

# **A NEW BRAZILIAN LEGAL FRAMEWORK OF PRODUCTION SHARING AGREEMENT AT OIL INDUSTRY: HOW IT HAS MOVED TOWARDS ATTRACTIVENESS, FROM NATIONALIST TO DIRTY LIBERALISM TREND**

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## **Overview**

The legal framework for the pre-salt polygon on Brazilian continental shelf was established by Law n. 12.351, at the end of 2010, after three years of debate from Federal Government to National Congress. After it enacts the approved bill, the first bidding round was implemented under the production sharing regime, where it was offered only the Libra area. The prospect have received a single bid minimum bid stipulated by the Government.

Recently, legal and regulatory modifications have been done in order to increase competitiveness among participants of Production Sharing Agreement (PSA) bidding round. In terms of legal improvement, National Congress approved the Law no. 13.365, at 2016. This instrument established the end of the exclusivity of operation conceded to Petróleo Brasileiro S.A. (PETROBRAS), a National Oil Company (NOC). Nevertheless, it kept its preemptive right as a way that could be called dirty liberalism on oil industry. After that, it has been enacted the Law no. 13.586, at 2017. The law granted tax incentives to reduce costs in the first stages of investment in exploration and production of oilfields.

Under the law, the National Council for Energy Policy, which is a high-level council responsible for advising the President of the Republic, established local content obligation requirements lower than those presented in the first PSA, especially for the production development stage, therefore, during the major expenditure of financial resources of a given project.

All of these factors may have influenced the willingness of investors in the four bidding rounds followed.

The aim of this study, thus, is to analyze the results of five PSA bidding rounds of pre-salt blocks in terms of asset attractiveness.

## **Methods**

It will be done a comparative analysis of the PSA bidding rounds of Pre-Salt blocks, especially focused on the following aspects: (a) the cost of the exclusive operation by the Brazilian NOC in qualitative terms, (b) fiscal regime and local content in a investor perspective view (c) government take at PSA regime after and before framework changes, and (d) number of eligible players as a sign of PSA attractiveness.

## **Results**

Recent observations indicate that changes promoted after the first PSA bidding round resulted in an attractiveness increment of Pre-Salt area available to the private sector.

The possibility of competition for the operator position in PSA increased the number of bids for blocks offered. Also, it is observed improvement of government take, especially in the profit oil, as a result of competitiveness.

Event when it is observed the new dirty liberalism, when Brazilian NOC exercised the right to occupied the operator position despite not being success of bid, the PSA regime demonstrate an enhancement for both, public and private sector. It is also possible to notice the tendency of the reduction of the obligatoriness indexes of the local content and the new fiscal regime functioned as a factor of increase of assets rate of return, therefore, they increased the attractiveness after the changes in the legal and regulatory framework.

## **Conclusions**

As discussed, the enhanced of legal and regulatory framework, after the end of the exclusivity of operation position by Brazilian NOC, the new fiscal regime and local content rules, all of them increased the attractiveness PSA regime in Brazil. The changes resulted more industry oil players in PSA bidding rounds, mainly because of operator position at the contract, and, as consequence, companies have offered larger share of profit oil to win the auction.