

Briefing

Draft National Petroleum Policy of Tanzania

In this month's energy briefing we look at the second draft National Petroleum Policy of Tanzania and ongoing market developments in the Tanzanian energy market.

The National Petroleum Policy of Tanzania, April 2014 (the Petroleum Policy)

On 2 April 2014 the Ministry of Energy and Minerals (the **MEM**) issued a second draft of the Petroleum Policy. Private sector stakeholders are encouraged to engage in the review process of the draft Petroleum Policy. Our analysis below considers the fundamental aspects of the policy i.e. the legal, fiscal and regulatory frameworks and the foreseeable changes intended to facilitate the proposed new structure.

Legal Framework

Currently the petroleum subsector in the country is governed by the following key legal instruments: the Petroleum (Exploration and Production) Act, 1980 (the **PEPA**) which governs petroleum upstream operations, and the Petroleum Act, 2008 (the **PA**) which governs petroleum midstream and downstream operations. The PEPA and PA are complemented by other legislation including the Income Tax Act, 2004, Environmental Management Act, 2004 and the Occupational Safety and Health Act, 2003.

The Petroleum Policy envisages the following aspects require review or inclusion in the existing legal framework:

- pre-licensing phase;
- licensing and exploration phase;

- discovery, evaluation, development, production and decommissioning phase;
- provisions for establishment of a Petroleum Upstream Regulator (**PUR**);
- provisions for the clarification of roles and responsibilities of the various institutional entities involved in the petroleum activities (ministry, regulator, national oil company);
- review fines and penalties for misconduct and defaulting;
- provisions for the use of explosives in conducting oil and gas activities; and
- transfer of all regulatory provisions from the Model Production Sharing Agreement to the petroleum resource management regulations in accordance with modern international petroleum practice in order to reduce Tanzania being contractually bound and allowing more flexibility for a step-wise development of resource management in the petroleum sector.

Fiscal Framework

The Petroleum Policy advocates for the establishment of a predictable and efficient fiscal framework that rewards the state and the industry whilst avoiding undue speculation, promoting healthy competition and sustainable development of the subsector. It is envisaged that this

Further information

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can be achieved by the GoT ensuring that the fiscal terms are included in legislation except those terms that need to be negotiated into contract. Additionally, the requirement for adequate competence in petroleum upstream revenue collection and administration should be developed by the tax collection institutions and misreporting practices, transfer pricing abuses should be avoided in order to maximise revenue.

Regulatory framework

Petroleum upstream operations are regulated by the GoT through the Ministry of Energy and Minerals and the Commission for Energy and Petroleum Affairs. The midstream and downstream operations are regulated by EWURA through sector legislation. The Tanzania Bureau of Standards is responsible for establishment of standards for petroleum products.

The existing institutional framework faces challenges in management, operational and functional performance. The Petroleum Policy envisages an efficient institutional arrangement that is dedicated and has a clear division of roles and responsibilities to address the current challenges for effective, prudent monitoring and management of a fast growing petroleum upstream subsector. This is why the policy envisages the creation of additional institutional support that would cater for this requirement through the establishment of a National Oil Company and a regulatory body, the PUR. The National Oil Company will have a structure, mandate, and mode of governance, control mechanisms, and a financial source that will cater for overall national interest; while the PUR will have overall mandate to regulate and monitor petroleum upstream activities.

Tanzania Oil and Gas Corporation

As a means of facilitating private sector participation and furthering local content in the oil and gas sector, Tanzania Private Sector Foundation (TPSF) has established the Tanzania Oil and Gas Corporation (incorporated

as a company) whereby individuals, groups or companies may acquire shares up to an upper limit of 5%. This limit is imposed to allow for the provision of equal opportunities to all Tanzanians. The company has not commenced business but will inform the public once it does. The company will provide Tanzanians with an opportunity to participate directly in upstream, downstream oil and gas and give Tanzanians more control over their oil and gas investments. This is significantly different to the current position whereby the Tanzania Petroleum Development Corporation (TPDC) is the sole Tanzanian investor in Tanzanian oil and gas.

While this may be a good idea and a means of furthering local content, not everyone is convinced that it will work. The problem that may arise for TPDC is the emergence of the Tanzania Oil and Gas Corporation as a competitor organisation. Indeed, this may be viewed as a move to upstage and dilute TPDC's role in the sector whereby TPDC is currently the sole public entity holding Tanzanians' interest in oil and gas. The upside of this approach is that increased competition in the sector may lead to TPDC becoming more financially competitive. In any event, the Chairman of TPSF, Reginald Mengi, assured the public that the Tanzania Oil and Gas Corporation will collaborate with TPDC in its various investments and that the company was not formulated to take over TPDC's role.

Market News

Professor Sospeter Muhongo (the Minister of Energy and Minerals (the **Minister**) has said that the draft Natural Gas Bill will be presented before the National Assembly by November 2014. According to the Minister the bill is in its final stages and the GoT expects to receive final comments on the draft law in the course of the coming weeks. The Minister stated that completion of the relevant policies will contribute towards strengthening the legal framework for oil and natural gas.

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