



Streamlining the Permit Process: **Lessons from Abu Dhabi and Qatar**

According to University of Oxford energy expert Justin Dargin, no country exists in the MENA region where oil and gas permitting is an easy process for international energy companies (IOCs). However, some countries—notably Qatar and the UAE, as Dargin and other experts point out—cope much better than the rest of the region. This article looks into the permit processes in the emirate of Abu Dhabi and Qatar, and what Egypt could learn from them.

By Laura Raus

NOCs as Regulators

The right to explore and produce is granted to IOCs through production sharing agreements (PSAs) in Qatar, and through concessions in Abu Dhabi, informed Jason Rosychuk, energy and natural resources specialist at the law firm Pinsent Masons LLP. In both jurisdictions, IOCs have to form joint ventures (JVs) with national oil companies (NOCs), in order to develop oil and gas fields.

According to Robin Mills, the head of consulting at Manaar Energy Consulting, in Abu Dhabi "The level of activity, the number of exploration licenses and new field developments is much lower than in Egypt, and the size of individual projects is much larger, so the relative burden of compliance is less." However, as several experts point out, the ease of obtaining permits in Abu Dhabi and Qatar mostly stems from the fact that in both jurisdictions, NOCs—ADNOC and QP respectively—are also the main regulators of the oil and gas sector. In Abu Dhabi, each upstream project has to obtain approval from the Supreme Petroleum Council (SPC), and in Qatar from the Ministry of Energy and Industry, according to Thomson Reuters Practical Law portal. However, considering very close links between these institutions and NOCs, such an authorization is more of a formality. Namely, SPC acts as the board of directors of ADNOC in Abu Dhabi, and the Minister of Energy and Industry is the chairman and managing director of QP.

Upstream activities usually need approval of an environmental impact assessment (EIA) and other permits—such as labor, security and municipal authorizations—depending on the nature of the project. However, experts say that the smooth acquisition of those permits is almost taken for granted since the projects have the backing of NOCs. According to Shawn Davis, senior counsel at the law firm Akin Gump Strauss Hauer & Feld LLP, the process in Abu Dhabi is "to some degree relationship-based," and despite careful analysis of applications, "there is an underlying element of trust and an expectation that [they] have been prepared and submitted in good faith by persons with a history of involvement in the emirate's oil and gas sector." Such trust is thanks to the fact that ADNOC is a well-established organization, known to have highly qualified staff, and has majority stake in JVs, which are acts of law.

In Qatar, the NOC has similar strong position and cooperative relationship with other authorities. This is reflected by the fact that the committee who decides on EIAs also contains a representative of QP who facilitates the process, explains Dani Kabbani, a partner of the law firm Eversheds LLP.

Kabbani added that in Qatar, many oil and gas projects are concentrated in industrial cities managed by QP. QP provides infrastructure and services for the companies operating in the cities. After the approval of EIA, IOCs only need to obtain a license from QP to operate in a particular industrial city, and other issues such as safety and waste management are taken care for them by QP for a fee.

"Since ADNOC and QP are essentially the regulators, most of the requirements of additional authorizations or permits will be set out in the PSA and the concession," explained Rosychuk. Hence, "completing the PSA or concession is most likely the biggest step, and thereafter the IOC can usually count on the support of the NOC to obtain whatever ancillary authorizations are required." He added that, "Though the responsibility for those authorizations will typically lay with the IOC, the NOC and IOC will work closely together."

As a result, experts say that they have heard hardly any complaints from IOCs regarding permitting in Qatar.

In Abu Dhabi, there are sometimes delays when ADNOC does not consider a project to be a priority. Then IOCs need to make more efforts to expedite permits, but such delays are infrequent, said Philip Stevens, an associate of the law firm Simmons & Simmons Middle East LLP.

Tim Armsby, partner at Eversheds, pointed out that the permit process is relatively smooth in the UAE also because use of concessions, as opposed to PSAs. "In Egypt IOCs enter the industry by signing contracts that are in essence PSAs with EGPC, which foresee that IOCs cover all the expenses related to exploration and production and their costs will be recovered afterwards. In the UAE, there are concession agreements instead of PSAs in which ADNOC typically has a majority participating interest," he explained. "Such agreements stipulate that parties cover the percentage of expenses that corresponds to their stake in the concession and JV operating company. Therefore, in the UAE, NOCs are more interested in the permit process proceeding quickly and make more efforts to facilitate it."

Less Bureaucracy and Corruption

In most countries—including Egypt, the US, and Germany—entities other than NOCs act as regulatory authorities of the petroleum sector, pointed out Christopher Gunson, energy counsel of the law firm Pillsbury Winthrop Shaw Pittman LLP. The process is smoother since Abu Dhabi and Qatar are ruled in a very centralized manner, and there are fewer players involved in decision-making, added Jim Krane, Rice University's Baker Institute fellow in energy studies.

It is conceivable that such favorable conditions for the energy industry would be at the expense of environmental and social concerns. However, Rajan Phakey, a partner at the law firm Dentons & Co, said that ADNOC is "proactive in seeking to facilitate appropriate environmental protection, through its Codes of Practice, concessions, and other contracts." Kabbani added that in Qatar there is a high level of group concern among officials and IOCs. They understand that any environmental accident that may result from loose standards would influence not only the particular site where it occurred, but also the wider sector, especially since in Qatar's industrial cities different plants are operationally related via the common services that QP provides. Such interconnectedness is further reinforced by the fact that QP has a stake in all oil and gas projects, which sometimes amounts to 100%.

In the Transparency International's corruption perception index 2013, UAE is the 26th and Qatar the 28th least corrupted country, whereas Egypt ranks 114th. The high ranking of Qatar and the UAE is perhaps due to the fact that their officials are highly educated and trained, and make decisions based on the long-term impact on the country.

Lessons to Learn

Experts are doubtful that the systems in Abu Dhabi and Qatar could successfully be implemented elsewhere. It is difficult for Egypt to replicate them already because it is a much bigger entity. Secondly, the petroleum sector in Egypt is not given priority since its share in the economy is much smaller in comparison, just about one-tenth of GDP, reports *World Review*. The oil and gas industry in the other two jurisdictions comprises roughly 60% of the economy, according to *Arab News*.

Despite these fundamental differences, there are still some lessons that can be gleaned from the administrative efficacy of Abu Dhabi and Qatar. Rosychuk pointed out that, "A common theme in Qatar and Abu Dhabi is the presence of a strong and capable NOC with a clear

mandate and authority from the government to develop the oil and gas industry."

Kabbani stressed the importance of clarity when it comes to requirements for IOCs. According to him, the standards that IOCs face are generally more stringent abroad than in Egypt. But in Egypt there is often a lack of clarity regarding what exactly is required, which can bring about unexpected delays and expenses. "Working together is the key," Kabbani added, explaining that regulators should not be seen as institutions that impose restrictions, but they should rather be the ones who facilitate the adherence to international standards.

The capacity of EGPC, which could facilitate the permit process, would increase if it involved its employees in JVs in a more meaningful manner. "ADNOC in Abu Dhabi has more involvement in actual exploration and production activities compared to EGPC in Egypt, which facilitates transfer of knowledge from IOCs to ADNOC," noted Armsby. "EGPC does sometimes assign its employees to JVs, but due to lack of coordination between EGPC and IOCs for a variety of reasons, sometimes the people assigned are not needed at all for the a particular project or have the incorrect skill set."

Armsby added that exploration and production activities would proceed more quickly if it was not necessary to obtain EGPC approval for every item of expenditure. "It does not make sense for Egypt to fundamentally change its existing PSA model that has been in place for more than 30 years and has been very successful in attracting foreign investments to oil and gas sector up to 2010. After all, currently Egypt's government does not have financial resources to cover a part of exploration costs, which would be required under concession model," Armsby stressed. "However, considering that under Egypt's PSA model, IOCs carry all initial costs and bear risks, EGPC should consider giving [them] more flexibility and let them carry out their everyday activities based on the rules set forth in PSAs."

Obviously, since permitting is not an isolated process, overall measures for promoting good governance would be extremely helpful as well. "Decrease bureaucracy, get rid of corruption, ensure market economy," outlined Hugh Fraser, managing partner of Andrews Kurth (Middle East) JLT, his main recommendations along those lines.

Conclusion

However, all those changes require political will. Considering the energy crisis that Egypt is facing, the will should be there. "When an energy producing country [in the MENA region] is experiencing an energy crisis in some form, such as a shortage of natural gas production... projects are generally fast tracked to alleviate the crisis," noted Dargin. For example, in Abu Dhabi, permitting is getting faster according to Fraser, because the level of technology needed to explore and produce hydrocarbons is higher, which has increased the influence of IOCs there. But in the case of Egypt, the will to streamline petroleum projects seems to be overshadowed by other severe problems that the country is facing. Surely the efforts by the Ministry of Petroleum could ease the permit process for IOCs to some extent, but its level of convenience and efficiency is unlikely to even come close to what is seen in Abu Dhabi and Qatar unless Egypt's overall political, security and economic situation improves.