Shoreline Energy Resources Limited acquired SPDC's interest in OML 30. This year, Shell, Total and AGIP have signed agreements for the sale of their combined 45% participating interest in OML 18 to the Erotron Consortium, and the prolific OML 29 and the Nembe Creek trunkline to the Aiteo Group. The sales are, however, not yet completed as they await the consent of the Minister of Petroleum Resources to the assignment of the interest as required under the Petroleum Act 1969 (as amended). These three IOCs are also in the process of divesting their interests in OML 24 to Pan Ocean and OML 25 to Crestar. The divestment of these 4 OMLs will bring the total number of oil blocks divested by Shell, Total and AGIP in the last 3 - 4 years to 12.

In November 2013, the Department of Petroleum Resources ("DPR") – the primary regulator of the Nigerian oil and gas industry - announced the second marginal field licensing round at which 31 marginal fields are to be awarded by the Nigerian government. 16 of those fields are located in the onshore areas of Nigeria and 15 are offshore fields. The announcement of this second licensing round came after 10 years of the first marginal field licensing round in 2003 at which 24 marginal fields were awarded to 31 indigenous companies. The DPR has issued new guidelines for the farm-out and operation of marginal fields.

Another area where there has been considerable activities is in relation to the implementation of the Local Content Act. Prospective investors and companies operating in the Nigerian oil and gas industry have continued to seek clarification from legal counsel, financial advisers in certain cases, and from the Nigerian Content Development and Monitoring Board ("NCDMB") – the government agency responsible for the implementation of the Local Content Act – on specific provisions of the Act. In its effort to provide the clarification sought, the NCDMB has issued guidelines, responded to requests for clarification, engaged stakeholders, and also made presentations at different fora in respect of such provisions. The provisions in respect of which the NCDMB has provided clarification are those in relation to the ownership of drilling rigs deployed for work in offshore areas; Nigerian shareholding for oil and gas service companies, and the requirement for companies to retain a minimum of 10% of total revenues accruing from their Nigerian operations, in Nigerian banks. The clarification provided so far by the NCDMB has assisted companies to better understand and comply with the provisions of the Local Content Act. In addition, there has been increased momentum on the part of the NCDMB to ensure that companies operating within the Nigerian oil and gas industry comply with the provisions of the Local Content Act. The NCDMB continues to caution such companies about the consequences of failing to comply with the Act and continues to encourage companies to comply. The NCDMB has on at least one occasion blacklisted a company for its non-compliance with certain provisions of the Local Content Act and that company eventually left Nigeria. With increased effort by the NCDMB to implement the Act, we have seen more interest on the part of prospective investors and also companies already operating in the Nigerian oil and gas industry to structure their transactions and operations to comply with the requirements of the Local Content Act.

The uncertainty around whether and when the PIB will be passed into law continues to overshadow the sector and has had an impact on potential investments in the Nigerian oil and gas industry, particularly in the upstream sector.

Conclusion

The Nigerian oil and gas industry has been busy in the last few years as there have been a lot of activities in that industry. We are likely to see more divestments by Shell of its onshore upstream assets in the coming years, the farm-out and award of more marginal fields to qualified investors, and increased investments in the downstream gas sector if the PIB is passed into law. We are also likely to see stricter implementation of the Local Content Act by the NCDMB and greater compliance by investors in the Nigerian oil and gas sector, particularly by oil and gas service companies.

One major concern, however, that (prospective) investors in the Nigerian upstream oil and gas sector have appears to be the uncertainties surrounding whether or when the PIB would be passed into law, and in what form it would be passed. Investors are mostly concerned about the fiscal terms of the PIB, particularly in relation to upstream gas. Investors are also mindful of the need to comply with the requirements of the Local Content Act and have been structuring their operations to comply with that Act. Even with these concerns, in the next few years we are likely to continue to see increased investments in the Nigerian oil and gas industry, particularly in the upstream sector.

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