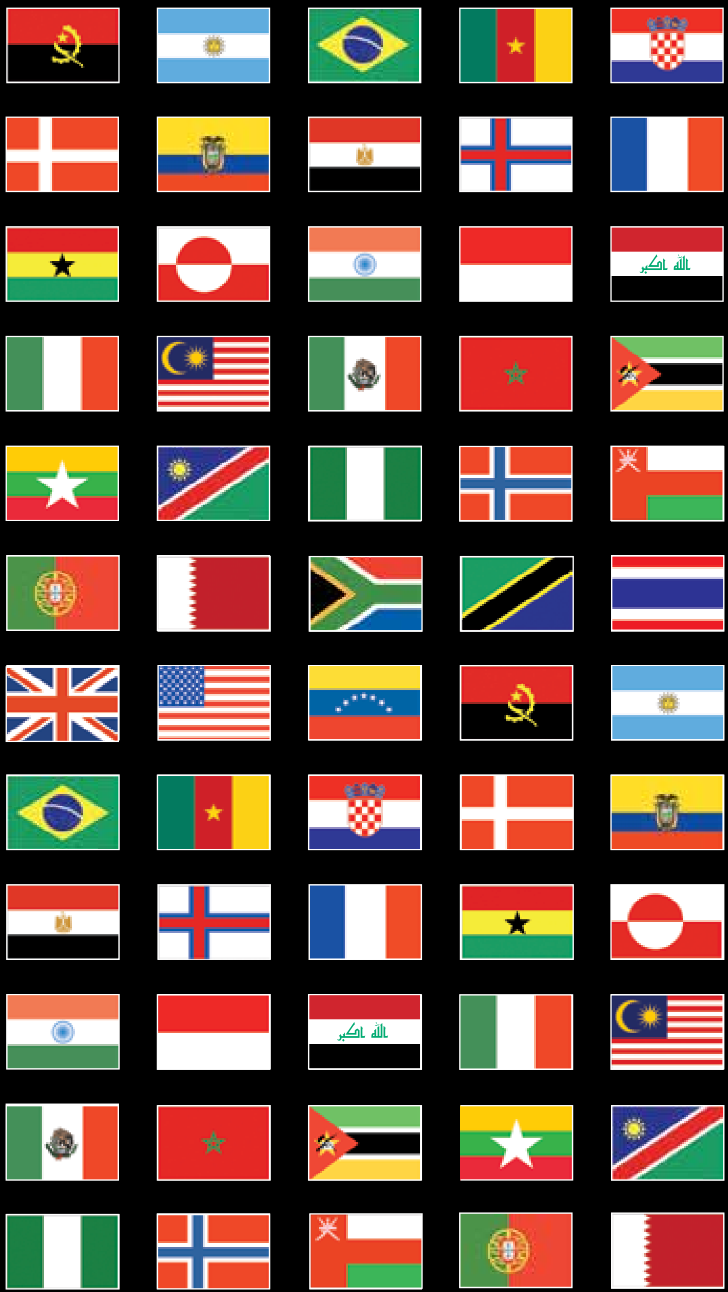
GETTING THE DEAL THROUGH

Oil Regulation

in 33 jurisdictions worldwide

2014

Contributing editor: Bob Palmer



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Getting the Deal Through is delighted to publish the fully revised and updated eleventh edition of *Oil Regulation*, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 33 jurisdictions featured. New jurisdictions this year include Croatia, Ecuador, Egypt, India, Indonesia and Morocco.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. *Getting the Deal Through* publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at www.gettingthedealthrough.com.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. *Getting the Deal Through* would also like to extend special thanks to contributing editor Bob Palmer of CMS Cameron McKenna for his invaluable assistance with this volume.

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Oman

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1 Describe, in general terms, the key commercial aspects of the oil sector in your country.

Oman is the largest oil and gas producer in the Middle East that is not a member of the Organisation of Petroleum Exporting Countries (OPEC). Oil is largely an onshore activity. Petroleum Development Oman (PDO) is the national oil exploration and production company of Oman. It holds the majority of Oman's oil reserves and is responsible for around 70 per cent of the country's crude oil production and nearly all of its natural gas supply. In addition to the government's 60 per cent ownership stake, Royal Dutch Shell has a 34 per cent share, Total a 4 per cent share and Partex a 2 per cent share in PDO. Recent years have seen PDO negotiate a number of production sharing agreements and concessions with international oil companies. In addition, the Ministry of Oil and Gas requires that PDO release any acreage where it is currently inactive, which can be put out to tender.

Average annual crude oil production rose by 2.6 per cent in 2013 to reach 941,949 bbl/d compared with 918,500 bbl/d in 2012. This is the sixth consecutive rise in production levels since the low point of 710,000 bbl/d in 2007, reflecting the success of enhanced oil recovery (EOR) techniques such as thermal EOR and miscible gas or polymer injection. Production levels are expected to rise to 940,000-950,000 bbl/d over the course of 2014 just shy of peak production in 2000 of 970,000 bbl/d. Recent oil discoveries including several offshore blocks are also expected to boost production. Crude oil prices have risen from a yearly average of US$65.15 in 2007 to an expected average of US$105.73 by the end of 2014. At the beginning of 2013, Oman's Minister of Finance announced that Oman's fiscal breakeven price is US$104.

Around 90 per cent of oil produced is exported. The majority of Oman's exports are destined for the Far East market, with China being the largest importer in March 2013, accounting for 51.96 per cent of exports. In 2007, the Dubai Mercantile Exchange, a commodity exchange in Dubai, chose, as its flagship contract, its Oman Crude Oil Futures Contract – Omani crude oil's official selling price (OSP) – with the aim of making it the crude oil pricing benchmark for the Asian market.

In October 2007, Sohar Refinery Company LLC merged with Oman Oil Refinery Company LLC pursuant to Royal Decree No. 99 of 2007 to become Oman Refineries and Petrochemicals Company LLC (ORPC). In 2010, the merged entity integrated its refinery operations with its two other operating companies, Aromatics LLC and Oman Polypropylene, to form an integrated company rebranded as Oman Oil Refineries and Petroleum Industries Company (ORPIC), 80 per cent owned by Oman Oil Company SAOC (OOC), a government-owned company that pursues investment opportunities in the energy sector both inside and outside Oman, and 20 per cent owned by the Ministry of Finance. ORPIC meets domestic needs for refined oil products, which Oman previously had to import. ORPIC sells refined petroleum products to Omani companies engaged in the distribution of the products within the country. ORPIC is in negotiations with banks for a US$2.5 billion loan to fund the expansion of Sohar's refinery by 70 per cent to 197,000 bbl/d, to be completed by the second quarter of 2016, and to refinance an old loan taken out for a previous expansion in 2007. The expansion is part of ORPIC's refinery improvement project, which aims to meet Oman's fuel needs up to 2020 if demand continues to grow at present rates (Oman's consumption of transport fuels doubled between 2006 and 2012).

The Duqm refinery is at the stage of evaluation and design. The capacity of the refinery will be about 230,000 bbl/d and it will cater to the local needs for oil products. The project will also help create petrochemical plants, which will operate alongside the refinery to maximise revenue and support the national economy. It is also designed to receive oil from abroad and is expected to start operations in 2017.

2 What percentage of your country's energy needs is covered, directly or indirectly, by oil as opposed to gas, electricity, nuclear or non-conventional sources? What percentage of the petroleum product needs of your country is supplied with domestic production? What are your country's energy demand and supply trends, especially as they affect crude oil usage?

Oman's energy needs are basically met by oil and gas. Oman's gas reserves are estimated to be around 30 trillion cubic feet and PDO is processing part of it to meet local demand. An increasing proportion of industrial feedstock is composed of gas, all of which is produced domestically. As such, no alternative sources of energy other than oil and gas are presently in use. To the best of our knowledge, no development of wind power has taken place.

The Ministry for Environment and Climate Affairs (Oman) states that Oman is to produce 10 per cent of its total electricity requirement from renewable energy sources by 2020. Oman has a high ratio of 'sky clearness' and receives extensive daily solar radiation ranging from 5,500 to 6,000 Wh/m² a day in July to 2,500 to 3,000 Wh/m² a day in January, giving it one of the highest solar energy densities in the world.

The Wilayat Al Mazyunah in the Dhofar Governorate will be the first location for a solar energy plant in Oman to be installed by June 2014 with an allocated plot area of 8,000 square metres. The project will be the first one of its kind to produce electricity using solar energy technology in the Sultanate of Oman. It will produce electricity as part of a hybrid system to be operational along with the existing diesel power station and feed to the existing electrical network. It is anticipated that the project will cover most of Al Mazyunah's demand for electricity in the winter period in the early years of the project's time frame, with there being the possibility of project expansion. The technology used for the project will have a capacity of 303kw with expected annual production of 558MWh.

ORPIC meets the nation's total demand for liquefied petroleum gas (LPG), motor petrol, aviation fuel, diesel and fuel oil, and is the single supply source of petroleum products in Oman. Products created from Omani crude oil are received from PDO and supplied to the marketing companies after refining. Typical product volumes produced from Oman export blend crude are long residue and bunker fuel oil (52 per cent); diesel (22.5 per cent); petrol (17 per cent); kerosene and jet A-1 (6.7 per cent); fuel gas; and LPG.

A 162-mile pipeline between ORPIC and the new refinery in Sohar began operations in 2006 to facilitate the transport of mixed feedstock of crude from PDO and long residue from ORPIC to Sohar for processing. The refinery has a crude unit with a capacity of 222,000 bbl/d with a facility for extracting sulphur from petrol and a catalytic cracker with a capacity of 75,260 bbl/d that will produce gas and petrol from the leftover elements of the normal refining process. The major products of the new refinery include propylene, LPG, gasoline, diesel, fuel oil and sulphur.

3 Does your country have an overarching policy regarding oil-related activities or a general energy policy?

In the early 1990s, Oman was faced with a diminishing reserve base. Proven reserves were estimated at 4.6 billion barrels in 1992, which is small in comparison with other Gulf states. Oman is not a member of OPEC; however, Oman has official observer status and has cooperated with OPEC guidelines on occasion. In an effort to ease its dependence on oil, Oman has sought to diversify its economy into light, and recently heavy, industries as well as tourism. The Council for Financial Affairs and Energy Resources regulates all the different aspects of the petroleum industry, be they concessions granted to companies, transportation of oil and gas, or investments in this sector, and the grounds for fixing the cost of the sale of oil, etc.

Although oil production constitutes less of Oman's GDP than was the case during the 1980s, oil is still the major source of revenue for Oman's government and the mainspring of the country's economy, accounting for around 87 per cent of budget revenues, 45 per cent of GDP and 60 per cent of total export revenue according to 2012 figures reported by the National Center for Statistics & Information. Manufacturing still accounts for only a small percentage of GDP.

4 Is there an official, publicly available register for licences and licensees?

While Royal Decree No. 8 of 2011 promulgating the Oil and Gas Law (the Oil and Gas Law) does not provide for the maintenance of a public register dedicated to licences and licensees in relation to the oil and gas sector, it should be noted that all concession agreements entered into by the government for the exploration or production of petroleum substances with a third party operator are required to be ratified by issuance of a royal decree (as per article 9 of the Oil and Gas Law). All royal decrees are published in the Official Gazette of the government of Oman, which is a public document that can be obtained from the Ministry of Legal Affairs on demand. Moreover, the official website of the Ministry of Oil and Gas contains a link to a concessions boundaries map (updated on 4 August 2012), which is a map of all the concession blocks together with the names of all the operators in respect of each of these blocks. However, it is not known whether this map is regularly updated by the Ministry of Oil and Gas.

5 Describe the general legal system in your country.

General legal system in the Sultanate of Oman

Oman is a civil law jurisdiction, whose law is influenced by the Islamic Shariah. The rule of law is generally upheld in the Sultanate through its courts and reconciliation committees. Contractual rights are regulated through the Civil and Commercial Procedures Law (Royal Decree 29/2002, as amended (CCPL) and Civil Transactions Law (Royal Decree 29/2013). The property rights are regulated through the Land Law (Royal Decree 5/1980, as amended), Land Registry Law (Royal Decree 2/1998, as amended), Usufruct Law (Royal Decree 5/1981, as amended) and the Tenancy Law (Royal Decree 72/2008, as amended). Contractual rights are enforced through the Civil and Commercial Court in Oman and property rights are enforced through the civil and commercial courts and the administrative courts in Oman.

Pursuant to the Judicial Authority Law (Royal Decree 90/1999, (the Judicial Authority Law)) the law now provides for a court system and sets out the different levels of courts as follows:

- Supreme Court;
- appellate courts;
- courts of first instance; and
- courts of summary jurisdiction.

These courts are competent to hear civil and commercial matters, labour, tax and rent cases, in addition to arbitration applications. Further, the Law Establishing the Administrative Judicature Court (Royal Decree 91/1999, (the Administrative Law)), set up the Administrative Court as an independent judicial body with exclusive powers to review decisions issued by government bodies.

Court proceedings in Oman are undertaken in accordance with the Oman Procedure Law.

Omani courts, when considering any disputes brought before them, must, when issuing judgments, comply with the royal decrees and laws in force in the Sultanate, consider the contract between the disputing parties (provided that it does not conflict with any law, public order, proprietary or established valid practices in the field of commercial activities) and also consider those general principles that establish justice between litigants and lead to the stabilisation of commercial transactions. Under the Code, Omani courts must consider the following matters when proving commercial contracts:

- the terms of the contract;
- legislative provisions;
- rules of custom and practice; and
- the provisions of Shariah law.

Enforcement of domestic judgments

Domestic judgments are enforced through the enforcement department situated within the courts in Oman. The enforcement department is a separate entity carrying out enforcement procedures in relation to labour, civil, commercial, land and property, Shariah, excluding the criminal matters, which are enforced by the Royal Oman Police and administrative matters, which are enforced through the administrative court's enforcement department.

Enforcement of judgments obtained before the Omani courts, of arbitration awards where the arbitration was conducted before the Omani courts or of a private arbitration award obtained in Oman is undertaken by the commercial division of the Court of First Instance, to whom the application for enforcement of the judgment or the arbitration award must be submitted. The assets of the judgment debtor must be identified in the application. At such time pending the enforcement of a judgment or arbitration award an application may also be made for the attachment of the judgment debtor's assets. Notice will be given to the judgment debtor and seven days thereafter, enforcement may take place against those assets by seizure, following which they will be sold at auction by the Omani courts within three months of the date of application for seizure unless otherwise agreed or ordered.

Any party with the benefit of a judgment against a judgment debtor may join in the process of enforcement.

A judgment may be enforced against funds held by any third party that are due to the company and enforcement may also take place against land, the sale of which shall take place at the Omani courts after appropriate notices have been published in the daily newspapers. The enforcement proceedings have been known to have taken considerable time to complete.

Enforcement of a foreign judgment or arbitral award

Oman is a signatory to the New York Convention of 1958 for the recognition and enforcement of arbitral awards (the Convention). With the introduction of Royal Decree 36/98 (SD 36/98) the Sultan of Oman approved the Sultanate of Oman's membership to the Convention. Royal Decree 36/98 directed the concerned authorities to take the necessary measures for Oman to become a signatory to the Convention in accordance with its provisions. Foreign arbitral awards may also be enforced in Oman by the Omani courts in accordance with articles 352 and 353 of the Civil and Commercial Procedure Law (Royal Decree 29/2002, as amended).

Enforcement of a foreign arbitral award is undertaken by the commercial division of the Courts of First Instance, to whom an application for enforcement must be submitted. Execution should be preceded by notice of the execution deed to the debtor personally or in his or her domicile, work or business place. The assets of the judgment debtor must be identified in the application (article 356 of the CCPL).

With respect to the recognition of foreign judgments, there are express provisions within Oman law that must be satisfied prior to enforcement. Article 352 of the CCPL states that judgments and orders issued in a foreign country may be executed within the Sultanate of Oman according to the same terms applicable in the law of that country with regard to execution of judgments and orders issued in the Sultanate of Oman. The consequence of this is that reciprocity is the key to seeking enforcement of a foreign judgment.

Anti-corruption and anti-bribery regimes

The anti-corruption and anti-bribery regimes are regulated through the Penal Code (Royal Decree 7/1974), the Protection of Public Property and Avoidance of Conflict of Interest Law (Anti-Corruption Law Royal Decree 112/2011) and Tender Law (RD 36/2008) and the Law of Prevention of Money Laundering and Financing of Terrorism (Royal Decree 79/2010). In particular, articles 155 to 158 of the Criminal Penal Code, which set out the provisions for the anti-bribery regime, wherein a briber, bribee and a mediator or facilitator are penalised for the act of bribery.

Under article 7 of the Anti-Corruption Law a government official is prohibited from using his or her post or work to attain an advantage for him or herself or for others or to use his or her influence to facilitate the obtaining of an advantage or special treatment by a third party. This offence is punishable under article 16 with imprisonment from one to three years.

Pursuant to article 8 of the Anti-Corruption Law, a government official is prohibited from acting as an intermediary, an agent or a sponsor of any company or establishment whose activities are connected with the government entity with whom he or she works. This offence is punishable under article 15 of the Anti-Corruption Law with imprisonment from six months to two years.

In accordance with article 11 of the Anti-Corruption Law, a government official is prohibited from having a shareholding in any company, establishment or business for profit that is directly connected with the government entity with whom such a government official works.

In all of the above cases the government official, if found to be guilty of an offence, shall be removed from his or her post or work and all the funds received by him or her in violation of the provisions of the Anti-Corruption Law shall be confiscated.

Regulation overview

6 Describe the key laws and regulations that make up the principal legal framework regulating oil activities.

The Oil and Gas Law (Royal Decree 8/2011) is the key piece of legislation in the oil and gas sector. To date, no regulations or ministerial decisions have been issued by the Ministry of Oil and Gas under this law.

7 Are there any legislative provisions that allow for expropriation of a licensee's interest and, if so, under what conditions?

According to articles 28 and 29 of the Oil and Gas Law, the existing oil and gas pipelines and those to be set up in the future shall have prohibited areas with a width of 25 metres on each side of the pipeline centre. The Ministry may, in coordination with the competent entities, specify a prohibited area less than this in populated areas. The project for setting up a prohibited area for oil and gas pipelines shall be treated as a public utility project. The Ministry may, through direct enforcement, seize the land required for the project together with its installations in accordance with the provisions of the Law of Expropriation of Property in Public Interest (Royal Decree 64/1978).

8 Identify and describe the government regulatory and oversight bodies principally responsible for regulating oil exploration and production activities in your country.

The Council for Financial Affairs and Energy Resources, acting in conjunction with the Ministry of Oil and Gas (pursuant to Royal Decree No. 60 of 1996) with its various departments, directs activities relating to the exploration and extraction of oil. The Directorate General of Petroleum and Mineral Resources is authorised to grant permits for this activity. No activity may take place in the petroleum sector without the consent of the relevant governmental authorities (see question 7). Oil and gas are considered to be natural resources, and as such belong to the government.

As per Royal Decree No. 37/97, the Council of Financial Affairs and Energy Resources:

- considers investments of the state in the sphere of oil and natural gas;
- formulates the general policy regulating the production and transportation of oil and natural gas;
- decides the grounds on which the cost of oil sale is to be determined;
- fixes the prices for the sale of gas for the purpose of local consumption; and
- supervises the Oil Reserve Fund.

The state oil company is Petroleum Development Oman (PDO) and is separate to the Ministry of Oil and Gas.

9 What government body maintains oil production, export and import statistics?

Statistics are maintained by PDO and the Ministry of Oil and Gas. At the same time, the individual operating companies maintain statistics on their annual production figures.

Natural resources

10 Who holds title over oil reservoirs? To what extent are mineral rights on private and public lands involved? Is there a legal distinction between surface rights and subsurface mineral rights?

Royal Decree No. 8 of 2011, which issues the Petroleum and Minerals Law, provides that:

- petroleum substances in their natural form and irrespective of their location in the Sultanate of Oman are its property, and their ownership may not be transferred. Nor may they be acquired by way of prescription; and
- if an oil reservoir or a mineral deposit is located under private property, ownership of the oil or minerals, as the case may be, would lie with the government, and the authorities have the right to expropriate the land on payment of due compensation as per the rule of law.

11 What is the general character of oil exploration and production activity conducted in your country? Are areas off-limits to exploration and production?

Oman's northern oilfields produce lighter grades of crude oil, together with natural gas, whereas a group of southern fields produces heavier crudes. Gradual increments made to Oman's reserve base since 1980 are attributable to the discovery of new, smaller oilfields. More than half of Oman's total reserves are concentrated in the northern region, where six fields are part of a single geological structure containing recoverable reserves of more than 2 billion barrels. Similarly, in the south, eight principal producing fields also come from a single geological structure. Hardly any areas of Oman are off-limits to exploration and production activities. As stated earlier, however, all exploration and production activities take place pursuant to concession agreements that define the area of activity of the concession holder.

12 How are rights to explore and produce granted? What is the procedure for applying to the government for such rights?

The concession regime is administered by the Ministry of Oil and Gas. The Directorate General of Petroleum and Mineral Resources under the Ministry is the particular body concerned with this aspect. The Council for Financial Affairs and Energy Resources lays down the broad policy guidelines to achieve the various objectives of the government. This activity is generally carried out by virtue of agreements entered into with the government called exploration production sharing agreements (ESPAs). These could be either granted as concessions or by means of direct royal decree.

Concession agreements require ratification by royal decree. The Oil and Gas Law does not prescribe any specific procedure to be followed while applying to the government for a concession. Tender documents floated by the Ministry of Oil and Gas in relation to a new block will contain the necessary details for preparing and submitting the bids to the Ministry, and of the financial and technical qualifications that an applicant must possess. In our experience, all bidders will be required to submit to the Ministry, inter alia, a letter of intent, a signed confidentiality agreement and a non-refundable deposit with their bids. No specific procedures for the cost and time frame for the applications is provided for in the Oil and Gas Law.

13 Does the government have any right to participate in a licence? If so, is there a maximum participating interest it can obtain and are there any mandatory carry requirements for its interest? What cost-recovery mechanism is in place to recover such carry? Does the government have any right to participate in the operatorship of a licence?

The right of the government to participate in a concession or in the operatorship of a concession is not dealt with by the Oil and Gas Law. However, the government may reserve such rights under the terms of the concession agreement. The specific arrangement may vary from operator to operator. The cost recovery mechanism, if any, will be specified in the concession agreement (which is not in the public domain).

14 If royalties are paid, what are the royalty rates? Are they fixed? Do they differ between onshore and offshore production? Aside from tax, are there any other payments due to the government? Are there any tax stabilisation measures in place?

Since most production is based on ESPAs, dues payable to the government are based on the terms of the particular agreement entered into. These agreements provide that the revenue from oil production is to be shared between the government and the concession holder or company in an agreed ratio, for example 20:80, or 30:70 as the case may be, after meeting the costs involved. At present, royalty rates are not available. A formula may be agreed between the government and the concession holder in the EPSA for computation of the amount of income tax to be paid by the concession holder. Additionally, the government may agree to grant a concession holder an exemption in the concession agreement from payment of certain taxes, levies and duties applicable under Omani law for the duration of the concession agreement. No tax stabilisation legislation is in force in Oman at present. Information on tax stabilisation agreements is not available.

15 What is the customary duration of oil leases, concessions or licences?

Although the original term of the first concession agreement was 75 years, more recently oil concession agreements are for much shorter periods. Generally a three-year exploration licence is granted, subject to a further extension of three years. If oil is discovered and found to be commercially viable, then agreements and contracts are entered into with the government for a 10-year or 20-year period. In the event of a declaration of a commercial discovery in a concession area during the exploration stage, the Oil and Gas Law gives the licence holder priority in obtaining a concession for the exploitation of the area.

16 For offshore production, how far seaward does the regulatory regime extend?

The regulatory regime extends up to the international offshore border of Oman. The borders of Oman have been demarcated by peaceful negotiation under the reign of the present ruler, Sultan Qaboos Bin Said, with all the neighbouring countries, principally the UAE, Yemen and Saudi Arabia.

17 Is there a difference between the onshore and offshore regimes? Is there a difference between the regimes governing rights to explore for or produce different hydrocarbons?

There are no separate legal regimes for onshore and offshore exploration and production, as the primary Oil and Gas Law, Royal Decree No. 8 of 2011, draws no specific distinction between onshore and offshore activities with regard to applicability of its provisions. In fact, article 2 of this Law provides that, without prejudice to the provisions contained in the existing concession agreements, its provisions will be applicable to all the petroleum substances found on the territories of Oman, its interior, internal waters, regional seas or continental shelf. Thus, the general legal regime is the same, but it may be possible that some specific terms may be contained in the concession agreement with an onshore concessionaire, which may not be found in an offshore concession agreement, and vice versa, due to the difference in the nature of activities.

18 Which entities may perform exploration and production activities? Describe any registration requirements. What criteria and procedures apply in selecting such entities?

The Oil and Gas Law does not specify which types of entities are eligible to apply for a concession. Concession holders will either be required to incorporate a subsidiary under the Omani Commercial Companies Law (Royal Decree No. 04/74) or register a branch office with the Ministry of Commerce and Industry.

The tender documents for a specific block issued by the Ministry of Oil and Gas should typically specify whether the successful bidder will be required to incorporate a subsidiary and, if so, the time frame for completing the registration formalities for such an entity. If the successful bidder is required to incorporate a subsidiary then the time frame for completion of such incorporation formalities should not take longer than 10 to 15 business days from receipt of the correct documentation. However, if a licence is required from a government department other than the MOCI, the process could take longer. The fees payable for registration of a branch office are MOCI – 1,500 Omani rials, Oman Chamber of Commerce and Industry (OCCI) – 625 Omani rials and municipality charges – 125 Omani rials.

Exploration and production activities may be conducted only by holders of exploration and production permits or concessions from the Directorate General of Petroleum and Mineral Resources, as per the terms of the agreement that has been entered into, provided that such permit shall not be required if it is obtained directly by a royal decree.

Despite PDO's dominance, as noted above as part of its concession agreement it is obliged to divest itself of acreage where it is inactive, and several other companies are now involved in Oman's oil sector. These include Elf Aquitaine Oman LLC, China's CNPC, Sinopec and Daleel Petroleum and Occidental Oman LLC, which holds the largest market share after PDO, having been awarded the Mukhaizna cluster in 2005 after it was relinquished by PDO and two blocks close to the border with the United Arab Emirates in 2006. Other relatively new entrants include the Petroleum Authority of Thailand and the Abu Dhabi National Energy Company (both awarded blocks in Dhofar); Australia's Oilex and Emerson of the United States (awarded blocks in the Al Wusta region); BG (awarded a gas concession in block 60); and the Hungarian Oil and Gas Company and Dubai-based Indago Petroleum, which were both awarded blocks in the Buraimi region. Meanwhile, India's Reliance Industries, Maersk Oil Oman, Mitsui & Co, Hunt Oil and Circle Oil of Ireland are among the international companies that operate offshore concessions.

The Sultanate is attractive to companies with expertise in enhanced oil recovery (EOR) techniques due to the complexity of the reserves. Oman's major EOR projects at present include thermal flooding at the Mukhaizna field, steam-assisted extraction at the Qarn Alam field, miscible gas injection in the Harweel and polymer flooding in the Marmul field. PDO predicts that EOR projects will account for 27 per cent of its production by 2021.

19 What is the legal regime for joint ventures?

A joint venture can either be a contractual joint venture or a corporate joint venture. PDO in Oman is a corporate joint venture between the government and the relevant international concession holders. There are also corporate ventures as detailed above.

20 How does reservoir unitisation apply to domestic and cross-border reservoirs?

The concerned governments would agree upon the limits of production in the case of cross-border reservoirs, if any. Oman and Yemen are considering a joint venture company for oil and gas exploration in concessions that straddle the border of the two countries.

21 Is there any limit on a party's liability under a licence, contract or concession?

Article 12 of the Oil and Gas Law states that the Ministry of Oil and Gas shall, prior to the conclusion of the concession agreement, ask the third party to provide a financial security equivalent to a minimum of 2 per cent and maximum of 5 per cent of the value of the agreement, which shall be valid throughout the period of agreement, to ensure that it fulfils its liabilities stipulated in the agreement. In the case of failure to meet these liabilities, the security shall be confiscated. The Oil and Gas Law is silent as to whether liability is joint or several. The liability of the party under a concession will be dealt with in further detail in the concession agreement.

22 Are parental guarantees or other forms of economic support common practice? Are security deposits required in respect of any work commitment or otherwise?

The Oil and Gas Law does not set out any provisions with regard to parental guarantees or other forms of economic support. Parental guarantees are not common practice, but may be demanded by the government where the party to the concession agreement is a special purpose vehicle or an entity with insufficient financial credentials.

Local content requirements

23 Must companies operating in your country prefer, or use a minimum amount of, locally sourced goods, services and capital?

With Oman's oil and gas sector attracting large investments, the industry is expected to provide opportunity for approximately US$64 billion in additional in-country value (ICV) over the period from 2013 to 2020.

ICV is supported by the Ministry of Oil and Gas (MOG), the Oman Society of Petroleum Services (OPAL) and oil and gas firms in Oman.

Policy direction on ICV in Oman is as follows:

- to maximise employment of Omanis and placements on vocational and professional training and be attractive to Omani graduates and technical school graduates;
- to maximise expenditure on goods and services by Omanis in Oman;
- to maximise and develop locally produced materials, products and equipment that maximise value-added products in Oman, introduce new technologies and grow Oman's export industry;
- to develop world class domestic capability in vocational and professional education and training institutions, matched to 'real' industry opportunities; and
- within tender evaluation, reward contractors who commit to Oman, in both short-term and long-term.

ICV elements are as follows:

- investments in fixed assets;
- maximise the number of Omani nationals in the workforce (Omanisation);
- training of Omanis;
- local sourcing of goods;
- local sourcing of subcontracted services;
- development of national suppliers; and
- development of national and training institutions.

The Ministry of Manpower has directed that certain specific positions only be filled by Omani nationals. Additionally, employers in Oman are required to employ a specific quota of Omani employees in accordance with the government of Oman's Omanisation policy. After meeting the above requirements, an employer may employ expatriate employees of any skill set. The Omanisation targets for the Oil and Gas industry are as follows:

- 90 per cent of employees should be Omani nationals in the field of production and operation;
- 82 per cent of the employees should be Omani nationals in the field of direct services;
- 88 per cent of the employees should be Omani nationals in the field of assisting services; and
- 82 per cent of the employees should be Omani nationals in any local companies.

Transfers to third parties

24 Is government consent required for a company to transfer its interest in a licence, concession or production-sharing agreement? Does a change of control require similar approval? What is the process for obtaining approval? Are there any pre-emptive rights reserved for the government?

Article 19 of the Oil and Gas Law provides that a party with whom the government has entered into a concession agreement cannot waive or give up its rights or liabilities stipulated in the concession agreement without the written approval of the Ministry of Oil and Gas. Approval for transfer of interest in a concession agreement (or any part thereof) is granted by means of a royal decree.

No specific procedure for obtaining the Ministry of Oil and Gas's prior approval has been laid down in the Law itself or by the Ministry as yet. From our experience of such matters, it is likely that the concessionaire may be required to submit a written application, supplemented with relevant documentation and evidence of the financial and technical capability of the proposed transferee. Due to the requirement for a royal decree, the process may take several months to process and complete, and each case will depend on its particular circumstances.

While there is no express provision under the law or applicable regulations that may require the government's prior approval for a change of control of a concessionaire as such, an obligation of this nature may operate on the concessionaire under the terms of its concession or product sharing agreement with the government, or under any licence or approval issued to it by the government, although this cannot be confirmed, as concession or product-sharing agreements and licences are not in the public domain. It should be noted that Omani law provides for no statutory or regulatory pre-emption rights in favour of the government, and pre-emption rights will only be available to the government if it was a shareholder in the corporate vehicle that is the concession holder.

25 Is government consent required for a change of operator?

Article 19 of the Oil and Gas Law provides that it shall be unlawful for the concessionaire to waive or give up its rights or liabilities stipulated in the concession agreement without the prior written approval of the Ministry, and that a royal decree shall be issued on the waiver. While this is not expressly set out in the Oil and Gas Law, a change of operatorship would amount to a disposal of the operator's rights under the joint operating agreement, and will not be effective without prior approval of the government of Oman.

26 Are there any specific fees or taxes levied by the government on a transfer or change of control?

The Oil and Gas Law does not set out any specific fees or taxes that may be levied by the government on a transfer or change of control.

Decommissioning

27 What laws or regulations govern abandonment and decommissioning of oil and gas facilities and pipelines? In summary, what is the obligation and liability regime for decommissioning? Are there any other relevant issues concerning decommissioning?

No specific legal regime is prescribed in Royal Decree No. 8 of 2011, being the primary legislation on oil and gas in Oman, with regard to the abandonment and decommissioning of oil and gas facilities. Such provisions are more likely to be set out in the joint operating agreement and may include a particular work programme that sets out the measures to decommission disused facilities and pipelines, and the removal of debris and environmental monitoring of the relevant area after removal of the facilities and pipelines. However, article 16 of the Oil and Gas Law should be noted; it provides that the concessionaire shall, at its expense, after the termination of the concession agreement for any reason whatsoever, restore the concession area to its natural position within the period fixed by the Ministry for each case separately by removing any premises, factory, machinery, equipment, appurtenance, leftovers or other substances, or any other kind of property. This shall not apply to anything that is not required to be removed by the Ministry. In the event of the concessionaire's failure to remove, the Ministry may do this and charge the concessionaire for the expenses involved in the removal, plus an additional 10 per cent of such expenses.

28 Are security deposits required in respect of future decommissioning liabilities? If so, how are such deposits calculated and when does their payment become due?

The Oil and Gas Law does not require the concession holder to submit a security deposit for future decommissioning liabilities.

Transportation

29 How is transportation of crude oil and crude oil products regulated within the country and across national boundaries? Do different government bodies and authorities regulate pipeline, marine vessel and tanker truck transportation?

All crude oil from the northern and southern fields is collected and blended into Omani export blend. The transportation of crude oil and crude oil products is regulated as per the regulations laid down by the Council for Financial Affairs and Energy Resources. Royal decrees have been passed setting up prohibited zones, issuing concessions and setting up bodies to issue regulations relating to oil and gas. Generally it is PDO that finds oilfields and develops them. The crude oil that is produced from the fields is not sold by the company but rather delivered to a storage facility, where it is loaded onto sea tankers at the discretion of the company's shareholders. As such, the company does not 'earn' any money from the sale of oil – its shareholders do. The shareholders in turn cover all budgeted operating and capital expenditure.

30 What are the requisites for obtaining a permit or licence for transporting crude oil and crude oil products?

As per the general policy formulated by the Council of Financial Affairs and Energy Resources, permits are required from the relevant authorities for the conduct of any activities relating to the transport of crude oil and crude oil products.

Health, safety and environment

31 What health, safety and environment requirements apply to oil-related facility operations? What government body is responsible for this regulation; what enforcement authority does it wield? Are permits or other approvals required? What kind of record-keeping is required? What are the penalties for non-compliance?

Health, safety and environmental issues are addressed by a set of fairly complex regulations promulgated by multiple authorities. To a significant extent, companies operating in the petroleum sector impose health, safety and environmental requirements on their contractors, who are in contractual conformity with the labour laws, social insurance laws and environmental laws. In addition, the municipalities have long taken a leading role in promulgating and enforcing health, safety and environmental regulations. As a result, a significant body of regulation exists that suitably takes care of this aspect. Rules governing drilling rigs, production platforms, refineries, pipelines and service stations are largely the responsibility of the Council for Financial Affairs and Energy Resources. Violations can result in denials of permits to operate.

The Qarn Alam steam injection project referred to above is the world's first full-field steam injection project based on thermally assisted gas/oil gravity drainage in a fractured carbonate field, making use of the EOR recovery process, keeping development costs to a minimum. Most of the steam will be generated by waste heat recovery from the existing Qarn Alam power station, thereby significantly reducing the project's carbon dioxide emissions and saving on gas consumption.

32 What health, safety and environmental requirements apply to oil and oil product composition? What government body is responsible for this regulation; what enforcement authority does it wield? Is certification or other approval required? What kind of record-keeping is required? What are the penalties for non-compliance?

It is unlawful for operators to permit waste; they must also conduct operations with due diligence to prevent serious and irreparable injury to the environment and take all steps to minimise pollution of air and water. Following the establishment of the Ministry of Environment and Climatic Affairs (MOECA) pursuant to Royal Decree No. 90 of 2007, MOECA has the portfolio of regulating these requirements and promulgates environmental protection regulations that apply throughout Oman. In accordance with the Environmental Law and the Industry Law, before any activity that may be the direct or indirect source of environmental pollution is carried out, an environmental permit must be obtained from MOECA, supported by technical documents. Legislation to prevent air, noise and soil pollution and the conservation of water, has been passed. This is apart from legislation relating to chemicals, onshore and offshore pollutants, discharge of waste water and hazardous waste. Penalties for non-compliance with these laws range from strict fines of three times the cost of restoration or three times the damage to the environment, whichever is greater, to imprisonment.

Labour

33 What government standards apply to oil industry labour? How is foreign labour regulated and restricted? Must a minimum amount of local labour be employed? Are there anti-discrimination requirements? What are the penalties for non-compliance?

The principal legislation is contained in the Oman Labour Law (the OLL) (Royal Decree No. 35/2003, as amended, most recently by Royal Decree No. 113/2011). The OLL provides for the minimum benefits to be made available by an employer to an employee, and is applicable to both Omani and non-Omani employees unless expressly stated otherwise. Employers must pay an end of service benefit to their foreign employees, which is calculated on their basic salary. For the first three years of service the amount is equivalent to 15 days' basic pay for each year worked, and then for each subsequent year the amount is equivalent to one month's basic pay.

Articles 36, 37 and 38 of the Oil and Gas Law prescribe the following obligations on a concession holder in relation to recruitment and protection of workforce:

- the concessionaire should recruit qualified national employees;
- the concessionaire should prepare, in coordination with the Ministry of Oil and Gas, annual training programmes aimed at coaching Omanis for professional and technical works and higher education positions and responsibilities related to operations, and replace expatriate employees with them gradually;
- the concessionaire should comply with the rules laid down by the Ministry of Oil and Gas in respect of recruitment and training;
- the concessionaire should formulate rules and take measures to safeguard the workforce at sites where operations are carried out; and
- the rights of the workforce shall be safeguarded, and their situation not undermined by the concession holder in the event of waiver or abandonment of the concession areas in accordance with the provisions of the OLL and the employment contracts.

The Social Insurance Law (Royal Decree No. 72/91, as amended) has provisions that apply to Omani employees to insure Omani employees working in the private sector against old age, disability, death and occupational injuries, and diseases. Employees in the public sector are governed either by civil service regulations or the special internal employment regulations followed by their public sector employers.

Statutory compliance with the Omani policies is mandatory and requires producers and operators to have 90 per cent Omani participation, while for direct services and local companies, this participation should reach 82 per cent. However, foreign labour still comprises a significant proportion of the labour force in the oil and gas industry. All foreign employees must hold residence visas and have labour clearance sponsored by their employers. Violation of the labour regulations can result in fines and other administrative penalties, and may lead to criminal prosecution in extreme cases. Oman does not have any anti-discrimination rules as such. A company that hires female employees must give them statutory maternity leave and may not require them to work at night.

Taxation

34 What is the tax regime applicable to oil exploration, production, transportation, and marketing and distribution activities? What government body wields tax authority?

Tax is imposed by the director of taxation affairs pursuant to the Income Tax Law (Royal Decree No. 28/2009). Petroleum companies are taxed at the rate of 55 per cent on their taxable income, which is determined in accordance with the provisions of the production-sharing contract.

A withholding tax on any payments made under a transaction levied within the ambit of the categories of income listed in article 52 of the Income Tax Law Royal Decree No. 28/2009 (Income Tax Law) will be levied. Such categories of income are as follows:

- royalties;
- consideration for research and development;
- consideration for the use of or right to use computer software; and
- management fees.

Article 113 of the Income Tax Law specifies that withholding tax shall be levied at the rate of 10 per cent.

Commodity price controls

35 Is there a mandatory price-setting regime for crude oil or crude oil products? If so, what are the requirements and penalties for non-compliance?

The price-setting mechanism is regulated by the Council for Financial Affairs and Energy Resources, but the shareholders of PDO, which controls 90 per cent of the oil production in Oman, have a say in this decision.

Competition, trade and merger control

36 What government bodies have the authority to prevent or punish anti-competitive practices in connection with the extraction, transportation, refining or marketing of crude oil or crude oil products?

There are no competition regulations in Oman as such. All activities in the petroleum sector are subject to regulation at the ministry level by the Ministry of Oil and Gas.

GCC countries are considering the promulgation of the Standards GCC Competition and Anti-Monopoly Law, which will aim at protecting and encouraging competition and combating the practices that may restrict trade or prejudice or limit or prevent competition among the public organisations in the GCC countries. The law will apply to all economic activities in the GCC and that affect competition in one or more of the GCC countries.

37 What is the process for procuring a government determination that a proposed action does not violate any anti-competitive standards? How long does the process generally take?

See question 36.

International

38 To what extent is regulatory policy or activity affected by international treaties or other multinational agreements?

Oman is not a member of OPEC (however, Oman is a member of the World Petroleum Council and the World Trade Organization) and is not bound by the OPEC production and export guidelines. On occasion, however, it has complied with OPEC decisions to cut oil production to raise oil prices. Oman's oil is used as a benchmark to price the crude oil exported from the Middle East to Asia, largely as a result of it being an independent producer and, therefore, not subject to the price swings induced by OPEC.

Oman and the United States set up the Free Trade Agreement (FTA) in 2009. The FTA is a bilateral treaty only between the United States and Oman permitting free trade in consumer, industrial and agricultural products. Additionally, the FTA permits US nationals and US companies to set up a business in Oman without an Omani partner.

39 Are there special requirements or limitations on the acquisition of oil-related interests by foreign companies or individuals? Must foreign investors have a local presence (eg, local subsidiary or branch)?

The acquisition of oil-related interests by any party, foreign or local, can only be acquired by means of a royal decree granted by the Sultan of Oman or by the Ministry of Oil and Gas.

Article 24 of the Oman Commercial Law (Royal Decree No. 55/90) provides that non-Omanis may not engage in business in Oman unless permitted to do so by the applicable laws of Oman. In order to undertake business in Oman, a foreign company would, in accordance with the Foreign Capital Investment Law (Royal Decree No. 102/94)(FCIL) need to establish a business presence in Oman. In this regard, it would have the following two options: establishment of a branch office or incorporation of a corporate entity in Oman.

A foreign company may only be permitted to establish a branch office in Oman if it has been awarded contracts by government departments or agencies in Oman for execution of the contract as awarded or if the foreign company is able to satisfy the Ministry of Commerce and Industry (MOCI) that the project for which it needs to register a business presence in Oman is classified as an economic development project. The branch registration shall remain valid for the duration of the foreign company's contract with the government, or with such other entity, if granted for the execution of an economic development contract, subject to the grant of extensions from time

Update and trends

The Sultanate's oil and gas sector has set an ambitious target for the next five years with a projected average oil production of between 950,000 bbl/d and 120mcm per day for gas. The government is expected to step up investment both to develop new deposits and prolong the life of existing fields using EOR techniques. Industry analysts predict that EOR processes may account for up to 25 per cent of production by 2021. This trend will provide significant business opportunities for companies providing associated technology and expertise in the field.

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to time, and to these extensions being registered in the Commercial Register at the MOCI. It is, however, to be noted that in the recent past, the MOCI has shown reluctance to grant such approval for registration of foreign companies' branches in Oman other than in circumstances where the foreign company has been granted a contract by the government.

For the registration of any corporate entity with foreign participation in Oman such a company will also need to comply with the FCIL. Under the FCIL, a foreign company's ownership of share capital in an Omani company should not exceed 70 per cent while the remaining 30 per cent must be retained by an Omani shareholder. (ie, Omani nationals or companies wholly-owned by Omani nationals) It is also possible to exceed this percentage up to 100 per cent in relation to projects that 'contribute to the national economy', if approved by the Council of Ministers following a recommendation of the Minister of Commerce and Industry.

Moreover, as a further exception to the FCIL, the MOCI permits non-Omanis who are GCC nationals or who are GCC companies (that are wholly owned by GCC nationals) to own 100 per cent of the share capital in an Omani entity, pursuant to article 1 of Ministerial Decision 205/2007.

40 Do special rules apply to cross-border sales or deliveries of crude oil or crude oil products?

No special rules apply to cross-border sales or deliveries of crude oil or crude oil products. In practice, all of these deliveries are of the nature of export transactions. Such transactions are closely controlled by the shareholders of the relevant operating companies.

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