

Negotiating Petroleum Contracts: Approaches to Negotiation

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Introduction



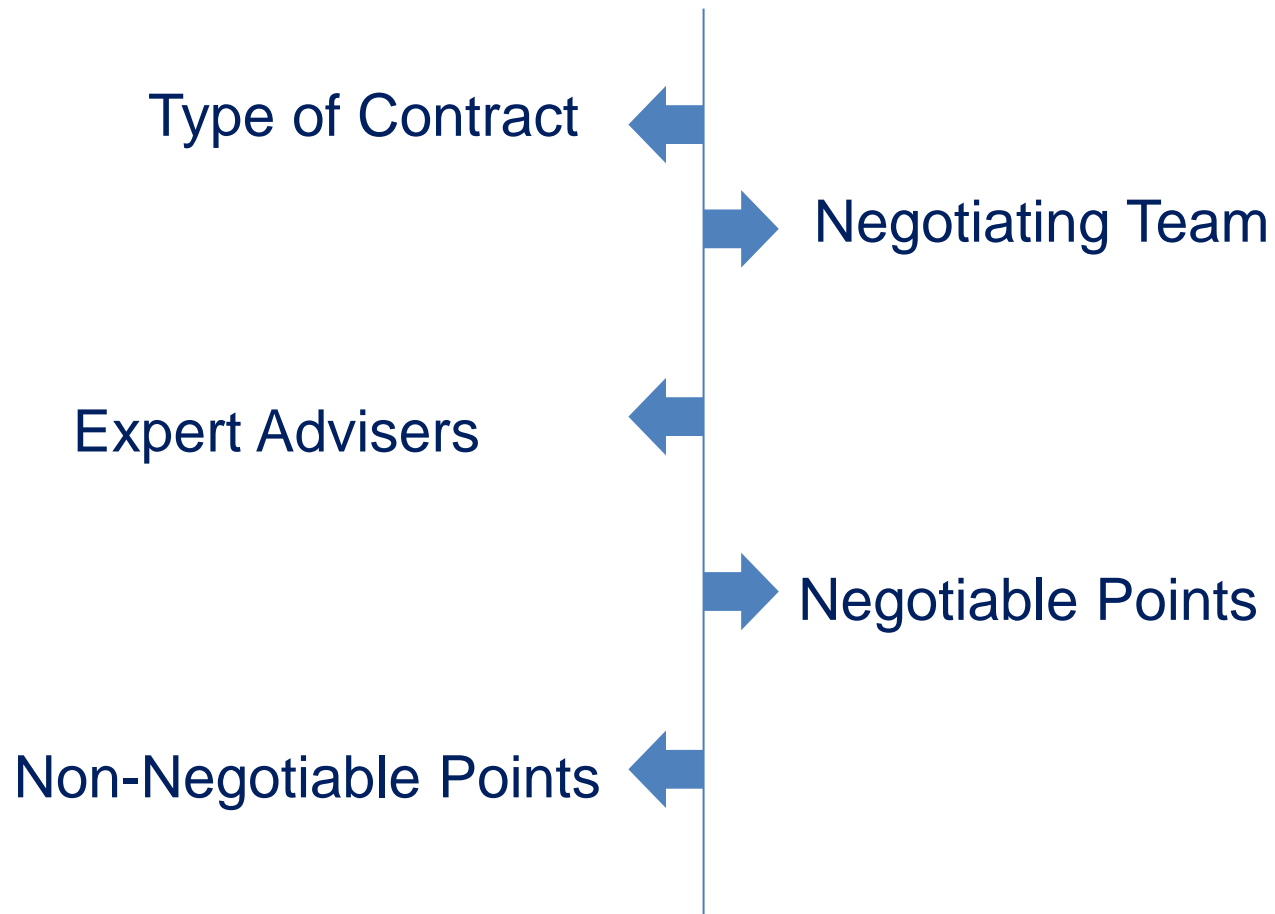
- To explore and develop their natural resources, many governments rely on IOCs (and other independent/indigenous oil companies) because of their expertise, financial resources and experience in exploiting and marketing oil and gas resources.
- The relationship between the government and the oil companies is determined by negotiated contracts.
- Contract negotiation is a key feature of petroleum business operations between government and oil companies.
- Negotiation is not a simple process. It involves complexities of legal, technical and financial issues.
- Since petroleum contracts play a vital role in the revenue of governments, they need to be carefully and effectively managed.
- Contract negotiation is relevant at all levels of the petroleum value chain.

CRITICAL STEPS TO NEGOTIATION

Govt. should set out its main objectives and understand the objectives of the Oil Companies



CRITICAL STEPS TO NEGOTIATION



STRUCTURE OF PETROLEUM CONTRACTS

Three Main
Sections

The Preamble/Recitals

The Operative/Substantive Provisions

Appendixes which are Integral to the Contract

OPERATIVE AND SUBSTANTIVE PROVISIONS

The most common provisions are:

- **Parties:** government (or state-owned enterprise with limited liability) and IOC (through an SPV, **but government should require a guarantee from the parent**).
- **Oil Price:** a benchmark price (using a spot market) should be agreed. Taxes, royalties and profit sharing will depend on the price.
- **Taxation or Compensation:** signature bonus, production bonus, profit tax, royalties, etc.
- **Dispute Resolution and ad-hoc International Arbitration**
- **Health and Environment**
- **Local Content Requirements**
- **Stabilization Clauses to minimize political risks:** it essentially freezes the law and regulatory framework as it stood at the time of the contract.
- **Governing Law:** usually local law but parties can choose international law.
- **Force Majeure:** natural disasters, war, riots, labor disputes, pipeline vandalization.
- **Work Program:** it should show how to best protect the environment.
- **Termination:** especially if there is no development.
- **Effective Date:** could be open signature, gazetting or sanctioned by law.



Bibliography: Strategy of Oil Contract Negotiation by Salih, M.S., Salih, R.S. in the International Journal of Business and Social Science, Vol. 6, No. 9, 2015

Questions?



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