



**3rd South East Europe Energy Dialogue
Thessaloniki June 18/19, 2009**

*Some Aspects of the Prospecting and
Exploration Licensing Regime in Bulgaria*

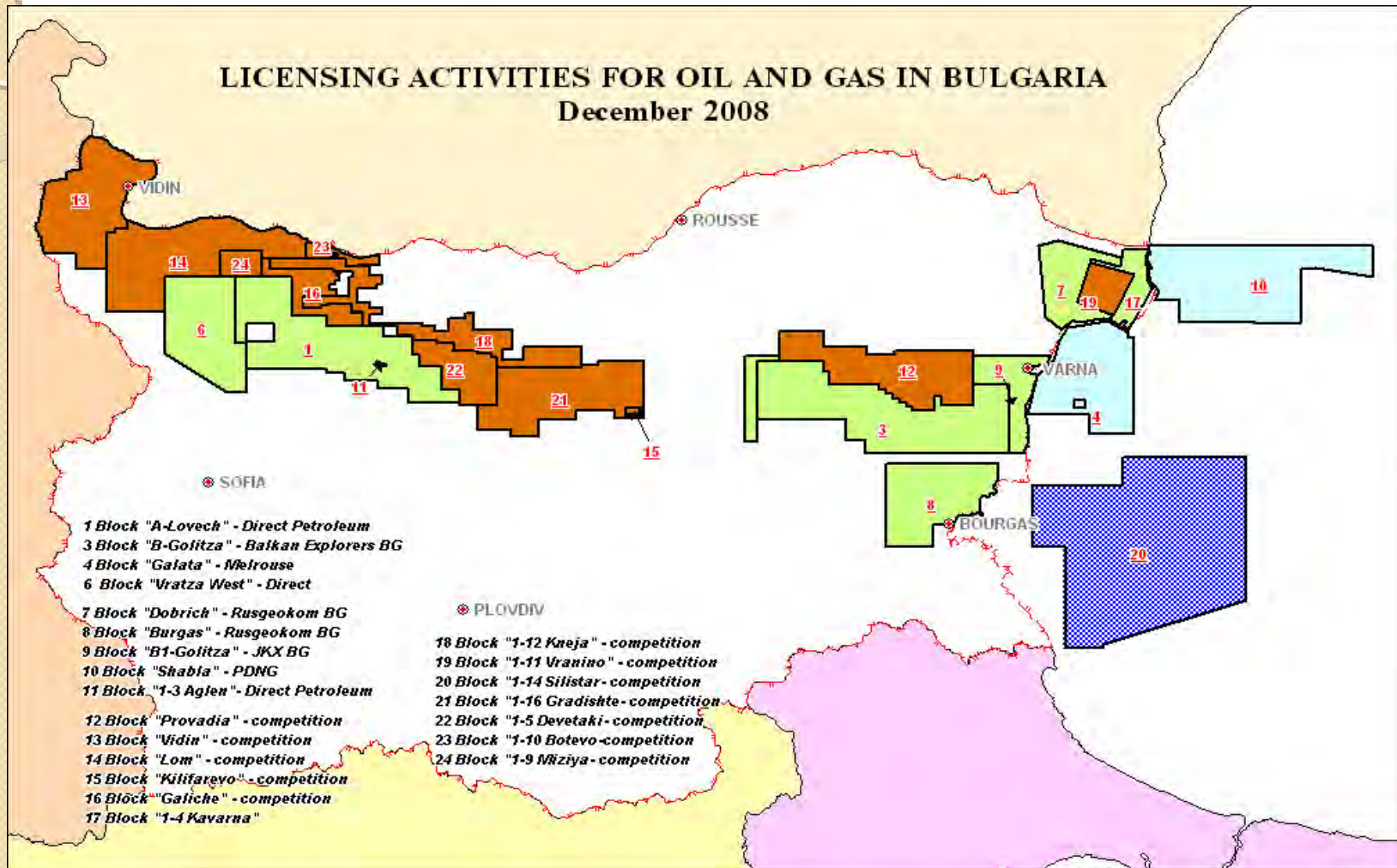
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Brief Historical Overview

- Operators in the past years :
 - British Gas;
 - Texaco; Enterprise oil; OMV;
 - Balkan Explorers; Union pacific;
 - Edison Gas; Maxus Energy;
 - Melrose Resources (Petreco);
 - Anshutz; Direct Petroleum;
 - JKX, JXT, Vintage, OAO Beshkirgeology
- Discoveries:
 - ❖ Dolni Dubnik (discovery of oil);
 - ❖ Shabla (discovery of oil);
 - ❖ Gigen (discovery of oil);
 - ❖ Dolni Lukovit (discovery of oil);
 - ❖ Chiren (discovery of gas, depleted)
 - ❖ Numerous small deposits of gas in the Dobrudja platform;
 - ❖ Galata (discovery of gas - OMV, Texaco, Enterprise oil. Operated and extracted by Melrose Resources);
 - ❖ Deventzi (geological discovery registered by Direct Petroleum in 2008);

2008





2009

- *The Bulgarian Council of Ministers recently announced competition procedures for granting of a prospecting and exploration of oil and gas license in blocks 1-6 Pelovo, 1-7 Tarnak, 1-8 Altimir and 1-16 Gradishte*



Legal overview

➤ General

- Oil and gas as underground resources, are exclusive State property (Constitution of Republic of Bulgaria); and
- The prospecting, exploration and production of oil and gas is regulated by law – the Underground Resources Act (1999 as amended and/or supplemented from time to time thereafter) (*URA*).



Legal overview

- Competent Authority to grant licenses for prospecting and exploration of oil and gas – the Council of Ministers, upon proposal by:
 - ❖ The Minister of Environment and Waters or
 - ❖ The Minister of Economy and Energy.
- Procedures for granting a license for prospecting and/or exploration of oil and gas under URA
 - ❖ competition

Licenses for prospecting and exploration of oil and gas are granted on the basis of a competition procedure even if there is only one participant.



Legal overview

- Holders of a license for prospecting and exploration of oil and gas:
 - ❖ natural persons or legal entities registered as traders under the laws of Bulgaria or any other jurisdiction;
 - ❖ having the required managerial and financial capacity to perform the activities subject to the license.



Legal overview

- Competition procedure
 - ❖ Initiated (i) *ex officio* by the Minister of Environment and Waters or by the Minister of Economy and Energy or (ii) upon application by an interested party to the said Ministers;
 - ❖ The respective Minister shall propose to the Council of Ministers commencement of the procedure for granting of a license (*within 3 months as from filing of the application by an interested party*). The proposal should be motivated and should contain justification in evidence of its compliance with the law and its feasibility;



Legal overview

- ❖ Decision by the Council of Ministers on initiation of the competition procedure:
 - Content:
 - subject of the license;
 - term for completion of the competition;
 - term for purchase of the competition documentation (cannot be shorter than 120 days and longer than 180 days as from promulgation of the decision);
 - term for acceptance of the documents for participation in the competition;
 - deposit, amount and term for its payment;
 - other terms;
 - authorization of the respective Minister to conduct the competition.



Legal overview

➤ Promulgation/publication:

- State Gazette;
- the web site of the Council of Ministers and
- the Official Journal of the European Union (Directive 94/22).

- Nomination of a commission to organize and accomplish the competition.

The competition documentation shall specify the criteria to obtain the final complex assessment of the proposals, ranked according to priority.

- Filing of application in Bulgarian language in conformity with the competition requirements. The application should be accompanied by:



Legal overview

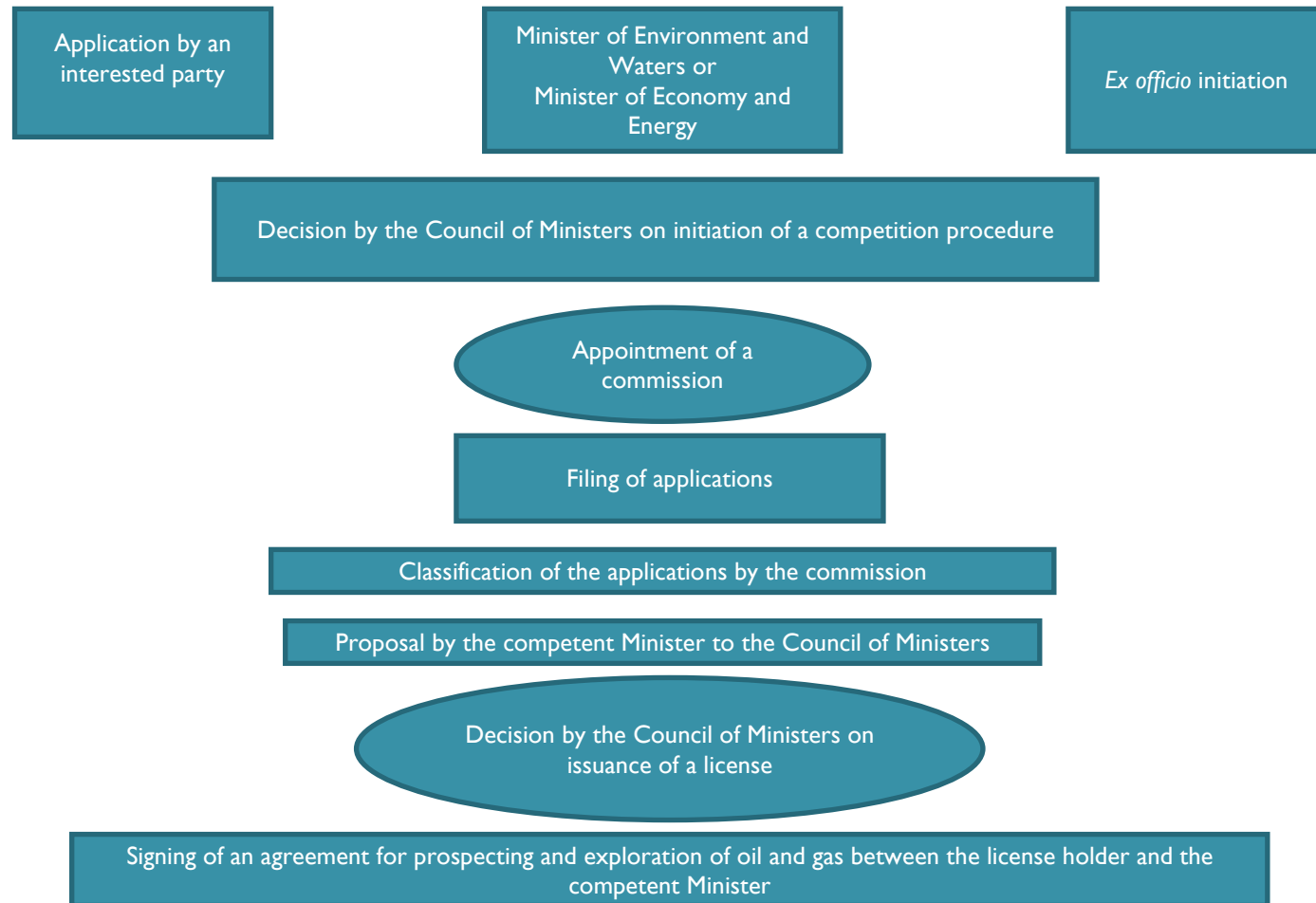
- ❖ certificate for registration of the applicant as trader;
- ❖ annual financial reports for the last three years;
- ❖ evidence of purchase of competition documentation;
- ❖ evidences for payment of the deposit and the participation fee;
- ❖ declaration for confidentiality and non-disclosure of the information contained in the competition documentation;
- ❖ references issued by banks and other financial institutions, as well as by business partners;
- ❖ declaration that the applicant has no outstanding obligations to the Bulgarian state or to the municipality, established by an enforceable act by a competent authority, unless the liabilities have been re-scheduled or deferred;
- ❖ declaration of the manager or the members of the managing body of the applicant that they have not been sentenced for crimes against property, economy, the financial, tax or insurance system, for abuse of power or bribery, as well as for crimes pertaining to the activities of a criminal group.



Legal overview

- Classification of the participants by the commission (within 14 days as from the final term for filing of applications).
- Proposal by the competent Minister to the Council of Ministers for determination of the winning bidder.
- Decision by the Council of Ministers for granting of a license for prospecting and exploration of oil and gas.

Legal overview





Legal overview

- Grounds for refusal of issuance of a license:
 - ❖ the granting of a prospecting and/or exploration license creates risks for the national security and the defence, the bowels of the earth and the environment, the health and safety of the employees, and the territories, sites, cultural and historic monuments protected by law; or
 - ❖ the applicant has provided untrue information; or
 - ❖ the applicant offers a working programme, which does not conform with the established technical and technological standards and the requirements for preservation of the bowels of the earth and the environment; or
 - ❖ the request for obtaining of a prospecting and exploration license concerns a territory subject of earlier prospecting and exploration license or concession, provided that both activities are incompatible and there is no consent from the holder of the previous license holder.



Legal overview

- Rights conferred by the license

The decision of the Council of Ministers for granting of a license for prospecting and exploration of oil and gas shall confer to the winning bidder and respectively holder of the license the right to:

- ❖ carry out all the necessary activities designed to discover oil and/or gas deposits ;
- ❖ apprise the deposits of oil and gas, including the right to extract the underground resources for technological tests. *The quantity of oil and gas so obtained may be subject to sale under conditions and according to procedures specified in the prospecting and/or exploration agreement before a concession for extraction is obtained;*
- ❖ declare a commercial discovery within the term of validity of the license;
- ❖ be granted with concession for extraction.



Legal overview

- Obligations of the license holder:
 - ❖ to carry out all the activities pertaining to the granted license in compliance with the law and pursuant to the terms and conditions of the concluded agreement for prospecting and exploration;
 - ❖ to notify the competent authority about any discovery of underground resources and to provide the required information thereof;
 - ❖ to provide information to the National Geological Fund, being the state authority nominated to preserve the information relating to the prospecting and exploration of underground resources;
 - ❖ in the event of mineral, historic or archaeological discoveries to suspend work and to notify forthwith the Minister of Environment and Waters and/or the Minister of Culture.
- The license for prospecting and/or exploration of oil and gas shall enter into force as from the date of signing of an agreement with the competent authority being authorized to that effect by the Council of Ministers (unless otherwise provided in the decision for granting of the license).



Legal overview

- Mandatory content of the prospecting and exploration agreement:
 - ❖ subject of the agreement, coordinates and size of the area granted;
 - ❖ term of the agreement and conditions for its extension;
 - ❖ rights and obligations of the parties;
 - ❖ working programme, comprising types, volumes, values and terms for completion of the activities under the granted license;
 - ❖ financial terms and conditions and procedure for payment
 - ❖ terms and procedure for transfer of rights and obligations;
 - ❖ terms and procedure for termination of the agreement;
 - ❖ terms and procedure for preparation and submission of designs, reports, primary data, accounting documents and other information;
 - ❖ conditions determining the rights on geological and other information obtained by the holder of the license in the course of operations. *According to the Underground Resources Act all information obtained by the holder of license for prospecting and exploration shall be co-owned by the State and the holder of the license. Upon termination of the license all the information shall become property of the State;*
 - ❖ terms and procedure for inspections;
 - ❖ terms and conditions for conservation of the bowels of the earth, the environment, the protected territories, the monuments of culture, and the safety and the health of the employees;
 - ❖ terms and procedure for settlement of disputes;
 - ❖ terms and procedure for action in the event of force majeure circumstances;
 - ❖ training programs and creation of new jobs;
 - ❖ Terms and condition for release of parts of the area.



Legal overview

- Area of the licenses for prospecting and exploration of oil and gas
 - ❖ Up to 5000 sq.km. for onshore territories; and
 - ❖ Up to 20 000 sq.km. for offshore territories.
 - extension of the area in case of registration of a geological discovery on the boundary of the area for the purposes of its evaluation;
 - Release of part of the area under terms and conditions as agreed in the respective prospecting and exploration agreement.



Legal overview

URA 1999-2008

- Terms for accomplishment of the procedure for granting of a P&E License – *none of issue*
- Terms for initiation of the competition procedure in case of application by an interested party – *none of issue*;
- Granting of the P&E License of oil and gas is subject to competition or tender procedure.

URA 2008

- Terms for accomplishment of the procedure for granting of a P&E License – *statutory*;
- Terms for initiation of the competition procedure in case of application by an interested party – *3 months*;
- Granting of the P&E License of oil and gas is subject to competition.



Legal overview

➤ Terms of the P&E License:

- No differentiation between the terms of the licenses for the various underground resources;
- Up to 3 years with 2 possible extensions by up to 2 years each;
- Possible subsequent extension by up to 1 year upon discovery

➤ Terms of the P&E License:

- Differentiation between the terms of the licenses for the various underground resources – *oil and gas*;
- Up to 5 years for oil and gas with 2 possible extensions by up to 2 years each;
- Possible extension by 1 year in case of registered geological discovery.



Legal overview

- Termination of the license for prospecting and exploration of oil and gas

Termination of the agreement for prospecting and exploration:

- ❖ upon expiry of its term;
- ❖ in the event of objective impossibility for carrying out the activities under the granted license;
- ❖ where a decision for declaration of bankruptcy of the holder of license has entered into force;
- ❖ by mutual agreement of the parties;
- ❖ in the event that the holder of the license extract underground resources for technological samples and technological tests in quantities exceeding the quantities specified in the agreement;
- ❖ by virtue of ruling of a court of law or a court of arbitration;
- ❖ in the event of death of the natural person or termination of the legal entity - holder of the license for prospecting and/or exploration. However in such case the agreement may remain in force with the successor/s of the license holder, provided that the latter files an application for extension of the contract and assumes all obligations thereunder.



Legal overview

- Suspension of the license:

The competent Minister having signed the agreement shall be entitled to suspend the validity of the license for prospecting and exploration, should the holder of the license carry out activities that are contrary to the legislation in force or should they be in default of the terms and conditions of the concluded agreement.



Legal overview

- Termination of the license by the Council of Ministers:
 - ❖ the validity of the license has been suspended and the holder of the license has failed to remedy the reasons therefore within the term set by the Minister of Environment and Waters or respectively by the Minister of Economy and Energy;
 - ❖ occurrence of risks for the national security and the defence, the environment, the health and safety of the population, as well as for destruction or damaging of monuments of culture;
 - ❖ The license holder does not comply with the requirements for conservation of the bowels of the earth and the rational use of underground resources, the protection of environment and re-cultivation of the excavated sites.



Necessary amendments in the legal framework

- Differentiation of the terms of the licenses for prospecting and exploration of oil and gas offshore and onshore.
- Optimization of the terms for approval of:
 - ❖ Extension of the term of the license (First and Second extensions);
 - ❖ Transfer of participating interest under a granted prospecting and exploration license;



THANK YOU!

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