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UPDATE ON THE FEDERAL GOVERNMENT'S PROPOSED 2017 BIDDING ROUNDS FOR MARGINAL OIL FIELDS

In April 2017, Dr. Ibe Kachikwu, the Minister of State for Petroleum, while attending the Offshore Technology Conference, OTC, in Houston, Texas in the United States hinted at the possibility of completing the marginal field bidding rounds between 2018 and 2019. This much awaited development has significant impacts on the Nigerian oil and gas industry although there have been various alluding statements in the press surrounding the timelines for the marginal fields bidding rounds. This report provides an update as to the status of the proposed bidding rounds for marginal oil fields in Nigeria.

A marginal field is an oil field with uncertain income potentials and which may possibly have been abandoned for more than 10 (Ten) years. Section 1 of the Petroleum Act (Amendment Decree) 1996 amends Section 16 of the principal Act to give the President the power to endorse the farm-out of an area granted to the holder of an oil mining lease or direct the farm-out of a marginal field if it has been left unattended for more than 10 years since the oil field was first discovered. The Department of Petroleum Resources (DPR) 2013 Guidelines for Farm-out and Operation of Marginal Fields defines a marginal field as"any field that has (oil and gas) reserves booked and reported annually to the Department of Petroleum Resources (DPR) and has remained un-produced for a period of over 10 years."

The conditions upon which such marginal fields are to be farmed out are however that such farm-out must be in the interest of the nation and that the parties to a farm-out arrangement are acceptable to the government.

There are different factors that may influence the abandonment of an oil field which includes low yields and inadequate capital to finance the operation of the field. Other challenges could revolve around insecurity, price instability and access to the field. Persons seeking to invest in a marginal field may therefore have to carry out their due diligence to identify pre-existing conditions affecting the marginal fields they are bidding for. One other factor they however also have to contend with is acceptability to the government which is determined through guidelines issued through the relevant agencies of government and other generally applicable procurement rules.

In Nigeria, the Department of Petroleum Resources (DPR) is saddled with the responsibility of issuing guidelines on bidding rounds for marginal oil fields. It issued the first of such guidelines in 2003 for the first of such bidding rounds that resulted in the award of 30 (Thirty) marginal oil fields. Another attempt was made in 2013 with the issuance of new guidelines but the bidding rounds never held. There have been suggestions that the DPR is set to issue new guidelines but the Department in a new disclaimer has stated that it is yet to receive the needed authorisation from the Honourable Minister of Petroleum for the submission of the submission of applicable guidelines and technical frameworks for the process.

It is noteworthy that under the current political dispensation, the Minister of Petroleum Resources is the President, His Excellency, President Muhammadu Buhari while Dr. Ibe Kachikwu serves as the Minister of State for Petroleum Resources. While President Buhari has not been heard making any pronouncement about oil bidding rounds, as stated above, Dr Kachikwu in April 2017 while attending the Offshore Technology Conference, OTC, in Houston, Texas in the United States hinted at the possibility of completing the bidding rounds between 2018 and 2019.

It is therefore clear from the foregoing that notwithstanding the disclaimer issued by the DPR, there is indeed the possibility that the bidding rounds would take place at a time to be determined by the government which may not be far away. We are therefore convinced that potential investors in the marginal oil fields will do well to prepare for the opportunity of the bidding rounds when it eventually presents itself.

In the absence of new guidelines published by the DPR, potential investors may take the 2013 DPR as a temporary guide with the expectation that some alterations may be made in the foreseeable future. Under the 2013 Guidelines, eligibility for the award of a marginal field is incorporation of a Nigerian entity in which at least 51 (Fifty One) percent of the shareholding is held by Nigerians. The indigenous company must also be registered solely for exploration and production business while it is similarly expected that the promoters of the company would have a satisfactory background in exploration and production, include indigenes of the Niger Delta region and also reflect Federal Character.

The eligibility criteria calls for careful selection of the promoting team and may also necessitate a technical partnership agreement between interested investors who may possibly be without the required exploration and production expertise. Teaming up with experienced partners may help the interested bidders demonstrate the ability to fully operate the marginal field or in the least, demonstrate the ability to manage or develop in that direction in the short to medium term as the Guidelines stipulate. This requirement is considered all the more important taking into context that more than half of the marginal fields previously awarded are not being operated.

Prospective bidders have to, without a doubt, pay attention to the issue of bank ability of the fields. Beyond the fact that the sector has been experiencing cash constraints in recent years, financers also need to be assured of returns on investment. It therefore becomes expedient for the prospective bidders to extend their due diligence towards ascertaining the possible extent of available oil reserves in the fields to be offered in the bidding rounds, perhaps well before the government declares open the bidding rounds(if possible).

One other important issue we advise prospective bidders to begin planning around is the identification of potential off-takers in the event that the FGN does not have a defined crude purchase arrangement for the benefit of the marginal field operators. The prospective bidders may consider initiating talks with identifiable players who may be granted licences to operate modular refineries, as potential off-takers. The FGN has over time indicated its intention to issue licenses for modular refineries in the Niger Delta in pursuit of its desire to increase local participation in the oil and gas sector.

Other technical issues that prospective bidders may begin to address as a proactive measure include sourcing equipment and services to develop the field, obtaining export capacity in oil pipelines operated by international oil companies should the field yield significant volumes, dealing with possible pipelines losses which may arise from a number of factors including vandalism, and resolving community issues. To effectively address these concerns, the prospective bidders need to retain the services of competent technical, financial and legal advisers among others.

CONCLUSION

The award of marginal fields entails certain considerations governed by the guidelines to be issued by the DPR but the Minister for Petroleum Resources and indeed the President play significant roles in determining the nature of the process and the successful bidders. In the meantime, before the President who happens to double as the Minister for Petroleum Resources, and the DPR conclude on a definitive timeline for the next bidding rounds for marginal oil fields which would be signposted by the release of the DPR Guidelines, potential investors may do well to begin to seek expert advice on all the issues affecting the awards of marginal fields so as to be well positioned to take advantage of the opportunity when it presents itself. It is yet unclear if the government would be cutting down on the applicable fees in the application process to encourage participation or consider it as an opportunity for more revenue but we advise prospective bidders to be well guided in this regard as all stakeholders await the definitive guidelines.

We are available to provide further clarification(s) regarding the content of this report and other issues as may be connected with the subject matter of the report; which we are well equipped to advise on owing to our industry experience spanning over 30 (Thirty) years in the energy sector.