

GETTING THE DEAL THROUGH

Oil Regulation

in 33 jurisdictions worldwide

2014

Contributing editor: Bob Palmer



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CMS Cameron McKenna

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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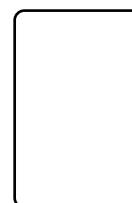


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Croatia

Miran Maćešić and Ivana Manovelo

Maćešić & Partners

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

In the past year, Croatia produced 599,900 MT and imported 2.325 million metric tonnes of crude oil. No exports were reported.

The INA group, as the biggest oil and gas company in Croatia, produces, refines and imports most of the oil and oil products in Croatia. INA is a joint stock company listed on the Zagreb Stock Exchange in approximately 49 per cent ownership of MOL, the Hungarian oil and gas group, and approximately 47 per cent in the hands of the Croatian government.

Crude oil is produced from 33 onshore oil fields operated and licensed to INA dd. According to INA's records, production amounts to 2.2 barrels of oil equivalent (BOE) per day and reserves are estimated at 184 MM BOE.

There is no offshore production of oil in Croatia. However on 2 April 2014 the government announced the first offshore licensing round for licences for the exploration and production of hydrocarbons in the Adriatic (Tender). A second announcement for continental Croatia is expected in the autumn.

Transportation of oil in pipelines is a regulated energy activity carried out by Jadranski Naftovod dd (Janaf), a joint-stock company 65 per cent directly and indirectly (through national investment funds) owned by the government of Croatia and 15 per cent owned by INA. The company operates the Croatian portion of the former Yugoslav oil pipeline that runs from the port oil terminal Omisalj (north-west Croatia) with two branches, one leading to Lendava (Slovenia) and Gola (on the Croatian-Hungarian border) and the second leading to Sotin (on the Croatian-Serbian border) a total of 622km. Janaf holds a licence from the Croatian Energy Regulatory Agency (HERA) for the transport of oil in Croatia.

INA operates two oil refineries. One is Rijeka (one of Europe's oldest oil refineries, with its first production in 1887 when 60 tonnes of lubricant oil were produced) and the second in Sisak.

Rijeka processes 2.6 to 3 million tonnes of oil per year while Sisak processes 2 to 2.2 million tonnes of oil per year.

In HERA's licence registry there are 37 entities registered to hold licences for the wholesale trade of oil in Croatia.

According to article 9 of the Oil Market Act the price of oil is marked set.

In 2012 there were approximately 780 petrol stations in Croatia of which more than 50 per cent were owned by INA.

- 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?

With a population of 4.3 million and a GDP of approximately US\$60 billion, Croatia imports over 50 per cent of its total energy

needs. Approximately 40 per cent of its energy needs are met by oil products, out of which approximately 20 per cent are produced in domestic exploitation fields.

In 2012, of the total amount of oil, 61,300 tonnes was used for thermo power plants, while 525,000 tonnes was processed by refineries.

Croatia's economy has been in recession over the past six years (in 2008 an increase of 2.2 per cent in GDP was recorded). This year Croatia is expected to report a minimal decrease in GDP. In 2012, GDP decreased by approximately 2 per cent, which in turn meant a decrease of total energy supply of 4.7 per cent. Oil production in 2012 decreased 9.7 per cent, while the average decrease since 2007 amounted to 7.1 per cent per annum. Oil imports decreased in 2012 by 18 per cent while the average decrease since 2007 amounts to 12 per cent.

Economic forecasts for Croatia expect a slow recovery with possible GDP growth for 2015. Oil demand and supply is closely related to the economic situation.

The possible discovery of oil in the Adriatic and continental Croatia may change the downward trends.

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

In 2009, the Croatian government adopted the Strategy of Energy Development (Official Gazette No. 130/09) (the Strategy). The Strategy describes the goals and means for the entire energy sector from 2009 until 2020.

For oil, the goal of the Strategy sets out the principle guidelines as efficient consumption of oil and oil products, modernisation of the refineries, ensuring new exploration and introducing new technologies to existing exploitation, securing new supply, construction of storage facilities and creating an investor-favourable legal framework.

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

HERA's website holds the register of licences and licensees. It is freely accessible.

- 5** Describe the general legal system in your country.

Croatian is a civil law jurisdiction, the main principle being the independence and check and balances system between the judiciary, executive and legislative branch. Independence and impartiality of the judiciary branch is prescribed by article 29 of the Constitution. Croatia is also member of the European Convention of Human Rights and a member of the European Union. After a first five-year period, judges are nominated until retirement or disciplinary breach, which ensures their independence.

The rule of law is upheld. The courts have competency in enforcement proceedings, while the Commercial Court of Zagreb is the forum for the enforcement of foreign arbitral awards. Croatia is also a party to the New York Arbitration Convention. From a case-to-case basis enforcement may be prolonged but otherwise is standard.

Croatia has incorporated Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing into the respective national act.

Regulation overview

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

The energy market is regulated by the Energy Market Act (Official Gazette 120/12, 14/14) as a general act while the oil and oil derivatives market is regulated by the new Oil and Oil Derivatives Market Act (Official Gazette No. 19/2014) (Oil Market Act). The Oil Market Act provides 12 activities including production of oil derivatives, transport (pipelines, road, rail or sea), trade (wholesale and retail, including LPG) and storage of oil and oil derivatives (including LPG).

The Croatian Energy Regulatory Agency awards licences to energy undertakings for the performance of energy activities in the oil market.

Energy activities are regulated by the Energy Act and Oil Market Act.

Oil and Gas exploration and production is not an energy activity. The main act regulating the exploration and production is the Exploration and Exploitation Act (Official Gazette No. 94/13, 14/14) (the Exploration Act).

According to article 2/2, the Exploration Act has precedence over other acts including the Mining Act (Official Gazette No. 56/13, 14/14) and Construction Act (Official Gazette 153/13) that regulate mining and construction works respectively.

Additional implementing regulations are the Decree On Fees for Exploration and Exploitation of Hydrocarbons (Fee Decree) and the Decree on the Main Technical Requirements for Safety and Security of Offshore Exploration and Production of Hydrocarbons in the Republic of Croatia (Offshore Safety and Security Decree).

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

The Energy Act (article 18) provides that energy licences may be revoked by HERA if the energy undertaking:

- suffers the loss of the energy activity registration in the Croatian Companies' register;
- does not fulfil the technical requirements;
- does not have the required number and qualification of professional personnel;
- does not meet the financial requirements;
- does not execute the energy activity according to the energy legal framework; or
- does not honour its financial commitments to other public energy undertakings for more than three months.

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

The Ministry of Economy (Energy and Mining Departments) is the main governmental body. It drafts and proposes energy regulation, collects data and releases reports, and announces and executes tenders. Its inspectorate section is the main body that monitors the undertaking's act according to the law.

HERA is the main independent energy agency that supervises the energy sector, awards licences for energy activities and collects and processes data of energy undertakings.

HANDA is the Croatian Compulsory Oil Stocks Agency, an autonomous, independent and non-profit public institution responsible for establishing compulsory stocks in the quantity of 90 days' average daily consumption.

The Croatian Hydrocarbons Agency acts as operational support in exploration and exploitation of hydrocarbons to competent bodies, organises activities related to tender procedure and issuance of exploration and exploitation licences, monitors the fulfilment of contractual obligations, controls investor's expenses and reports to the European Commission.

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

The Energy Act (article 9) prescribes the obligation of the government to ascertain long-term and yearly energy balances. In order to do so, energy undertakings must provide yearly data reports to the Ministry of Economy as per the Ordinance of Energy Balance (Official Gazette 33/2013).

Additionally, one of the activities of HERA is the collection and processing of data related to the energy undertakings. The agency publishes yearly reports in which production, export and import statistics are presented.

Article 29 of the Hydrocarbons Act obliges the inspectorate division of the Ministry of Energy, Department of Mining to supervise the recorded amounts of exploited hydrocarbons.

Article 41 of the Hydrocarbons Act sets out that all geological and other data that is collected in the performance of an exploration and exploitation licence is the exclusive property of the Republic of Croatia.

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?

According to article 52 of the Croatian Constitution and article 5/1 of the Mining Act, mineral resources are goods of interest to the Republic of Croatia.

Article 5/2 provides that the mineral resources, including hydrocarbons, are owned by the Republic of Croatia.

Article 5 of the Hydrocarbons Act further regulates title with regard to hydrocarbons. In article 5/2 it is explicitly regulated that land ownership does not include the ownership of hydrocarbons and the right to mining works. The Republic of Croatia has the exclusive right to the exploration and exploitation of oil and gas and the right to assign this right to third parties. Third parties may acquire ownership only of produced hydrocarbons as regulated in the production sharing agreement or any other type of agreement (the Hydrocarbons Act provides the possibility of three agreements: PSA, royalty or mixed type).

There is no distinction between surface and subsurface mineral rights.

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

Existing production of oil is only onshore and it covers 20 per cent of the annual needs of Croatia.

There is no particular provision defining off-limits areas for the exploration and exploitation, however, each tender round includes limitations and obligations to take into consideration (ie, international shipping lanes, restrictions and protected areas such as tourist

zones, archaeological zones, fishing zones and others) as well as recommendations of competent governmental bodies that set the off-limits areas.

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

The Hydrocarbons Act prescribes a specific bidding procedure for the award of an exploration and exploitation licence.

The tendering process is divided into two parts, the pre-tender (articles 12 to 14) and the tender procedure (articles 15 and 16).

Pre-tendering

Pre-tendering follows a number of stages as listed below:

- the Agency proposes to the Ministry of Economy to undertake the Procedure for Licence Issuance (article 6/2/b);
- thirty days before the announcement of the tender, the government must request special conditions, restrictions and consent from local and regional governmental bodies (article 12/1);
- the nomination of the expert committee on the public tendering procedure (article 12/3); and
- the expert committee shall prepare the tendering conditions, feasibility study, assess the licence value, tendering documentation, determine the amount of bid security, fee for the tendering documentation, define the blocks and determine the agreement type and criteria of selection of preferred bidder (article 14/2).

Tendering procedure

The tendering procedure has the following stages:

- a decision on the contents and conditions of the public tendering procedure and criteria for selection of the preferred bidder (article 15/4);
- a decision on the procedure for licence issuance (article 15/1);
- announcement of the tender on the Ministry website and EU Official Gazette (article 15/2 and 3);
- six months duration of the tender (articles 15/3 and 16/4); and
- a decision on the preferred bidder two months after the expiry of the tender (article 16/5).

The costs are not pre-set and may vary depending on the bid round.

For the tender announced by the government on 2 April 2014 the application fee amounts to €5,000 (article 3/2/1).

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?

When an investor is awarded a licence he or she is obliged to sign an agreement with the government of Croatia. Article 22 of the Hydrocarbons Act provides three possible agreements: the production sharing agreement, a tax and royalty agreement or a mixture of the two.

Participation of the government in a licence and production sharing agreement is set by the Ordinance on Hydrocarbons Exploration and Exploitation Fee. Article 9 provides as follows:

- the percentage of produced quantity of hydrocarbons shall be calculated by means of R-factor (R) for every quarter;
- R shall be calculated in the following way:
 - $R = X/Y$ where X is the amount of the achieved cumulative net revenue of the investor on the basis of the produced quantities of hydrocarbons pursuant to the licence issued and the agreement concluded between the government and the investor in the previous quarter; and

- Y is the amount of cumulative capital expenditure on the basis of the produced quantities of hydrocarbons pursuant to the licence issued and the agreement concluded between the government and the investor in the previous quarter;
- net revenue represents the total amount of money that the investor has earned, including the cost recovery, as well as its part of the revenue from the share of the quantity of produced hydrocarbons pursuant to the licence issued and the concluded agreement, decreased for operating costs; and
- cumulative capital expenditure represents all development expenses and production expenses pursuant to the licence issued and the concluded agreement;

The percentage of the share of quantities of the produced hydrocarbons to which the investor is entitled from the first day of production shall be equal to the percentage of the value of R.

The percentage value of R to which the investor is entitled is as follows:

- $0 < R < 1.0$ – 90 per cent;
- $1.0 < R < 1.5$ – 80 per cent;
- $1.5 < R < 2.0$ – 70 per cent; and
- $R > 2.0$ – 60 per cent.

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?

According to the Ordinance on Hydrocarbons Exploration and Exploitation Fee the royalties are divided and defined as follows:

- exploration area fee (400 kuna/km²);
- exploitation area fee (400 kuna/km²);
- contract fee (minimum 1.4 million kuna and is one of the criteria for the preferred bidder);
- acquired hydrocarbons fee (10 per cent of market value of the acquired hydrocarbons) – quartile;
- additional exploitation fee (for oil: 1.4 million kuna at the beginning of the exploitation, plus the same amount every 50,000 barrels, up to 200,000 barrels and for gas 900,000 kuna at the beginning of the exploitation, plus the same amount every 25,000 BOE, up to 100,000 BOE); and
- an administrative fee (600,000 kuna at a 4 per cent yearly increase) – yearly.

There is no distinction between offshore and onshore royalties.

Both the Hydrocarbons Act (article 40) and the draft PSA agreement attached to the tender (article 29) hold a general stabilisation clause according to which if there are changes in legislation, both parties shall begin negotiations for changes and amendments to the agreement in order to achieve a balance of interests and the same planned economic result that was existing when the agreement was first signed.

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

Article 19 of the Hydrocarbons Act provides that a licence may be issued for a maximum of 30 years. The licence duration is divided into expiration periods that last five years with a possibility of extension for two periods of six months.

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

Offshore exploration and exploitation on the continental shelf of the Adriatic extends to the demarcation line with the neighbouring countries (article 1 of the Hydrocarbons Act).

- 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 is no difference between the offshore and onshore regimes. Differences may occur in the terms of the different tenders.

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

The Hydrocarbons Act defines 'petroleum company' (article 4/1/27) as any legal entity with its seat or subsidiary in the Republic of Croatia, registered with the competent body to conduct hydrocarbon exploration and production and a legal entity with its seat in one of the EU member states, registered with a competent body of an EU member state to conduct the exploration and production of hydrocarbons.

The competent body that allows a company to carry out exploration and exploitation in Croatia is the Ministry of Economy, Department of Mining.

There are no explicit registration requirements, criteria or procedures. Entities must obey the general security at work requirements and mining requirements set by the Mining Act and Offshore Safety and Security Decree.

Although there is no obligation of corporate presence in the Hydrocarbons Act for companies with a seat in an EU member state, clause 11.2.4 of the draft PSA attached to the tender documentation provides that an office should be open during the duration of the agreement.

- 19** What is the legal regime for joint ventures?

Joint ventures within the oil sector are not specifically regulated under Croatian law. Licences for exploration and production of oil can be granted to one or more entities, meaning that joint ventures are allowed (both corporate and contractual).

In the case of a joint venture, each member has joint and several liability for the obligations arising from licences and agreements on oil exploration and exploitation. One member of the joint venture is nominated as the operating company, responsible for dealing with the authorities and third parties.

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

There are no provisions regulating unitisation of domestic and cross-border reservoirs.

Cross-border reservoirs exploitation is regulated through bilateral governmental agreements either with a single agreement (eg, Hungary) or several agreements for each field (eg, Italy).

The draft PSA attached to the tender documentation provides in article 8 that where a reservoir extends over other exploration areas the government may require that the two licensees collaborate in the joint development of the reservoir and sign a unit development agreement.

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

Article 33 of the Hydrocarbons Act provides for the liability of licensees for any mining activities.

Any third party involved is jointly and severally liable.

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

Under the Hydrocarbons Act, a bid guarantee is required for application to tender for exploration and exploitation of hydrocarbons. Further, bank guarantees or security deposits are required for rehabilitation of the exploration area or exploitation field.

Pursuant to the tender documents, parental guarantees are not required but a bid guarantee in the form of a first-class bank guarantee is required. According to the draft PSA, on-demand bank guarantees are required for minimum work performance in several phases.

Local content requirements

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

Such a requirement is not prescribed by Croatian law. However, use of locally sourced goods, services and capital is encouraged through various government incentives for investments in the Croatian economy. Although not specifically required by law, the preference of employment of Croatian personnel and use of Croatian goods, material and services is expected to be negotiated by the government in agreements with investors in exploration and exploitation of oil.

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?

The government's consent is required for a company to transfer its interest in a licence, concession or production sharing agreement. The consent is not required if the transfer is made to an associated company. The transfer can be made only with respect to a company that meets all the requirements for the licence and agreement award pursuant to provisions of the Hydrocarbons Act.

Change of control does not require similar approval, except if otherwise not agreed between the government and investor.

The investor must immediately notify the Ministry of Economy of its intention to transfer its interest and file a request for approval. The Ministry should render a decision within 30 days of receipt of such a request. Approval is issued by the government, following the Ministry's proposal.

The government has a pre-emptive right through its state-owned company. The pre-emptive right is also reserved for any other company nominated by the government that meets all prescribed requirements for licence and agreement award. The minimum share in rights and obligations from the licence and agreements acquired by the government or company nominated by the government cannot be less than 10 per cent.

- 25** Is government consent required for a change of operator?

The government's consent for a change of operator is not explicitly prescribed by law but is left to be agreed between the state and investor in the agreement on oil exploration and exploitation.

Croatia announced its first tender for licences for hydrocarbon exploration and production in April 2014. Pursuant to the tender documents, the government's consent is required for change of operator.

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

There are no specific fees or taxes arising from a transfer of interests of a licence, however, there will be administrative costs determined by the government and paid by the investor holding the licence.

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?

According to article 22/5/15 of the Hydrocarbons Act, decommissioning obligations are an obligatory clause of the agreement.

The draft PSA attached to the tender holds a decommissioning clause, according to which the investor must provide a detailed decommissioning plan (a technical and engineering description of decommission, removal and disposal of facilities and installations and site clean-up and restoration, in addition to the expenditures).

- 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?

According to the agreement a decommissioning fund should be established with agreed payments starting one year from the first commercial production, with the mutual intent that the decommission will be covered by the Decommissioning Fund either at the end of production or agreement. Any amount not covered by the Decommissioning Fund should be paid by the investor and any excess funds are to be transferred to the government.

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?

Article 15/2 of the Energy Act differentiates between five types of oil transport energy activities: pipeline, product pipeline, by road, by rail and by sea.

Pipeline transport is regulated and monitored by the Ministry of Energy, while road, rail and maritime transport is in the authority of the Ministry of Maritime Affairs, Transport and Infrastructure. In order to obtain a transport energy activity licence, energy undertakings must produce evidence that they meet the technical, personnel and financial requirements prescribed in the implementing regulations.

The main national legislation regulating maritime transport is the Maritime Code (Official Gazette Nos. 76/07, 146/08, 56/13), while other means of transport are regulated by the Transport of Dangerous Goods Act (Official Gazette No. 79/07).

Pipeline transport with neighbouring countries is regulated by a set of bilateral treaties.

Cross-border transport is regulated by international conventions. For maritime transport Croatia is a member of the Barcelona Convention, the CLC Convention (1992 Protocol) and Fund Convention (2003 Protocol).

With regard to road transportation, the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) applies.

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

The Ordinance on the Licences for the Performance of Energy Activities (Official Gazette Nos. 118/07 and 107/09) regulates the requirements for the award of an energy activity licence. The requirements are divided into three groups: technical, professional and financial.

According to article 4/1/1 of the Transport of Dangerous Goods Act oil products are defined as dangerous goods due to their flammable nature but in line with the definitions of the ADR.

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?

The main regulating act for safety at work is the Occupational Health and Safety Act (Official Gazette Nos. 59/96, 94/96, 114/03, 100/04, 86/08, 116/08, 75/09 and 143/12). The Act regulates prevention of work-related injuries, professional diseases and other work-related diseases and safety of the work environment. The Labour Act (Official Gazette Nos. 149/09, 61/11, 82/12 and 73/13) provides an obligation for the employer regarding necessary documentation (on maintenance of facilities, equipment, workplace and access to the workplace) and an obligation for the employer to organise work in a safe manner that guarantees the safety (of both health and life) of the worker. The Ministry of Labour and Pension System is the governmental body responsible for the regulation of health and safety at work and for the inspection of compliance with legal provisions. In the case of non-compliance, different administrative and penalty measures may be enforced. The Mining Act (Official Gazette Nos. 56/13 and 14/14) regulates work at facilities for exploration and exploitation of oil and natural gas and prescribes special safety measures. Inspection of compliance with the regulations of the Mining Act is conducted by inspection by the Ministry of Economy and in the case of non-compliance, measures prescribed by the Mining Act may be enforced (eg, a work ban).

- 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?

No specific requirements other than those mentioned in question 31.

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?

Oil industry labour is regulated mainly by the Labour Act and also other regulations, ordinances and internal rules of each employer that are in compliance with the Labour Act, which regulate rights and obligations concerning work-related issues. The Mining Act and the Rules on Qualifications for Conducting Certain Work Tasks in Mining (Official Gazette No. 9/2000) prescribe certain requirements such as an education degree, work experience and other qualifications that are required for the performance of certain tasks.

Foreign labour is regulated by the Foreigners Act (Official Gazette Nos. 130/11 and 74/13) and the Rules on the Status and Work of Foreigners (Official Gazette Nos. 52/12 and 81/13) as well as separate rules that regulate the work of foreign nationals from EU countries.

The provisions of the Foreigners Act regarding entering, residence and work of foreign nationals in Croatia is highly complex and differs depending on the type of work, work position and duration of work they intend to perform in Croatia (eg, seasonal work, permanent work, etc). Foreign nationals may work if they have been granted a work and residence permit or a work certificate issued by the Ministry of Internal Affairs, and certain categories of workers may work without the above-mentioned permit and certificate if they fulfil other requirements provided by the Act. A minimum amount of local labour is only prescribed for obtainment of work and residence permits for foreign nationals working in a company either as key personnel or as self-employed in a company they have incorporated.

Anti-discrimination provisions are set out in the Act on Discrimination Prevention (Official Gazette Nos. 85/08 and 112/12), which also provides legal remedies and enforcement authorisations and penalties where there is violation of its provisions (fines of up to 40,000 kuna for the perpetrator, up to 250,000 kuna for crafts people or other self-employed persons and up to 350,000 kuna for legal entities).

Taxation

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

There is no specific tax regime applicable for the oil industry but general taxes apply – corporate income tax, personal income tax, VAT, withholding tax, etc. There is no additional profit tax charged for income arising from activities in the oil industry.

The corporate income tax in 2014 amounted to 20 per cent and personal income tax amounted to 12.25 per cent or 40 per cent depending of the amount of total income.

Croatia is a party to a number of bilateral agreements on avoidance of double taxation.

The tax administration with the Ministry of Finance is responsible for implementation and enforcement of tax regulations.

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?

Trade of crude oil is a market activity as well as a trade of oil products.

Update and trends

The past year was a turning point for exploration and exploitation of oil and gas in Croatia. The Hydrocarbons Act was passed followed by implementing regulation. For the first time, Croatia has a true oil and gas legal framework.

This was a result of the decision of the government to open the sector to international investors since previously the national oil and gas company had factual monopoly. In 2012 the government revoked existing licences from INA and created possible ground for E&E.

The new framework and tender are a stepping stone for upcoming years that should show whether there are any commercial reservoirs in onshore and offshore Croatia and whether the sector and accompanying legislation will evolve.

The Hydrocarbons Agency (www.azu.hr) was formed to facilitate communication with prospective investors. The tendering documentation is available on the Hydrocarbons Agency site with an English translation of the most important acts.

The tender for 29 blocks in the Croatian Adriatic is open until 3 November 2014. The results should be announced on 3 December 2014 and the first production sharing agreements signed by 3 March 2015.

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?

The Croatian Competition Agency has the authority to prevent and punish anti-competitive practices under the Croatian Competition Act (Official Gazette No. 79/09, 80/13).

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?

Joint ventures or mergers above a certain financial threshold must be notified to the Croatian Competition Agency (CCA) for assessment. The notification should be submitted to the CCA prior to its implementation, namely, upon conclusion of the contract that forms the basis of a joint venture or a merger but before its implementation.

If the CCA does not issue an order on initiation of the assessment proceedings within 30 days following the receipt of the complete notification of merger, the merger shall be deemed compatible. Upon request, the CCA issues a certificate confirming that the merger is allowed.



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On the other hand, if it finds that the merger could significantly impede effective competition in the market, the CCA issues an order on initiation of the assessment proceedings and brings a final decision within three months from the initiation of the mentioned proceedings.

International

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

According to article 140 of the Croatian Constitution, international treaties or other multinational agreements are directly applicable over national legislation. Since Croatia is a member of the EU any regulatory obligations imposed by the EU apply to Croatia as well.

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)?

Pursuant to the Croatian Hydrocarbon Exploration and Exploitation Act, licences for exploration and exploitation can be granted only to petroleum companies having a seat or a subsidiary in Croatia, and registered with the competent body to conduct hydrocarbon exploration and production and a legal entity with its seat in one of the EU member states, registered with the competent body of the an EU member state to conduct the exploration and production of hydrocarbons.

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

There are no special rules that apply to cross-border sales or deliveries.

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