

SBM Offshore

Overview of controversial business practices in 2009



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SOMO

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Colophon

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Introduction

This brief company profile is a joint initiative of SOMO (Centre for Research on Multinational Corporations) and the VBDO (Vereniging van Beleggers voor Duurzame Ontwikkeling). It provides an overview of business practices that may be considered unsustainable, irresponsible, or controversial and that took place or were addressed in 2009. In the context of the upcoming annual general meetings (AGMs) of shareholders of Dutch corporations, the overview aims to provide additional information to SBM Offshore's shareholders and other stakeholders on potentially controversial issues that may or may not be detected or reported by the company itself. By highlighting such issues, the overview can be used to identify areas of the company's corporate responsibility policies and practices that need improvement and to formulate a more informed assessment of a company's corporate responsibility performance.

The range of sustainability and corporate responsibility issues eligible for inclusion in this overview is broadly based on the issues and principles identified in the OECD Guidelines for Multinational Enterprises, which is one of the leading global normative standards for responsible business behaviour and which is applicable to all Netherlands-based companies by virtue of the Dutch government's membership in the OECD. Rather than an exhaustive analysis of SBM Offshore's corporate responsibility policies, operational aspects of corporate responsibility management, implementation systems, reporting and transparency, or total performance on any issue, the overview provides a descriptive depiction of a limited number of corporate responsibility-related issues and cases that might merit further attention or reflection. SBM Offshore's positive sustainability achievements in 2009 are not addressed here.

The research methodology for this overview involved primarily desk research methods, relying on information from SOMO's global network of civil society organisations, the company's own website and publications, media reports, and company information databases. All sources are cited in footnotes in the text. As per SOMO's standard research methodology, SBM Offshore was informed about the research in advance and was given two weeks to review a draft report and provide comments and corrections of any factual errors in the draft version prior to publication.

The overview has been researched and drafted by SOMO. SOMO is an independent research organisation that was founded in 1973 to provide civil society organizations with knowledge on the structure and organisation of multinationals.

Controversial Business Practices in 2009

High risk of corruption in Equatorial Guinean business activities

Summary

In August 2009, SBM Offshore announced that it had signed a contract for the lease of a Floating Production Storage and Offloading (FPSO) vessel, to be used for offshore oil and gas production in Equatorial Guinea (EG). The government of EG has been accused by Human Rights Watch and others of corruption, human rights abuses, and squandering of oil revenues. Multinational oil companies' business ties to the EG government are widely regarded as controversial and as contributing to these wrongful practices. SBM Offshore has business ties with the EG government through a joint venture it formed with GEPetrol, the national state-owned oil company of EG. This joint venture is controversial for the following reasons:

- ❑ GEPetrol is partially owned and controlled by officials with familial ties to the president.
- ❑ GEPetrol is one of the least transparent oil companies in the world.

SBM Offshore does not appear to have any measures in place to mitigate the risk of corruption or mismanagement of funds by its business partner.

Context

Equatorial Guinea is a small country on the west coast of Africa, where large deposits of oil and gas were discovered in the mid 1990s. Because of this discovery, the country has seen immense economic growth over the last 15 years, as its economy has grown approximately 130-fold.¹ According to the CIA World Factbook, its current GDP per capita is ranked 30th in the world at \$36,100, which is higher than countries such as the United Kingdom, Germany and Japan.² The economy is almost exclusively based on oil and gas extraction, and the country produces 359,200 barrels of oil (ranked 35th in the world) and 6.67 million cubic meters of gas (ranked 45th in the world) per day. In the last years, several new oil and gas fields have been discovered, which is likely to result in even greater production figures in the coming years.

However, at the same time the country suffers from extreme poverty. Approximately 77% of the population lives below the poverty line, life expectancy is as low as 52 years, and infant mortality is as high as 124 deaths per 1,000 births.³ No more than 47% of the population has access to clean drinking water, and 19% of children below the age of five are malnourished. These figures illustrate the dire situation of the EG population brought about by the so-called "resource curse", which has been described and documented in academic and social scientific literature, as well as media reports.⁴

¹ Reuters website, news, blogs, The Great Debate UK, Article, "Squandered oil wealth, an African tragedy", Arvind Ganesan, 09-07-09, <http://blogs.reuters.com/great-debate-uk/2009/07/09/squandered-oil-wealth-an-african-tragedy/> (08-03-10).

² CIA website, The World Factbook, "Country Comparison: GDP per Capita", no date, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html> (08-03-10). The data of information for EG is 2009.

³ Human Rights Watch, "Well Oiled: Oil and Human Rights in EG", July 2009, <http://www.hrw.org/en/reports/2009/07/09/well-oiled-0> (08-03-10).

⁴ E.g. T. Alicante & L. Misol, Foreign Policy, "Resource Cursed", 26-08-09, http://www.foreignpolicy.com/articles/2009/08/26/resource_cursed (08-03-09).

Under this dynamic, the abundance of oil and gas in the country does not enhance the economic situation of the local population, but instead, counter-intuitively, drags them into even worse poverty. Rampant and widespread corruption and misappropriation of oil funds is generally seen as the cause of this dynamic.

Corruption and human rights in EG

The US State Department has characterised the situation in EG as such, “Application of the laws remains selective. Corruption among officials is widespread, and many business deals are concluded under nontransparent circumstances”.⁵ In July 2009, Human Rights Watch published an extensive report about the relationship between oil, corruption and human rights abuses in EG.⁶ The report makes mention of a number of allegations of corruption against the country’s President Obiang, his relatives and members of government. Among others, these allegations include:

- ❑ Siphoning off \$26 million from the state owned oil company to be used for the purchase of houses in Spain
- ❑ Ownership of land by government officials that is rented or sold to multinational companies
- ❑ Contracting companies in which government officials have significant ownership stakes
- ❑ Transactions of government officials involving tens of millions of dollars in cash withdrawals and the purchase of luxury items such as mansions and exotic cars.

The Human Rights Watch report also gives a summary of the case of the Riggs Bank, which came under investigation of the US Senate’s Permanent Subcommittee on Investigations after media reported about cases of corruption involving the EG government’s Riggs Bank accounts. Multinational oil companies paid their oil-related royalties and taxes into these accounts. The same accounts were then used by the president and his confidants to transfer money into other, unknown bank accounts, likely those of government individuals. An *LA Times* article showed how the Riggs Bank was also involved in the purchase of two mansions worth \$1.2 million and \$2.6 million in the name of President Obiang.⁷

Perhaps the most flagrant example of how oil funds are used for individual gain is illustrated by the spending habits of Teodorin Nguema Obiang, the president’s son and heir apparent. A report by Global Witness documents the extravagant lifestyle of Teodorin.⁸ It states that, “Despite an official salary of \$4,000 - \$5,000 a month as a minister in his dad’s government, Teodorin has acquired a fleet of fast cars, a \$35 million mansion in Malibu, a private jet and he is reported to be building a 200-foot custom luxury yacht, complete with shark tank”.⁹ It is estimated that Teodorin channelled \$75 million into the United States between 2005 and 2007.

⁵ US State Department, Background Notes: EG (11/09), November 2009.

⁶ Human Rights Watch, “Well Oiled: Oil and Human Rights in EG”, July 2009, <http://www.hrw.org/en/reports/2009/07/09/well-oiled-0> (08-03-10).

⁷ Ken Silverstein, “Oil boom enriches African ruler”, Los Angeles Times, 20-01-03, <http://articles.latimes.com/2003/jan/20/nation/na-riggs20> (08-03-10).

⁸ Global Witness, “The Secret Life of a Shopaholic; How an African dictator’s playboy son went on a multi-million dollar shopping spree in the U.S.”, November 2009, http://www.globalwitness.org/media_library_detail.php/878/en/the_secret_life_of_a_shopaholic_how_an_african_dic (08-03-10).

⁹ Ibid.

In addition to the flagrant corruption and mismanagement of oil and gas funds and the lack of investment in social services, the government of EG has also been criticised for its poor human rights record. Amnesty International reports on cases of arbitrary arrest of political activists, prolonged detention without trial, abductions, torture and unfair trials.¹⁰ Human Rights Watch also mentions the lack of freedom of press and media and the harsh crackdown on military personnel accused of coup attempts in 2003 and 2004.¹¹

Role of multinational oil companies

Multinational oil companies have been criticised for their involvement with the corrupt regime of EG and for making payments without adequate anti-corruption measures. Human Rights Watch states: "Due to the pervasive role of the government and individuals with ties to government officials and their family members in the country's economy, oil companies doing business in EG often end up entering into a variety of business agreements and relationships which result in their contributing substantially to the EG government's funds. These relationships include various joint ventures, the lease or purchase of land, the purchase of security services and contributions to scholarships for EG nationals, usually awarded to relatives of government officials".¹²

Furthermore, the US Senate Permanent Subcommittee on Investigations mentions in its 2004 report on money laundering in EG that "[o]il companies operating in EG may have contributed to corrupt practices by making substantial payments to, or entering into business ventures with, individual EG officials, their family members or entities they control, with minimal disclosure of their actions".¹³ Several oil companies have admitted that they are forced to make use of local services and have been approached to make "unusual payments".¹⁴

Role of SBM Offshore

In August 2009, SBM Offshore issued a press release announcing that it had been awarded an agreement to lease one of its FPSOs to the EG subsidiary of the US-based oil company Noble Energy.¹⁵ This vessel would be used for the development of the Auseng offshore field and also as a hub for future activities of Noble Energy in the region. SBM Offshore announced that the contract, which commences in 2012 for a period of 15 years, is worth approximately \$1.2 billion. For this contract, SBM Offshore has formed a joint venture with state-owned GEPetrol, whereby SBM Offshore controls 60% of the FPSO and GEPetrol the remaining 40%.

The Auseng offshore field is of prime importance for the EG government, as it is one of the several oil and gas deposits discovered in recent years. In July 2009, the deputy minister of Mines and Energy stated that the country decided to alter its 'Gas Master Plan' because the country had more gas reserves than it had initially calculated.¹⁶ This was partially due to the discovery of the Auseng field.

¹⁰ Amnesty International, "Equatorial Guinea", Submission to the UN Universal Periodic Review; Sixth session of the UPR Working Group of the Human Rights Council, November-December 2009, <http://www.amnesty.org/en/library/info/AFR24/002/2009/en> (08-03-10).

¹¹ Human Rights Watch, "Well Oiled: Oil and Human Rights in EG", July 2009, <http://www.hrw.org/en/reports/2009/07/09/well-oiled-0> (08-03-10).

¹² Ibid.

¹³ United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, "Money laundering and foreign corruption; Enforcement and effectiveness of the Patriot Act case study involving Riggs Bank", July 2004, http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=52AD7316-F7CA-4031-BF49-75FB5B6BDF88 (08-03-10).

¹⁴ Petroleum Economist, "Oil, Gas – and uneasiness", February 2007.

¹⁵ SBM Offshore website, http://www.sbmoffshore.com/DOCS/PressRelease_2009.08.26.pdf

¹⁶ BMI Middle East and Africa Oil and Gas Insights, " 'Gas Master Plan' Delayed Until Early 2010", 01-11-09.

The investments for the production of this oil and gas field, excluding the cost of SBM Offshore's FPSO, is estimated by Noble Energy at \$1.3 billion.¹⁷ This means that the lease of SBM Offshore's FPSO amounts to almost half of the total investment. Noble Energy estimates that production will start in 2012 and that production will total 100-120 million barrels of oil and 450-550 billion cubic feet of natural gas. At the current price of \$81.85 for a barrel of oil, and \$4.50 for 1,000 cubic feet of natural gas, these reserves are worth more than \$10 billion.¹⁸

GEPetrol

GEPetrol, with whom SBM Offshore has created a joint venture for the lease of the FPSO, is the national oil company of EG. Its primary focus has been the management of the government's stake in production sharing contracts with foreign oil companies. It also takes part in exploration activities and the development of new oil and gas fields.¹⁹ GEPetrol will have a 5% interest in Block I, in which the Auseng field is located, once commercial viability has been determined.

The US Senate report mentions GEPetrol as one of the companies with whom US oil companies have formed joint ventures and in which the president or his relatives have personal interests. The US oil company mentioned is Marathon. The report states that "Marathon has told the Subcommittee that it believes GEPetrol is owed 100% by the government, but some evidence obtained by the Subcommittee suggests that GEPetrol could have one or more [EG government] officials as part owners".²⁰ The director in charge of GEPetrol also seems to have family ties to the president. The current national director of GEPetrol is Candido Nsue Okomo, who appears to be related to the president's wife Constanca Nsue Okomo.²¹ As a result, there is a clear risk that the revenues generated by the SBM Offshore-GE Petrol joint venture may be used for the personal gain of officials of the EG government.

An additional warning flag is that Transparency International (TI) considers GEPetrol to be a highly intransparent company, giving GEPetrol a low score on its revenue transparency in a 2008 report.²² Specifically, the company provides little-to-no information about its payments, operations and anti-corruption programs. TI notes, "Further improvement for this group requires increased reporting on all areas of revenue transparency at all levels of implementation".²³

Mitigation of risks

The high risk of being directly or indirectly involved in corrupt practices make it controversial for any oil and gas company to even be present in EG. CSR academic George Frynas notes, "One oil and gas company has privately admitted it decided against investing in EG because of political and social concerns...The absence of Shell and BP, which are seen as leaders in corporate citizenship, is also

¹⁷ World Oil, "Activity picks up in West Africa", September 2009.

¹⁸ Bloomberg website, "Energy prices", prices of 08-03-10, <http://www.bloomberg.com/markets/commodities/energyprices.html> (08-03-10).

¹⁹ US State Department, Background Notes: EG (11/09), November 2009.

²⁰ United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, "Money laundering and foreign corruption; Enforcement and effectiveness of the Patriot Act case study involving Riggs Bank", July 2004, http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=52AD7316-F7CA-4031-BF49-75FB5B6BDF88 (08-03-10).

²¹ EG Gas website, Equatorial Guinea Gas Conference 25-28 May 2010, "Speakers include", no date, <http://www.cwceg.com/> (08-03-10);

²² Transparency International, "Promoting Revenue Transparency; 2008 Report on Revenue Transparency of Oil and Gas Companies", http://www.transparency.org/policy_research/surveys_indices/promoting_revenue_transparency (08-03-10).

²³ Oil & Gas Journal, "African producers grapple with issues of transparency", 26-05-08.

notable”.²⁴ The reputation and record of GEPetrol raise the risk even further for SBM Offshore in working with this business partner.

Nevertheless, SBM Offshore decided to conduct business in this risky environment. It should be noted that there is no evidence that SBM Offshore has been directly engaged in corrupt practices. However, the OECD Guidelines state that companies should “[e]ncourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines”. Such encouragement of business partners regarding responsible conduct is all the more important in a high-risk environment like EG and with high-risk business partners like GEPetrol. Yet SBM Offshore provides no public information about any measures or communication with GEPetrol aimed at mitigating the risk of corruption for its EG operations. SBM Offshore’s 2009 CSR report makes no mention of mitigation measures regarding the improper use of revenues by business partners.²⁵ The company’s code of conduct only makes a vague statement about bribery and corruption in general, noting that the company endeavours “to support and promote business practices free of bribery and corruption”.²⁶

In a response to a draft version of this report, SBM Offshore stated that it considers the contract with GEPetrol as being “the start of a larger sustainable local development which will focus on maximizing local content for onshore and offshore operations”.²⁷ The company points out that it intends to develop a national workforce for its operations. It also points out that other oil and gas companies are also active in EG, and that EG has become a candidate country of the Extractive Industry Transparency Initiative.²⁸ However, SBM Offshore did not comment on how it has addressed the core issues identified in this report, such as the risks of corruption and misappropriation of revenues by its joint venture partner.

There is thus little indication that SBM Offshore properly considered the corruption-prone reputation of EG and GEPetrol when deciding to enter into a joint venture with that company, that it encouraged its business partner to apply high standards of corporate conduct, or that it has taken any further measures to mitigate the clearly present risk of misappropriation of its funds in EG. This should raise red flags for socially responsible investors and shareholders.

²⁴ Petroleum Economist, “Oil, Gas – and uneasiness”, February 2007.

²⁵ SBM Offshore, “Corporate Social Responsibility Report 2008”, www.sbmoffshore.com/DOCS/CSR.pdf (11-03-10).

²⁶ SBM Offshore, “Code of Conduct; Our Corporate Responsibilities”, January 2010, http://www.sbmoffshore.com/DOCS/Code_of_Conduct.pdf (08-03-10).

²⁷ SBM Offshore email response to draft company profile, 07-04-10.

²⁸ It should be pointed out that EG is not a ‘EITI compliant country’ as of yet. In fact, it has requested an extension of its deadline to become compliant. As of this date, EG has not fulfilled its basic requirements and Human Rights Watch has raised doubts on the integrity of the EITI as a whole because of this lack of fulfillment.