Communication from the Minister for National Development of Hungary pursuant to Article 3(2) of Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons

(2017/C 187/14)

PUBLIC INVITATION TO TENDER FOR A CONCESSION FOR THE PROSPECTION, EXPLORATION AND PRODUCTION OF HYDROCARBON UNDER CONCESSION IN THE SOMOGYVÁMOS AREA

On behalf of the Hungarian State, the Minister for National Development ('the Contracting Authority' or 'the Minister') as the minister responsible for mining and for overseeing state-owned assets hereby issues a public invitation to tender for the prospection, exploration and production of hydrocarbon under a concession contract on the basis of Act CXCVI of 2011 on national assets ('the National Assets Act'), Act XVI of 1991 on Concessions ('the Concessions Act') and Act XLVIII of 1993 on mining ('the Mining Act'), subject to the following conditions.

1. The Minister will publish the invitation to tender, adjudge the bids and conclude the concession contract in cooperation with the Hungarian Office for Mining and Geology (Magyar Bányászati és Földtani Hivatal) in accordance with the Concessions Act and the Mining Act. Bids that meet the tender specifications will be evaluated by an Evaluation Committee set up by the Minister.

On the recommendation of the Evaluation Committee the Minister will issue the decision awarding the concession, on the basis of which the Minister may then conclude the concession contract with the successful bidder in accordance with Section 5(1) of the Concessions Act ([1]).

The language of the tendering procedure is Hungarian.

2. Participation in the tendering procedure is open to any domestic or foreign natural person and to any transparent organisation within the meaning of the National Assets Act provided they meet the tender specifications; joint bids are also permitted. In the case of joint bids for this concession activity, the bidders must designate one of their number as representative, but assume joint and several liability for performance of the concession contract. Under the tendering procedure domestic and foreign bidders will be treated on an equal footing.

For the purpose of carrying out the activity subject to concession, using its own resources the bidder signing the concession contract ('the Concession-Holder') must, within 90 days of the concession contract entering into force, set up a company with its registered office in Hungary ('the Concession Company'); the Concession-Holder must hold the majority of the shares, business interests and voting rights in the company at the time it is set up and for as long as it is operating, and must, as owner, undertake to enforce the requirements specified in the concession contract within the Concession Company. The Concession Company will enjoy the rights and be subject to the obligations under the concession contract as a mining operator.

3. Duration of the concession: 20 years from the entry into force of the concession contract; the original duration may be extended once without a further call for tenders for a maximum of half of its original duration if the Concession-Holder and Concession Company have complied with all their obligations in accordance with the contract and on time.

4. Data on area designated for concession:

Area designated for concession: the area is situated between the municipalities given in the table below in the counties of Somogy and Zala.

Municipality	County	Municipality	County
Alsóbogát	Somogy	Nagyrécse	Zala
Andocs	Somogy	Nagyszakácsi	Somogy
Bodrog	Somogy	Nemesdéd	Somogy

([1]) At the date on which this invitation to tender is being published, the member of the Government responsible for overseeing state-owned assets and for mining is the Minister for National Development in accordance with Section 109(3) and (5) of Government Decree No 152/2014 of 6 June 2014 governing the duties and powers of certain ministers and members of the Government.

Municipality	County	Municipality	County
Bonnya	Somogy	Nemeskisfalud	Somogy
Böhönye	Somogy	Nemesvid	Somogy
Csákány	Somogy	Nikla	Somogy
Csombárd	Somogy	Orci	Somogy
Csömend	Somogy	Osztopán	Somogy
Ecseny	Somogy	Öreglak	Somogy
Edde	Somogy	Pálmajor	Somogy
Felsőmocsolád	Somogy	Pamuk	Somogy
Fiad	Somogy	Pat	Zala
Gadány	Somogy	Polány	Somogy
Galambok	Zala	Pusztakovácsi	Somogy
Gamás	Somogy	Ráksi	Somogy
Gyugy	Somogy	Somodor	Somogy
Hács	Somogy	Somogyaszaló	Somogy
Hetes	Somogy	Somogybabod	Somogy
Hosszúvíz	Somogy	Somogyfajsz	Somogy
Juta	Somogy	Somogygeszti	Somogy
Kaposfő	Somogy	Somogyjád	Somogy
Kaposmérő	Somogy	Somogysárd	Somogy
Kaposújlak	Somogy	Somogysimonyi	Somogy
Kaposvár	Somogy	Somogytúr	Somogy
Karád	Somogy	Somogyvámos	Somogy
Kelevíz	Somogy	Somogyvár	Somogy
Kisbárapáti	Somogy	Somogyzsitfa	Somogy
Kisberény	Somogy	Szentgáloskér	Somogy
Kiskorpád	Somogy	Szenyér	Somogy

Municipality	County	Municipality	County
Lengyeltóti	Somogy	Szőkedencs	Somogy
Libickozma	Somogy	Tapsony	Somogy
Magyaratád	Somogy	Taszár	Somogy
Magyaregres	Somogy	Újvárfalva	Somogy
Marcali	Somogy	Varászló	Somogy
Mernye	Somogy	Várda	Somogy
Mesztegnyő	Somogy	Vése	Somogy
Mezőcsokonya	Somogy	Zalakomár	Zala
Miháld	Zala	Zalaszentjakab	Zala
Nagybajom	Somogy	Zimány	Somogy

Overburden of area designated for concession: surface and bedrock: 5 000 metres below Baltic Sea level

Areas cleared to make way for a mine site established for hydrocarbon mineral resources are not included in the area designated for concession.

The corner point coordinates delimiting the area designated for concession can be viewed in the Uniform National Projection System, while data on the areas cleared to make way for a mine site established for hydrocarbon mineral resources, which is not included in the area designated for concession, can be viewed on the website of the Hungarian Office for Mining and Geology (www.mbfh.hu) and/or on the website of the Ministry of National Development (www.kormany.hu/hu/nemzeti-fejlesztesi-miniszterium).

Size of area designated for concession: 1 279,738 km^2.

Areas of the mine site whose overburden is located higher than, or at the same height as, the overburden of the area designated for concession and whose bedrock corresponds to or extends below the bedrock of the area designated for concession are not included in the area designated for concession.

5. Minimum net concession fee: HUF 351 000 000 (three hundred and fifty-one million forint) plus VAT, but a bid for a larger fixed amount may be entered in the tendering procedure. Once the result is published, the successful bidder must pay the concession fee for the amount, in the manner and by the date specified in the concession contract.

6. Participation in the concession tendering procedure is subject to payment of a participation fee of HUF 10 000 000 (ten million forint) plus VAT; this amount is to be paid in the manner specified in the Tender Document.

7. In addition to paying the participation fee, for their bid to be valid bidders must lodge a tendering security of HUF 50 000 000 (fifty million forint) by the day preceding the deadline for submitting bids as a guarantee that the bid is binding. The tendering security paid will be forfeited to the Contracting Authority if the bidder withdraws or if the bidder is successful but then fails to conclude the contract or fails to pay the concession fee offered, for the amount, in the manner and by the deadline stipulated in the contract. The tendering security is to be paid in the manner specified in the Tender Document.

8. The lowest rate of the mining royalty payable on the basis of the concession contract will be 16 % in accordance with the decision of the Minister; a bid for a higher mining royalty may be entered in the tendering procedure, which if agreed is recorded in the concession contract and must be paid for the duration of the concession. The cases specified in Section 20(3)(e) and (i) and Section 20(5) of the Mining Act are exceptions, where the prevailing mining royalty specified in the Mining Act shall apply.

9. The legal, financial, technical and other conditions and information relating to the tendering procedure can be found in the Tender Document.

10. The Tender Document may be collected up until the day before the tender submission deadline, on presentation of adequate documentary proof that the purchase price for the Tender Document has been paid. The purchaser will be issued with a certificate in their name confirming that they have received the Tender Document.

When purchasing the Tender Document, for the purposes of being contacted and receiving information, the purchaser must also submit a Concession Bidder Identification Sheet, which can be downloaded from the website of the Hungarian Office for Mining and Geology (www.mbfh.hu) under the 'Koncessziós pályázatok közzététele' ('Concession tender notices'] option of the 'Koncesszió' ('Concessions'] drop-down menu and/or from the website of the Ministry of National Development (www.kormany.hu/hu/nemzeti-fejlesztesi-miniszterium).

11. The purchase price for the Tender Document is HUF 100 000 (one hundred thousand forint) plus VAT, which must be paid by bank transfer. The message accompanying the transfer must state the code SOVCHDV and the name of the party purchasing the Tender Document. The purchase price for the Tender Document may not be paid in cash and is non-refundable in part or in full. If the Tender Document is not received, the purchase price for the Tender Document will be refunded to the payer within five days of the submission deadline.

Information on the transfer of the purchase price for the Tender Document and on the receipt of the Tender Document can be found on the website of the Hungarian Office for Mining and Geology (www.mbfh.hu) and/or Ministry of National Development (www.kormany.hu/hu/nemzeti-fejlesztesi-miniszterium).

12. Bids may be submitted only by persons having purchased the Tender Document and having paid both the participation fee and the tendering security. If a joint bid is submitted, it is sufficient for one of the bidders to purchase the Tender Document.

13. Bids must be submitted in person on 26 September 2017 between 10:00 and 12:00, in Hungarian, as specified in the Tender Document. Further information on the place of submission is available on the website of the Hungarian Office for Mining and Geology (www.mbfh.hu) and/or Ministry of National Development (www.kormany.hu/hu/nemzeti-fejlesztesi-miniszterium).

14. From the time it is submitted the bid becomes binding on the bidder and remains binding until the tendering procedure is ended. Bidders may not exclude liability for failure to abide by their bid.

15. The Minister reserves the right to declare the concession tender procedure unsuccessful. No claims arising from the tender procedure being declared unsuccessful may be lodged against the Minister, the Hungarian State represented by the Minister, or the Ministry of National Development as the Minister's place of work.

16. The successful bidder will acquire the exclusive right for the prospection, exploration and production of hydrocarbon in the area designated for concession for the duration of the concession through the Concession Company mandatorily set up for that purpose. Once the decision establishing the mining site becomes final and enforceable, the concession right for the prospection area will be restricted to the area of the mining site.

17. Each bidder may submit only a single bid.

18. Time limit for the adjudication of concession bids: within 90 days following the deadline for bids to be submitted.

19. The Contracting Authority will ensure a level playing field and will not apply any preferential criteria.

20. Tender adjudication criteria:

I) Assessment criteria relating to the content of the Programme of Research Work subject to concession:

— professional merits of the Programme of Research Work (programme design aiming for maximum prospection of hydrocarbon);

— the planned duration of the research;

— the financial commitment undertaken when implementing the Programme of Research Work;

— how up-to-date the envisaged technical solutions are;

— the measures envisaged for protecting the environment and preventing and reducing damage in the course of the work subject to concession;

— how soon commencement of production is envisaged (by law, within less than five years).

II) Assessment criteria relating to the bidder's ability to perform the concession contract:

— the bidder's financial standing, the availability of the resources needed to finance the work to be performed under the concession, and the proportion of this accounted for by own resources;

— the total value of work performed in connection with hydrocarbon mining in the three years preceding the invitation to tender.

III) Assessment criteria relating to payment obligations undertaken in the concession contract:

— the net concession fee offered in comparison to the minimum concession fee set by the Minister;

— the size of the mining royalty offered in comparison to the minimum mining royalty set by the Minister.

The detailed adjudication criteria and the legislation governing the procedure for authorising the concession work and how it is to be performed and completed are specified in the Tender Document.

21. The concession contract

The concession contract is to be concluded within 90 days following the announcement of the result. This time limit may be extended by the Minister once only by a maximum of 60 days.

The successful bidder is entitled to carry out the exclusive state-controlled economic activity (prospection, exploration and production of hydrocarbon in a delimited area) permitted under the concession for the duration of the concession in accordance with the relevant legislation and the concession contract.

When submitting the bid, bidders must take account of Section 22/A(13) of the Mining Act, which states that in the case of hydrocarbons a mining operator's prospection right or prospection permit may cover a total of no more than 15 000 km^2 of prospection territory. When establishing the prospection territory, account must also be taken of the prospection territory of the mining operator that controls – within the meaning of the Civil Code – the mining operator wishing to obtain the prospection right or prospection permit. In the case of joint bids, each of the bidders must meet this criterion individually.

The draft concession contract is annexed to the Tender Document.

22. Information regarding the tendering procedure may be requested exclusively in Hungarian, in writing after the Tender Document has been purchased, in the manner stipulated in the Tender Document; replies will be made available to all parties by the Hungarian Office for Mining and Geology using the email address indicated on the Bidder Identification Sheet submitted when the Tender Document was purchased.

Budapest, February 2017.

Dr Miklós SESZTÁK

Minister