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Downstream Focus

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The Opening Up of a New Sector

Investment Opportunities in Angola's Downstream

Like other African petroleum producers, Angola has been hard hit by the sharp drop in oil prices, which has negatively affected the country's balance of payments, lowered GDP growth, and reduced the availability of public funds to stimulate the economy and carry out much needed investment.

The recent turn of events has also introduced a sense of urgency to the Government's plan to diversify the economy by investing in the industrial sector, thus reducing dependence on upstream oil & gas revenues and lowering the country's imports of manufactured goods. Not surprisingly, reducing the country's importation of refined petroleum products has been identified as a priority of the Angolan Executive, as part of its strategy for the downstream sector, as Angola is currently dependent on imports and relatively low production from the Luanda refinery to meet its fuel needs. Although the Sonangol Refinery project in Lobito (known as Sonaref) has been in discussion for a number of years and some preparatory work has already taken place, the truth is that production from the facility is still far down the track, and Angola urgently needs to start producing more refined products.

In the current economic environment, projects such as Angola LNG (which also contemplates the processing of gas for the domestic market), and the numerous refinery projects that are currently being considered (besides Sonaref, there is also talk of the construction of other refineries including in Soyo and Bengo) would certainly contribute to the development of the country and to reducing Angola's annual imports of refined products. Additionally, the progressive liberalization of the downstream sector and the withdrawal of State subsidies for fuel, have also opened up numerous opportunities for private investors, especially considering the perception that certain State projects may be put on hold for the time being.

Legal Framework

Seven years have passed since the enactment of the Strategy for the Liberalization of the Downstream Sector¹, which at the time set a number of ambitious goals for the sector: (i) increasing efficiency in the refining chain, as well as storage, transport and distribution of fuels, (ii) encouraging and ensuring national coverage in petroleum products' distribution, (iii) establishing a more transparent charging system, (iv) promoting national cohesion by ensuring the same conditions for the sale of products throughout the territory, and (v) allowing free access to distribution activities. Fast-forward to 2016, and it appears that the majority of the recommendations set forth in the Strategy have been implemented, mostly through the drafting and approval of important downstream sector-related legislative changes.

The downstream oil industry in Angola is supervised by the Ministry of Petroleum, with the main statute on this matter being Law No. 28/11, of September 1, 2011, the law on crude oil refining and storage,



transportation, distribution and marketing of petroleum products. However, this general framework has been further regulated by additional more detailed legislation enacted over time, notably (i) Presidential Decree No. 132/13, of September 5, 2013, which lays down specific rules on crude oil refining and the storage and transport of petroleum products by pipeline, the petroleum products system logistics supervision system, the operation of wholesale and retail markets, public service obligations, and the planning and licensing of the petroleum products system, and (ii) Presidential Decree No. 173/13, of October 30, 2013, which approved the procedures and defined the powers for the licensing and supervision of facilities for storage of petroleum products, facilities for the supply of liquid and gaseous fuels (i.e. fuel stations), and distribution networks connected to liquefied petroleum gas (LPG) reservoirs.

The legislation currently applicable to the sector foresees specific rules and requirements for each segment of the downstream value chain, thus allowing for different opportunities for investors.

At present, Sonangol Logistics (a subsidiary of Sonangol, E.P.) acts as the logistics supervisor of the Petroleum Products System under a concession granted by the State. As such, it is responsible for supervising operators of petroleum products storage facilities (whether or not they operate terminals for the reception of petroleum products), petroleum

¹Resolution No. 105/09, of November 19, 2009.

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products' pipeline transportation operators, petroleum product retailers, and the Luanda Refinery (the only refiner subject to a special framework). With the restructuring of Sonangol, E.P. that is currently underway (which shall hereinafter focus on its role of upstream National Concessionaire), it is not clear which entity, if any, will undertake Sonangol logistics' functions and duties, or where the latter will fit in terms of the petroleum sector organizational framework. In any case, pending full liberalization of the downstream sector we would expect that the State will wish to maintain a certain degree of control over the petroleum products' logistics subsector.

Progressive Liberalization of the Sector and Opportunities

Although the Angolan State has been progressively opening up the downstream sector to private investment, there are still certain restrictions for segments of the downstream value chain.

With a view to promoting and supporting the local industry, companies wishing to carry out activities related to crude oil refining, and storage and transport by pipeline of petroleum products must be controlled by Angolan citizens. This means that they must be at least 51% held by Angolan citizens, who must hold over half the voting rights, have the right to appoint over half of the members of the management or administration bodies of the relevant company, and have the power to define the company's operational and strategic policies. Although this is a restriction to full foreign investment in these activities, the truth is that opportunities exist for those companies that know how to partner with local investors and adequately structure and protect their shareholding positions.

One area where the market has been liberalized is retail marketing of petroleum products, which includes marketing of liquid fuel in service stations, marketing and distribution of piped LPG, marketing of bottled LPG, and marketing of oils and greases. Retail marketing is subject to licensing and is performed under a free market regime, meaning that competition among operators is ensured. There are no nationality requirements to carry out these activities, and the retail fuel stations' subsector is an area in respect of which private investors have shown interest of late.

Among other rules, fuel retailers are required to ensure the operation, technical integrity and maintenance of the liquid fuel service stations in safe and reliable conditions, while guaranteeing compliance with the applicable service quality standards, ensuring the safety of reception and transshipment operations from road tankers at the liquid fuel service stations, bearing the charges in connection with the distribution of the petroleum products ordered from Sonangol Logística, ensuring the transparency of the prices applied, complying with public service obligations, including the creation of emergency stocks, and keeping records of their commercial activities.

Marketing activities are also subject to licensing by the Minister of Petroleum, being the authorization to engage in retail marketing of petroleum products handled simultaneously with the licensing of the facilities where the relevant activity will be performed. In some situations, however (for instance, fuel filling stations for own consumption or belonging to the cooperative sector of the economy, with a capacity exceeding 10 m³), a simplified licensing regime by the provincial governments applies.

Retailers of petroleum products are expressly granted access to the infrastructure of the Petroleum Derivatives System (e.g., storage facilities, terminals for reception of petroleum products and transportation pipelines), and benefit – on a non-discriminatory basis – from the services provided by the supervisor). However, they are required to comply with certain public interest duties, such as: cooperate in the promotion of policies on energy efficiency and demand management, to provide their customers with the information required (in particular with regard to the prices applied), issue detailed invoices, refrain from any discrimination between clients, and perform their operations in a commercially transparent manner, keep records of all commercial operations, maintain the technical, legal and financial capability required for the performance of their activities, and create and keep updated the required guarantee(s).

In terms of pricing, the margins for downstream activities in Angola have traditionally been determined by statute. This said, the system has been moving towards liberalization in recent times, and in late 2014² light fuel, heavy fuel, and asphalt were excluded from the fixed-pricing system and subject to a free-pricing system. More recently, the Minister of Petroleum³ determined that diesel prices were also to be subject to the free-pricing system, thus ceasing the State's obligation to subsidize diesel prices, and Sonangol became responsible for determining the new prices. Currently, with the Luanda refinery being the only refinery operating in the country, we believe that there is a good opportunity and business case for investment in processing plants, as if the planned new refining capacity were to come online, the economic impact of the end of the State's subsidies for fuel on the general population would be lower and fuel consumption would most likely increase.

In recent years, the Angolan Executive has been busy trying to reorganize the country's economy in general, and petroleum sector in particular. This includes both the upstream and downstream sectors. Although in 2014 and 2015 there was a significant amount of downstream legislation enacted, in 2016 the upstream sector has been at the center of attention. However, at a time when petroleum companies and other investors are looking to diversify their portfolios (and the Government is actively seeking investment outside the upstream sector), we hope that the current reform may also include amendments to the downstream sector capable of attracting investment, namely through additional incentives. When one considers the lack of adequate downstream infrastructure in sub-Saharan Africa, it is easy to see the opportunities for building and operating facilities that can meet not only national but also regional demand for petroleum products.

In any case, even as things stand the opportunities clearly exist and, with the industrial development of Angola being one of the State's priorities, it is already possible to negotiate attractive conditions to invest in downstream activities. **PA**

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²Executive Decree No. 405/14, of December 24, 2014. ³Executive Decree No. 706/15, of December 30, 2015.