

# Conducting oil and gas activities in Chad

## Laws and regulations

### List the main legislation governing petroleum exploration and production activity in your country.

The main legislation governing petroleum activities is Law no.07-006 dated 2 May 2007 as amended by Ordinance no.10-001 dated 30 September 2010 and its implementing decree no.10-796 PR/PM/MPE dated 30 September 2010 (the '**Petroleum Code**').

Due to the general nature of the Petroleum Code, most of the specific provisions governing petroleum exploration and production are included in production sharing contracts ('PSCs') or concession contracts (together the '**Petroleum Contracts**').

**Uniform Acts** adopted by the Organisation for the Harmonisation of Business in Africa (*Organisation pour l'Harmonisation en Afrique du Droit des Affaires* or '**OHADA**'), of which Chad is a member State, apply to companies carrying out oil and gas activities in Chad, especially the OHADA Companies Act.

Oil and gas activities are subject to Exchange Control Regulations applicable within the Economic Monetary Community of Central Africa (*Communauté Economique et Monétaire de l'Afrique Centrale* or '**CEMAC**').

### Identify the Government, regulatory and/or oversight bodies principally responsible for regulating oil and gas activities.

The main institutions of the Chadian hydrocarbons sector include:

1. Ministry of Petroleum and Energy (*Ministère du Pétrole et de l'Energie* or '**MPE**');

2. SHT (*Société des Hydrocarbures du Tchad*), the National Hydrocarbons Company ('**NHC**'), established in August 2006; and
3. National Commission for the Negotiation of Petroleum Contracts (*Commission Nationale Chargée de la Négociation des Conventions Pétrolières* or '**NCNPC**'), established in January 2008.

## Entry requirements

### What are the registration requirements for becoming a licensee of an oil and gas production sharing contract/licence/concession ('Licence') in your country? For instance, is it necessary to incorporate a subsidiary, or register a branch?

According to the Petroleum Code, any contractor carrying out petroleum activities in Chad is required to hold a Petroleum Contract. Foreign contractors must incorporate a local company to carry out exploration and production activities in Chad.

### Are there any foreign investment approval requirements or restrictions when commencing business in your country (e.g. a minimum local shareholding in the entity undertaking the activity)?

There is no limitation on foreign investment in the Petroleum Code. Local and foreign investments are treated equally.

Pursuant to Exchange Control Regulations, any investment exceeding CFAF 100,000,000 must be declared to the Economy Minister at least 30 days before the transfer of funds to Chad. Failing such declaration a fine equal to 20% of the investment may be applied.

Local content requirements are also expressly included in the Petroleum Code. The relevant undertakings relate to:

1. Giving preference to local companies for construction contracts or services contracts provided they offer equivalent conditions of quality, quantity and price;
2. Hiring, in priority, local employees with equivalent qualifications;
3. Funding and establishing training programmes for local employees; and
4. Submitting reports specifying the current level of recruitment of local employees and a programme for recruitment.

## Licensing

### Identify the main fiscal/legal model granting rights to explore and produce oil and gas.

#### Legal

Contractors are granted rights to explore develop and produce oil and gas by obtaining authorisations from the State, and by entering into a Petroleum Contract with the MPE which defines the terms of such authorisations. Details of the relevant authorisations are as follows:

1. **Prospecting authorisation** (*autorisation de prospection*): the holder of a prospecting authorisation is entitled to perform preliminary surface prospecting works, on a non-exclusive basis. The authorisation is granted for a 2 year period, renewable once for a further 2 year period. It does not confer any preferential rights to its holder to enter into a Petroleum Contract. Prospecting results are disclosed to the MPE. The transfer of rights and obligations arising from this authorisation is prohibited.
2. **Exploration authorisations:** exploration permit under concession contracts (*permis de recherche d'hydrocarbure*), and exclusive exploration authorisation under PSCs (*autorisation exclusive de recherche*). Exploration authorisations are granted on an exclusive basis for an initial 5 year period that may be extended once for up to a further 3 years. Election to renewal is accompanied by a requirement to relinquish at least 50% of the surface area covered by the authorisation. Where a potentially commercial discovery is made, contractors may be granted a retention period not exceeding 3 years for gas and 2 years for oil. Proven commercial discovery entitles the holder to be granted a production right, subject to the approval of a development plan.
3. **Production authorisations:** production permit under concession contracts (*permis d'exploitation*) and exclusive production authorisation under PSCs (*autorisation exclusive d'exploitation*). Production authorisations are granted for a maximum period of 25 years with one renewal period of up to 10 years.

The Petroleum Code refers to the following 2 types of Petroleum Contracts for upstream activities:

1. **Concession contract** (*contrat de concession*) is entered into prior to the grant of an exploration permit and confers rights and obligations during exploration and, in case of a discovery, during production. The concession contract holder assumes financial and operating risks and may dispose of any produced hydrocarbons in accordance with the contract.
2. **PSC** (*contrat de partage de production*) under which the State grants an exclusive exploration right to the contractor and, in case of a discovery, an exclusive production right. The contractor assumes financial and operating risks and production is shared with the State in accordance with the PSC terms.

Petroleum Contracts are all negotiated with the MPE and the NCNPC and must contain all dispositions applicable to the relevant exploration and/or production phase, including:

1. Exploration area;
2. Duration of the contract and the relevant authorisations or permits including renewal periods and relinquished areas;
3. Work and investment commitments and relevant securities;
4. Transportation rights;
5. Production ownership and sharing;
6. State participation;
7. Tax and customs regime;
8. Transfer and assignment;
9. Environment, health and safety;
10. Local preference and local training commitments;
11. Abandonment obligation including rehabilitation costs and transfer of facilities to the State; and
12. Stability, force majeure, and dispute resolution clauses.

A model form PSC has been issued and provides a basis for negotiation.

Petroleum Contracts must be signed by the MPE. Entry into force is subject to ratification by the National Assembly. Authorisations and the law ratifying the relevant Petroleum Contract are published in the Official Gazette. In addition, Chad implements the principles of the Extractive Industries Transparency Initiative.

#### Fiscal

Contractors are subject to taxes and other contributions under the Petroleum Code, the General Tax Code and the Petroleum Contract.

1. **Fixed entry fees:** granting, renewal or transfer petroleum authorisations or permits is subject to payment of fixed entry fees as follows:

- a. Issuance or renewal of a prospection authorisation: USD 50,000.
- b. Exclusive exploration authorisations:
  - i. Issuance, renewal, prorogation or division: USD 50,000.
  - ii. Transfer: USD 1,000,000.
- c. Exclusive production authorisations:
  - i. Issuance, renewal, prorogation or division: USD 500,000.
  - ii. Transfer: USD 3,000,000.
2. **Bonuses:** the Petroleum Code provides for a signature bonus, a discovery bonus and a production bonus, to be negotiated within the Petroleum Contract.
3. **Surface area royalty:** an annual surface area royalty is due as set out in the Petroleum Contract.
4. **Production royalty:** a monthly production royalty is set out in the Petroleum Contract and ranges from 14.25% to 16.5% for oil and 5% to 10% for gas payable in cash or in kind.
5. **Corporate income tax:** applicable rate is specified in the Petroleum Contract and ranges from 40% to 75%. The model form PSC exempts the contractor from corporate income tax.
6. **Capital gains:** gains resulting from an assignment of any authorisation to undertake petroleum operations under a PSC are taxed at a rate of 25%.
7. **VAT:** goods and services related to petroleum activities which are approved by the MPE are exempted from VAT.
8. **Customs:** the CEMAC customs regime is applicable. Imports of approved goods exclusively related to petroleum operations are exempt from customs duties. Exports of produced hydrocarbons are exempted from customs duties. Nevertheless, a statistical tax applies.
9. **Withholding tax:** distribution of dividends is exempt from taxation.
10. **Transfer duty:** transfer of petroleum rights are subject to payment of a transfer duty at the rate of 1%.
11. **Abandonment cost:** contractors are required to deposit abandonment costs in an escrow account as specified under the Petroleum Contract.
12. **Support contributions:** various support contributions are provided for and are to be specified in the PSC.

In addition to the above fiscal regime, Chad has a prescribed system for revenue sharing in relation to production activities:

1. Cost oil is limited to 70%, after deduction of the production royalty.

2. Profit oil, as well as its calculation method (based on the 'R-Factor' ratio), is set out in the PSC.
3. The State is entitled to a tax oil, which comprises at least 40% of profit oil.

Furthermore, contractors have the obligation to supply the domestic market a defined part of their production pursuant to the terms of the Petroleum Contract.

**Please outline the procedure to apply to the Government for an interest in a Licence in your country. Please include details of cost and timing for obtaining such interest.**

Access to the Chadian petroleum sector is granted to companies having the required technical and financial capabilities. Block awarding is decided by the government on a discretionary basis either by tender procedure or by direct negotiations with the MPE.

Applications are submitted to the MPE which has 15 days to notify its approval. A Petroleum Contract is then negotiated with the MPE and is to be signed within 3 months of the MPE approval of the application. The Petroleum Contract is subject to ratification by the National Assembly. Publication of authorisations in the Official Gazette is notified to the contractor within 15 days.

**What is the customary duration of the relevant Licence?**

Please refer to the 'Legal' section above for information on the duration of relevant authorisations.

**Does the Government have any right to participate and be carried in the Licence? If so, please describe the extent of this entitlement.**

**Is there any mechanism for recovery of carry costs?**

The State may participate in petroleum operations either directly or through the NHC. During exploration the State is entitled to an initial participation as set out in the Petroleum Contract. All costs and risks associated with that interest are incurred by the contractor. During production, the State is entitled to an additional participation as set out in the Petroleum Contract. The model form PSC provides for an optional interest up to a maximum of 25% following the granting of a production authorisation.

**Does the Government have any right to participate in the operatorship of the Licence?**

The State may participate as operator either directly or through the NHC in petroleum operations.

## Assignment

**What Government and/or regulatory approvals are required for the acquisition of oil and gas interests held under a Licence (whether by asset or corporate sale/change of control)?**

**If any, what are the timing requirements and costs of obtaining such Government and/or regulatory approvals?**

Transfer of rights and obligations as well as authorisations and permits arising from Petroleum Contracts is subject to notification to and prior approval of the MPE.

Approval is deemed to be granted where no response to the request for approval is received within 90 days of its filing.

**Are there any pre-emptive rights reserved to any Government entities in the event of a proposed assignment of an interest held under a Licence? If so, what are the terms upon which such entities are allowed to acquire the interest?**

The State is granted a pre-emptive right in the event of assignment of petroleum rights.

## Economic support

**Are parental guarantees or other economic supports commonly required to be provided by oil and gas companies?**

The Petroleum Code does not require a parent company guarantee where companies forming the contracting entity are subsidiaries of an oil company. Such guarantee may be a negotiated term in Petroleum Contracts.

Unless otherwise provided for in the Petroleum Contract, security interests are governed by the OHADA Uniform Act organising securities, applicable in Chad.

**Are security deposits required in respect of work commitments or otherwise?**

Securities in respect of work commitments are expressly provided for in the Petroleum Code. Other types of securities may also be required under Petroleum Contracts.

## Abandonment and Decommissioning

**What abandonment regime is in place?**

**Are security deposits required in respect of future decommissioning liabilities?**

The Petroleum Code requires abandonment and rehabilitation obligations to be included in Petroleum Contracts. In particular, contractors shall deposit abandonment costs in an escrow account specified under the Petroleum Contract.

Facilities and equipment from which the contractor has recovered its costs may be transferred free of charge to the State.

In addition, the Petroleum Code provides for the obligation to include environmental provisions, in particular environmental impact studies and management plans, in Petroleum Contracts.

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