

BRIEFING NOTE #10: 14th NOVEMBER 2017

**HOST GOVERNMENT MANAGEMENT
OF OIL AND GAS ACTIVITIES**



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The rights to oil and gas resources are almost always held by the states where the resources are located (“host countries”). Consequentially, the governments of those states (“host governments”) typically reserve the right to manage exclusively the exploitation of oil and gas resources. The home government’s role as resource manager can be exercised to various extents. Some countries hold tight control over their natural resources. For example, Norway’s comprehensive legal framework establishes rather extensive rules on the powers of the Norwegian state as resource manager and on how petroleum activities may be carried out. Other host countries do not exercise their rights to resource management to the same extent or level of detail. For example, the license regime in Brazil allows companies more freedom in deciding how and when the petroleum activities should be carried out. The extent of host country control over its oil and gas resources might be connected to the extent and maturity of the domestic legal framework for petroleum activities, the capacity, the desire, the policy and competency of the host government to act as resource manager and to intervene in the economy, as well as the relative competitiveness of the host country in attracting foreign investment to its petroleum industry.

In any event, no matter how strict governmental control is over petroleum activities, the host country’s right to exclusive resource management normally implies as a minimum that if a company has an interest in searching for and producing oil and gas, it must first obtain permission from the relevant host government to carry out such petroleum activities. Permission is typically given in one of two forms; some host governments permit petroleum activities by granting a petroleum license, which is a public law instrument. Other host governments permit petroleum activities by entering into a mutually binding contract, which is typically a private law instrument. Although there has been a development towards increased regulation of petroleum activities in recent years, traditionally we have seen that the legal framework for petroleum activities is less developed in host countries adopting a contractual regime.

Because a wide range of risks are inherent to the oil and gas industry, players within the industry operate within a sphere of uncertainty. This uncertainty

influences awards of petroleum licenses and petroleum contracts, investment decisions, development of a project and the management and operation of petroleum activities in general. Typical risks include exploration risk, operational risk, health, safety and environmental risk, technical risk and political risk - all of which can affect the estimated costs for and the successful implementation of a project. Many of these risks can materialize at any time during a project, and therefore cost estimates and efficiency of operations can be, possibly severely, affected at any point in the project's lifetime. Moreover, when evaluating the overall risk scenarios, one should take into consideration that a petroleum project is technically challenging and capital intensive. There is a long lead-time from initial investment until revenues can be collected. In addition, as the access to "easy oil" is decreasing, petroleum activities are to an increasing extent carried out in harsh and hostile natural environments and in remote areas. Therefore, host governments and investors should consider what are their priorities, risks and rewards before offering or entering into new upstream investments opportunities.