Petroleum fiscal arrangements in T&T

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In 2008 Trinidad and Tobago celebrated 100 years as a petroleum producing country, although it was not until the 1970s, with the advent of OPEC, that the major economic benefits from this sector started to materialise. These benefits have resulted from the various fiscal measures, legislative framework and contractual arrangements that have been implemented over time.

The energy sector continues to play a significant role in this country's economy, contributing approximately 43 per cent to GDP, 50 per cent to government revenue and 89 per cent to export earnings in 2007. The returns from the sector are utilised for infrastructural development, the diversification of the country's economic base as well as the improvements of the general standard of living of the citizenry. The legal, contractual and fiscal framework that govern the energy sector are as follows:

1. The Petroleum Act of 1969 and Regulation
This Act outlines the contractual arrangements under which companies can explore and develop the resources within the country. These arrangements include Exploration and Production Licences (E&Ps) (both Public Petroleum Rights and Private Petroleum Rights) and Production Sharing Contracts (PSCs).

2. The Petroleum Production Levy And Subsidy Act
Established in 1974 to buffer large increases in petroleum product prices and provide a general level of market stability, this Act provides for the subsidisation of petroleum products that are sold to the domestic market.

3. The Income Tax Act, Chapter 75:01
The Act, together with the Corporation Tax Act, sets out the over-arching framework and principles under which companies are required to pay taxes or other impositions. These are the fore-bearers to legislation that was enacted later on.

4. The Petroleum Taxes Act, Chapter 75:04
The current applicable tax rate charged on oil and gas producers is 50 per cent of gross income less operating expenses, allowances and other deductions. These allowances include capital expenditures, royalties, Supplemental Petroleum Tax, Petroleum Levy/Impost, decommissioning/abandonment costs and management fees paid to non-residents (limited to 2 per cent of expenses). Other special allowances are granted for dry holes, work-overs, sidetracks, and heavy oil as well as for signature and production bonuses. This Act took effect from 1974 and has been amended as market conditions changed.

5. The Income Tax in Aid of Industry Act, Chapter 85:04
Enacted in 1950 this act provides, among other things, allowances through accelerated mechanisms to encourage investment. The capital allowances are granted in accordance with the category set out under the Income Tax in Aid of Industry Act.

6. The Unemployment Levy Act, Chapter 75:03
This Act was enacted in 1970 and the levy is used to assist in the funding of the government's social programmes. Initially the levy was applicable to all businesses and charged according to a sliding scale. Currently, a rate of 5 per cent of chargeable income before loss relief is charged only on oil and gas companies.

7. The Supplemental Petroleum Tax
Introduced in 1981, the Supplemental Petroleum Tax (SPT) has been amended on several occasions. The current SPT is imposed on income generated from production of crude oil net of royalty and over-riding royalty.

The SPT rates vary for marine and land operations and for licences or contracts that were agreed prior or post 1988. SPT rates are based on a sliding scale for prices ranging from US$15.00 to US$49.50 per barrel, thereafter the rate remains fixed.

8. The Green Fund Levy
This Levy came into effect from January 2001, under the Miscellaneous Taxes Act Chapter 77:01. It is computed as a percentage (currently 0.1 per cent) of the gross sales or receipts, and these payments are not tax deductible. As the name suggests, this levy is used in the maintenance, reforestation, restoration and conservation of the environment.

Changing Environment
Oil prices that reached US$147.00 a barrel in June 2008 have plummeted to under US$40.00 a barrel and LNG prices have fallen below US$4.00 per mmbtu.

For Trinidad and Tobago, access to volumes of stranded gas provided a major impetus to development of the local energy sector, particularly petrochemicals and LNG. Today, several of its land and shallow marine fields have reached or are approaching maturity. Accordingly, initiatives are being taken to sustain production through increased exploration and development activities in new horizons in shallow, deep water and existing fields as well as developing this country's heavy oil potential. To encourage these activities, a review is being taken of the country's fiscal and legislative framework. Among the areas under consideration are the contractual arrangements, particularly the PSCs,valuation mechanisms, carried participation, windfall profit features, marginal fields, heavy oil and improvements to the bid process.

The objective of the review is the configuring of a fiscal regime that maintains its competitiveness, is flexible to the changing environment and stimulates sustained exploration and development of the country's hydrocarbon resources. ❑