

A DECADE OF NEW REGULATORY REGIME IN THE BRAZILIAN OIL AND GAS INDUSTRY: THE IMPACTS ON THE UPSTREAM AND DOWNSTREAM ACTIVITIES

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The restructuring of the public sector in Brazil in the 1990s followed the worldwide reform movements and adopted as its main aims the privatization program, the economic opening, the liberalization of markets and the so-called competition policies, and the legislative reform, continuing with the changes put forth in the Constitution of 1988.

In terms of the public sectors, the government's target to reform the Brazilian hydrocarbon industry was oriented towards the introduction of competitive pressures by stimulating the entry of private agents in all its liable segments and by promoting partnership among these agents and Petrobras.

It is worthwhile to note that the choice of the opening model adopted in the oil and gas sector was determined by the gradual structural and institutional changes and by the deliberate political interest in preserving Petrobras' role as the dominant company in this sector.

The promulgation of Law 9.478, in 1997, created the Brazilian National Agency of Petroleum, Natural Gas and Biofuels (ANP), with the purpose of promoting regulatory measures, contracting and monitoring economic activities inherent to the petroleum, natural gas and biofuels industries.

How can sector regulation alter the market structure and promote competition in sectors characterized by strong entry barriers? After one decade of the new regulatory framework in the Brazilian hydrocarbon industry, is it possible to affirm that the results obtained are coherent with the previously established objectives?

This paper discusses these two questions in the quest for some liable answers. The main contribution is to show that, due to the complexity of the oil industry, regulatory reforms can generate different results in the upstream and downstream segments and these results are strongly dependent on the strategic behavior of the dominant company before the reform took place. Considering the Brazilian case, this paper examines to what extent the reform of the Brazilian hydrocarbon industry has fortified Petrobras as a national champion and created conditions for its internationalization.

The main conclusions of this study emphasize four key points.

First, the results obtained through the oil block auction mechanism consolidated the opening process and hence permitted great transparency in the entry of some dozen operators in the oil exploration and production segments.

Secondly, Petrobras remains as the principal operator company in Brazil and the winner of the greater part of these auctions, either acting alone or in partnerships with others companies. However, it is undeniable that this company has created a new business environment, thus allowing the participation of new petroleum companies in the upstream segment of the Brazilian hydrocarbon industry, especially by sharing technological knowledge accumulated throughout the years in offshore exploration of ultradeep waters, such as in the new Tupi area, where BG and Petrogal are associated with Petrobras.

Thirdly, one of the main problems remaining concerns the price policy and the dominant position of Petrobras in the refining segment. This company owns practically 100% of the Brazilian refineries, and can hence act both as monopolist and as a monopsonist, hindering competitive company acts.

The fourth point is that the national energy policy is still not clear in relation to the future of the upstream activities. The main question regards future decisions on Petrobras' role as the national production increases. Will Brazil become an oil exporter? This aspect is directly linked to the criterion that will guide the bidding of new oil blocks in the next years. One should mention that transparency of these criteria is strongly advisable in order to aid the investments decision processes of private operator companies.

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