

BRIEF REPORT ON THE 7:30 BREAKFAST DEBATE – MARCH 26TH 2010

“Oil and Petroleum Exploration in Tanzania” A Baseline Survey Report 2009.

The government of Tanzania has during 1985/6 – 2008/9 taken major reforms in political, social, economic and monetary policies with the view of enabling international oil companies among others, to invest and explore in the petroleum sector for the benefit of all parties. Tanzania has excellent opportunities for oil and gas exploration and development in its mostly unexplored but highly potential sedimentary basins.

Policy Forum dedicated this monthly Debate to the Oil and Petroleum Exploration in Tanzania regarding on the survey report conducted in 2009 by NPA in collaboration with ESRF. The presentations debate was done by Dr. Semboja Haji Hatibu of Economic Research Bureau, University of Dar es salaam, presented on Petroleum Exploration Study and Honorable Zitto Kabwe (MP), Kigoma North, Tanzania presented on Oil and Gas in Tanzania: Fiscal Challenge of Production Sharing Agreement.

Dr. Semboja started by giving out the background and objective of the study, he said that there is lack of knowledge among civil society organizations and the general public on oil companies. The objective of this background survey was to understand the status of the oil and petroleum exploration and development industry in Tanzania.

Among the major findings of the study was lack of an adequate Legal and Regulatory Framework. Tanzania has put in place a comprehensive legal and regulatory framework affecting the performance of the petroleum exploration industry, starting with the Constitution of the United Republic of Tanzania, the Petroleum Exploration and Production act of 1980 and EWURA Act of 2001. Similarly, the government of Zanzibar has a number of substantive and subsidiary laws which may be affecting performances and activities of petroleum development in Unguja and Pemba. These are related with company registration, environment, land, investment and local government authorities.

However, there are still controversial legal and regulatory matters. Article 4(3) of the Constitution indicates that matters of natural resources such as oil and gas are under the management of the United Republic of Tanzania, and there is provision providing that for the purposes of the efficient conduct of public affairs in the United Republic and for the allocation of powers among the organs specified in this Article.

The study noted that both the current Act and Product Sharing Agreement are silent on whether the indigenous population or natives have legal right of ownership of their land and petroleum resources explored, exploited, and they are also further silent on whether the natives have rights of the sharing revenues derived from the sales of resources after the extraction of those resources. The PSA treats TPDC as the owner of the resources and all PSA contractors enter into the agreement with TPDC in everything such as granting of license and many incidental matters arise when the contract is on going.

On his conclusion remark he gave the General Policy Recommendations, these generic national policy reforms and objectives should be focused on optimal utilization of petroleum resources for sustainable development of Tanzanians. This will involve review of national and sector policies, laws and regulations to ensure that indigenous populations are actively involved and participate in petroleum exploration activities.

The second presentation was from Hon. Zitto Kabwe, He started by giving the Introduction Production Sharing Agreement (PSA) which are among the most common types of Contractual

arrangements for Petroleum exploration and development. He said the first proportion of oil extracted is then allocated to the company which uses oil sales to recoup its costs and capital investment – the oil used for this purpose is termed 'cost oil'.

In Tanzania, Petroleum exploration and development is governed by the Petroleum (Exploration and Production) Act 1980. The Act permits the government to enter into a petroleum agreement (PSAs) under which an Oil and Gas company is given a contract to explore for and produce petroleum. Resources are owned by the state and licences are granted to a Parastatal Tanzania Petroleum Development Corporation (TPDC).

Further more he gave the basic elements of the PSA, there are different forms and styles of PSAs entails, normally there are two parties as pointed out above ie the State (State Enterprise - SOE) on one side and the Private Oil Company (POC). Private Oil Company (POC) operates Oil and Gas fields with an option for SOE to participate directly in the development process. Once the Oil or Gas is produced the POC may have to pay royalty levied on gross production to the Government. In Tanzania Royalty is paid by TPDC as the license holder through a minimum share of profit Oil being equivalent all times to 12.5% of total crude Oil or Gas production from the contract area. In other countries Royalty is paid by the POC.

On his conclusion remark he said that Oil and Gas sectors can be divided to Upstream (exploration and production), midstream (transportation of crude or gas) and downstream (final products to consumers and petrochemicals). In Tanzania an upstream is regulated by TPDC. There is confusion at the midstream between TDPC and EWURA and downstream by EWURA. There exist a conflict of interest on the role of TPDC as the regulator at upstream and a participant through shareholding into the POCs.

Public Investments Committee recommended for a split of TPDC by forming an Oil and Gas Authority as a regulator of the sector at Upstream and midstream and a State Oil Company for purposes of investing into the sector. This suggestion will as well solve the Zanzibar equation on Oil and Gas whereby the new Authority would become a Union Institution while Zanzibar government will form its own State Oil Company to acquire shares in POCs operating in Zanzibar Oil and Gas blocks.

This will make a Tanzania to have one Oil and Gas Authority and two State Oil and Gas Companies for two parts of the Union. The current situation whereby Oil and Gas are Union matters but regulated by a non-union institution (TPDC) will never be accepted by Zanzibaris.

Mr. Buberwa Kaiza who was the discussant commented on the two presentations He pointed out that a baseline report does not provide adequate enough information on the petroleum exploration hence we need more studies related to the issues. The country education system need to be more focused on the exploration industries so as to have indigenous participating in this industry. Does Tanesco have the capacity to supply electricity to Petroleum industry site while they have failed to connect many Tanzanian to access the electricity? The issue of TPDC & EWURA is contradicting because the government rushed to enact the law without having comprehensive consideration.

Comments and Questions from Plenary Discussion:

- TPDC is an institution representing the people of Tanzania, so it is making sure that the exploration of petroleum in the country benefit all Tanzanians.
- Petroleum exploration is a very expensive investment almost 1bn\$, it is not possible for indigenous people to manage.
- What is the committee elected by president doing to make sure that their recommendation are taken into consideration
- The problem is, much more consideration are on fiscal issue than environment, there is a need to have a balance on this
- Oil exploration is very expensive investment especially on technologies, so we need to be very careful when we talk about taxation & exemption

Respond to the Comments and Responds:

- If Tanesco have no capacity to supply electricity to petroleum sites, should we keep quite? No we need to build capacity since there are there many opportunities for source of power Tanesco to use it
- It has been assumed that TPDC is a union institution which is not true, then how can we have petroleum as a union matter regulated by non-union institution?; we need a union institution or Zanzibar need to have its own regulation body.
- There is a believe that Bomani's recommendations have never been adequately implemented but the truth is that most of the recommendations have been incorporated in the upcoming new mining law
- When we say TPDC has no capacity we are not referring to individual treats but the entire institution like Zanzibar they have only 4 qualified people on exploration industry
- The issue of indigenous is very generic, yes the industry is very capital intensive, but we need to look beyond on how to involve the indigenous at the national level, where do the investors get money to invest which we Tz we can not get?

Mr. Alex Ruchyahinduru from policy forum closed the discussion and welcomed the participants to the other next month break fast debate.

