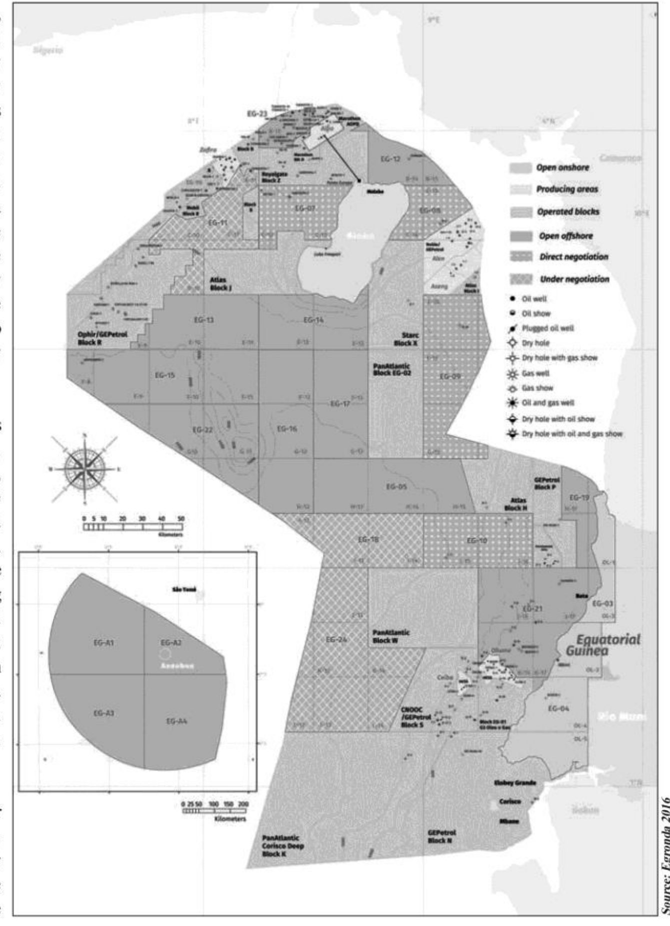
CLIPPER BOOK MIRANDA			
MEDIA	PETROLEUM AFRICA		
Nº PAG.	18 - 21	DATA	novembro 2016

By Catarina Távora and Sara Frazão
Miranda & Associados

Equatorial Guinea New Licensing Round

AN APPEALING OPPORTUNITY AHEAD

Last Summer, Mr. Gabriel Mbaga Obiang Lima, the Minister of Hydrocarbons and Natural Resources, announced the launching of a new licensing round for the award of blocks not currently under direct negotiations. With crude oil proved reserves of 1.1 billion bbl, Equatorial Guinea is the third oil producer in Sub-Saharan Africa, and it counts a total of 48 oil & gas discoveries and 114 exploration wells drilled, showing a drilling success rate of 42% and a global drilling success rate of 20%. These impressive figures, along with the announced openness of the Government to negotiate competitive terms for new contracts make this licens in ground an attractive opportunity for investors wishing to expand their portfolio at a time of an oil slump. Great opportunities typically come in times of crisis.



Source: Egronda 2016

The acreage available for this licensing round comprises Blocks EG-03, EG-04, EG-05, EG-12, EG-13, EG-14, EG-15, EG-16, EG-17, EG-19, EG-21, EG-22, EG-23, EG-A1, EG-A2, EG-A3 and EG-A4, all located in the relinquished offshore areas of the Niger Delta, Douala Basin and Rio Muni Basin, onshore Rio Muni Basin, as well as frontier acreage south of Bioko Island offshore and surrounding the Annobon island offshore. According to official sources, to date, 68 wells have been drilled and 27 discoveries made in the Niger Delta Complex (i.e. a 40% discovery success rate), 18 wells have been drilled and 8 discoveries made in the Douala Basin (i.e. a 44% discovery success rate) and 44 wells have been drilled and 15 discoveries made in the Rio Muni Basin (i.e. a discovery success rate of 34%).

The main legal framework covering the oil and gas sector is found in the country's Hydrocarbons Law (Law No. 8/2006, of 3 November 2006) and in Ministerial Order No. 4/2013, of 20 June 2013 (which approved the Petroleum Regulations to enforce and implement the Hydrocarbons Law). These statutes govern the exploration, appraisal, development, production, transportation, distribution, storage, preservation, decommissioning, refining, marketing, sale and other disposal of hydrocarbons, local content, State participation, unitization, assignments and termination.

The Petroleum Regulations are particularly detailed when it comes to refining, marketing and adding value to petroleum products (including import, export, blending, packaging, repackaging, storage, transportation, distribution, wholesaling and retailing of hydrocarbon products). The

Regulations also contain provisions on road transportation and maritime terminals as well as on tax, customs, labor, land access, competition and local content.

Alongside the abovementioned statutes, interested companies will also be required to comply with the Local Content Regulations enacted in 2014. These impose obligations pertaining to the registration of companies, preferential use of local services and goods, hiring and training of national personnel, and sponsoring of welfare projects. The Ministry, however, may exempt companies from certain of those requirements on a case-by-case basis.

Pursuant to the Hydrocarbons Law and the Petroleum Regulations, petroleum contracts must be awarded to companies with adequate technical and financial ability offering competitive terms for the State. In respect of competitive international public tenders, the Petroleum Regulations expressly require the Ministry to: (i) confirm that bidders have proved technical and financial ability to fulfill the terms of the contract to be awarded, and have published their ultimate beneficial ownership as well as audited accounts; (ii) publish, in advance of the tender, on its website, information on the terms of the tender, including but not limited to a list of pre-qualified companies and the terms established for the bids, including the schedule for submission and award deadlines, non-negotiable fiscal terms, operational requirements and biddable items; (iii) receive and open bids in a public session scheduled in advance; and (iv) publish on the Ministry's website the results of the tender, including not only the identity of the winner, but also the bid terms offered by all bidders and an explanation of the reasons for selecting the winner.

All existing E&P contracts in Equatorial Guinea have taken the form of Production Sharing Agreements (PSCs), which is also the approach taken by the Ministry for the current round. PSCs' terms and conditions have varied significantly over the years depending on the prospects to find commercially viable resources. In this respect, a model PSC has been approved with the 2006 Hydrocarbons Law, establishing it as a base for negotiations. Moreover, the Petroleum Regulations have incorporated some of the terms of the model PSC making them mandatory and limiting the Ministry's ability to negotiate them. Notwithstanding this, the Terms of Reference (TOR) for this licensing round expressly indicate the main terms of the PSC deemed biddable.

In order to promote the transparency of the bidding process, the Ministry disclosed the main steps of this licensing round as well as the selection criteria which will be adopted. Following the pre-qualification phase and the data viewing, purchase, evaluation and bid submission, the authorities will confirm whether or not the bids comply with required terms. Bids not complying with the mandatory requirements will be rejected. Afterwards, in case there is a single bidder for a given block, the Government will start negotiations with the interested company. If there are multiple bidders for the same block, the awarded company is decided based on (1) the highest number of wells that it commits to drill, (2) the largest volume of 3D seismic to be acquired, (3) the largest volume of 2D seismic, (4) the proposal for local content (GEPetrol's participation), and (5) the highest signature bonus. This appears to demonstrate that the Government is more focused on the work programs proposed by bidders than on the amount of the signature bonuses offered by them, which are typically a heavy burden for oil companies.

In line with the standards of the industry, petroleum companies wishing to apply for a non-operator role must submit the following data and information: (i) corporate name; (ii) place of incorporation, registration and address of the main office; (iii) the most relevant activities carried out; (iv) details of their asset structure, notably the value of equity capital, current assets and investment in current assets, as well as the value of current liabilities; (v) references of reputed banking institutions endorsing their financial capacity; (vi) annual activity reports, including balance sheets and accounts for the last three financial years or since inception whenever the investing company has been set up less than three years ago (the accounts must be audited by a proven experienced independent audit firm); (vii) details of their experience in the field of oil exploration and production, including details of reserves and production; (viii) number of employees, and the professional experience of management in the field of oil exploration and production; (ix) details of court cases and arbitrations against the companies during the last five years; (x) details of existing plans, future commitments, including work programs and risks that might impact their ability to implement any future work programs relating to the Equatorial Guinea contracts to which they might become parties; and (xi) details of any previous and current business activities carried out in Equatorial Guinea.

In addition to the data and information mentioned above, companies wishing to qualify as operators must also demonstrate: (i) competence and experience in the management and performance of petroleum operations; (ii) technical and operational competence; and (iii) file any other documents relating to their experience in the performance of petroleum operations deemed relevant to support their application (e.g. on safety, environmental protection, employment, integration and training of local personnel).

Scheduled to be concluded in June 2017, the pre-qualification phase requires interested companies to disburse a pay-in fee in the amount of $10,000 in order for the Technical Steering Committee to review their application. Only pre-qualified companies will be entitled to submit bid proposals. Still, prior to the presentation of proposals, interested companies are required to attend a data room in London, UK, subject to a written request addressed to the Ministry and an additional payment of $10,000.

Bid proposals must contain information on key biddable items set forth in the model PSC, which include: (i) work program during the exploration period; (ii) royalties to be paid to the State; (iii) percentages of cost recovery oil; (iv) shares of net crude oil production split between the State and the contractor; (v) signature bonus; (vi) production bonus, and (vii) GEPetrol's participating interest.

In this respect, the TOR also state the minimum requirements applicable to both the work obligations for the exploration period and the signature bonus. The minimum work program obligations depend on the phase of operations. During the first exploration period (which will have a

CLIPPER BOOK MIRANDA			
MEDIA	PETROLEUM AFRICA		
Nº PAG.	18 - 21	DATA	novembro 2016

period of between two and three years, depending on the relevant block), petroleum companies will be required to at least acquire 2D and/or 3D seismic and/or drill one well. During the second exploration period (a two-year term), the contractor will be required to drill one well, irrespective of the block. The minimum signature bonus will vary between $200,000 and $5,000,000.

The State is entitled to a minimum participating interest of 20%, to be held by GEPetrol, which shall be 100% carried until commercial discovery. Recovery is from 50% of GEPetrol's entitlement of hydrocarbons. However, the TOR leave room to a higher participating interest of the State, as the State participation constitutes a criterion for selection of bidders.

The authorities confirmed that slight amendments to the existing model PSC have been made in order to adapt its terms and conditions to the new "industry practices." It is still unclear, however, which provisions may actually be amended, as any amendment would have to comply with the existing legislation, which – in the majority of the cases – already mirrors the model PSC clauses. One may expect, though, that the existing rules on mandatory relinquishments, Joint Operating Agreements, assignments, foreign exchange, customs and tax remain unchanged.

The road show events took place in Abu Dhabi and Houston during the month of November. The 2016 licensing round presents itself as an opportunity for both companies already active in Equatorial Guinea and for new players. The apparent openness of the government to negotiate more attractive contractual terms than those typically offered to IOCs, especially when compared to those imposed when the crude oil barrel stood at $100 coupled with relatively low bonuses required for most blocks will likely catch the eye of the industry.

About the Authors
*Catarina Távora is a Partner and Global Head of the Energy Group at Miranda & Associados. She has more than 15 years of experience advising oil & gas companies in setting up and carrying out their operations in Africa. Sara Frazão is an Associate and a member of the Energy Group at Miranda & Associados and regularly advises on oil & gas matters in Africa. Catarina and Sara may be contacted at Catarina.Tavora@mirandalawfirm.com and Sara.Frazao@mirandalawfirm.com respectively.