

INSTITUTIONAL CHANGES AND CHANGES IN THE ECONOMIC REGULATION OF THE BRAZILIAN OIL AND GAS INDUSTRY: NEW EXPLORATORY REGIMES FOR PRÉ-SAL

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Overview

The emergence of the Brazilian oil and gas (O&G) industry occurred within the industrialization plan begun in 1920, with the migration of the national agro-export economy to an industrialization process, centered on import substitution, facing the disadvantages of a process of late industrialization, in a context of productive internationalization of capital. The accelerated industrialization of the country compressed the precarious national infrastructure of transportation and energy, and the increase of the consumption and import of oil and its derivatives marked the Brazilian vulnerability to its supply. In this context, in 1953, the institutional and industrial organization model for the O&G industry was established. Petrobras was created as a joint-stock company with government shareholding control, and all the activities of the federal government were declared monopoly with the exception of distribution (PINTO JR., 2016).

In the 1990s, institutional change in the O&G sector was initiated in a context of global institutional change and redefinition of the sectoral strategy. Thus, changes in the economic regulation of the O&G sector correspond to an institutional change due to changes in the rules and contracts to be signed with the new agents of the sector (NORTH, 2018). The inflection point in the O&G industry was the regulatory framework implemented in 1997 with Law 9.478 (Oil Law), aiming at introducing internal and international competition by opening the market, while maintaining the Federal Government's ownership rights over hydrocarbon resources and Petrobras' corporate structure, vertical steepness and operational capacity (PINTO JR., 2016).

With the institutional change made by the flexibilization of the state monopoly, the system of concession of exploratory fields for the execution of oil and gas exploration and production activities was instituted. Concessions are preceded by a bidding process (bidding rounds), transferring to investors the ownership of oil and natural gas arising from the exploration and production activity, as a counterpart to the contractual obligations to pay Special Government Participations and taxes (PINTO JR. TOLMASQUIM, 2011).

In 2007, the regulatory framework for the O&G sector would once again change as a result of another institutional change, due to the discovery of the pre-salt oil province, a new exploratory frontier with large volumes of resources and low risk that led the government to rediscuss the regulatory framework of the sector. The area stretches for about 800 kilometers and 200 kilometers wide along the southeastern and southern coast of Brazil, giving a new dimension to Brazil's potential for participation in the world hydrocarbons market.

Given the scenario of new exploration regimes, the study intends to analyze the institutional changes in the O&G industry and its consequent repercussions on the economic regulation of the sector, due to the discoveries in the province of Pré-sal, besides evaluating the reconfiguration of the Petrobras stake in the oil market.

Methods

The research is analytical and descriptive, with both qualitative and quantitative elements, proposing the analysis of the recent institutional change in the Brazilian oil and gas industry, as well as the changes in its economic regulation, which has caused the reconfiguration of the regulatory framework for the exploration of the reserves of the oil province of the Pré-sal. The research sources used are books, scientific articles and studies, reports and data produced by government agencies and entities that are dedicated to the analysis of the gas and energy sector.

Results

The reservoir discoveries in the pre-salt oil province required a reformulation of the regulatory framework of the O&G industry in order to allow better use of the opportunities for generating government economic revenues for Brazil and to use the resources derived from the exploitation of hydrocarbons area. The new exploratory regimes created for the fields located in the Pré-sal indicate the institutional change, since the contracts signed with the private sector and with the state-owned Petrobras began to have a new configuration. The onerous assignment regime was first established, according to Law n°. 12,276/2010, in which Petrobras has the concession to extract up to 5 billion barrels of oil in specific areas of the Pré-sal. This change indicates the government's interest in strengthening Petrobras by allowing resources to be obtained from areas with low exploratory risk and high profitability, in addition to the immediate exploration of the Pre-salt to anticipate the benefits arising from the activity for Brazilian society.

Subsequently, in 2010, the government created the Pré-sal Petróleo S.A, a company destined to manage the contracts of the new exploratory regime of production sharing, also created within the regulatory change linked to the discovery of the reserves in the pre-salt polygon. The new regime, to be applied to all agents of the exploration and production activities in said area, establishes that the Federal Government will have its share corresponding to a portion of the oil extracted from the reserves. In addition, it had been established that production-sharing contracts would have at least 30% of Petrobras' share, defined as the operating company in all contracts of this regime. However, a new moment of recent institutional change in 2017, with a new institutional reorientation of the government, changed the rules for exploring the Pré-sal reserves, removing the state's obligation to participate in all production-sharing contracts.

The Federal Government claims that the new configuration of economic regulation for the Pré-sal demonstrates the need to increase competition in the O&G sector and withdraws Petrobras' obligation to participate in the contracts in order to allow the company to execute its divestment strategies and prioritization of activities to be developed. Notably, the result is the loss of government revenues from Petrobras' activities in the Pré-sal province, since the area has high profitability and the company has the technology to extract oil and gas in the most efficient way possible in the oil market.

Conclusions

The changes made to the regulatory framework of the O&G sector, specifically aimed at regulating the exploration and production activities in the pre-salt oil province, were carried out in order to take advantage of the opportunity to generate government currency. The first change, establishing the exploratory regime of production sharing, allowed the government to obtain oil revenues and expand its collection according to the oil price in the market. The reconfiguration of the regulatory model applied to the O&G sector for exploration and production in the Pré-sal reserves, withdrawing the mandatory participation of the Brazilian state-owned company Petrobras, indicates the institutional reorientation, since new forms of contract were established with the agents of the sector.

References

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