

THE IMPACT OF INSTITUTIONAL FRAMEWORK GOVERNING EXPLORATION OF NATURAL GAS IN TANZANIA TOWARDS THE PROTECTION OF NATURAL RESOURCES

Written by Nuru Julius Nnko

*LL.M (SAUT), LLB (Saint Augustine University), Advocate of the High Court of Tanzania,
State Attorney at the Office of Attorney General Tanzania, Inspector of Police Criminal
Investigation Department, Tanzania*

ABSTRACT

This paper discusses Impact of Institutional Framework governing Exploration of Natural Gas in Tanzania towards the protection of Natural resources by looking on the established institution and they way they have directly govern the exploration of natural gas so as to ensure the total protection of Natural resources that being the Natural gas and any other resources which are to be benefited by the citizen of Tanzania, thus the author take a look on the institutional framework in the exploration sector which is the earliest stage towards extraction of Natural gas, that being the case the Author vested his time to know exactly the way Institutional frame work organize the investors and the way they have make the issue of protection of natural resources to be the first priority in the project by making sure that the Tanzanian are directly benefited from their resources .

The Author proceeds by providing the outstanding point, alerting that though there is the law related to the exploration of Natural gas there is a need of Natural resources Institutional to act in a patriot way, the author provides that the issue of Natural gas exploration is so tentative when dealing with it as it is also well discusses on its nature basing on its complication in harvest process, and the legal regime governing the exploration process of Natural gas in Tanzania. The Author conclude by providing his opinion and recommendation and as to what should be done so as to ensure the smooth operation on the exploration of Natural gas for our

industrial growth based on the experiences observed from other countries and laying possible solutions so that the Tanzanian could benefit from their resources

BACKGROUND OF THE STUDY

Tanzania is one of the major producers of Natural gas for more than 50 years now. The earliest Natural gas discovered in Lindi Region in SongoSongo Island which located Southern Tanzania and the next was in Mtwara Region within Mnazi Bay. Currently Tanzania has 842 kilometers of gas pipeline transmission and in those kilometers 58 of them were consumed in Dar es salaam by the industrial sectors as well as Tanzania Electricity Supply Company to operate Songas in Ubungo Power plant cite in Dar es salaam and other customers for domestic use. The discovered Natural gas reserves amount to 57.54 trillion standard cubic feet (TCF) according to the Ministry of Energy data. According to Tanzania Petroleum Development Corporation (TPDC) which is among of the Institution dealing with management of Natural gas in Tanzania, it the true fact that Natural gas has saved the Tanzania economy USD 10 billion by minimizing the importation of expensive liquids fuels. TPDC estimates that SongoSongogas field alone has helped the economy to save USD 5 billion since production started. Currently in Tanzania, the energy potentials include Natural gas, hydropower, coal, uranium oxide, biomass, solar and geothermal power. However, the main source of the electricity in Tanzania is Natural gas as more than 60% of electricity used in Tanzania is from natural gas plant.

In Tanzania the state retains ownership of its Natural gas and all natural resources found therein and consequently retain control of the exploration and production of hydrocarbon reserves (Natural gas), by establishing institutional framework which will take a look on the exploration and process of Natural gas, this is by legalizing the process and having a strong legal and institutional framework as far as regulatory bodies in the Natural resources sector, The GoT has historically been supportive of foreign investment in resource development projects in Tanzania however it has recently adopted a more conservative approach toward foreign involvement in the extractive sector, including the production, transmission, processing and marketing of natural gas as we can take example of the prior agreement contact by the GoT and Equinor and Unn Skordtad by early June 2022, whereas upon completion of that agreement the GoT will sign the investment Contract to allow the production, the said agreement is valued

to 3.5USD billion. Despite of factors such as changes in government, an increased nationalist sentiment and pressure to preserve development opportunities for local enterprises, the GoT has to help the local investors to invest in the project by ensuring that they meet with the international standards so that they can be issued with ISO like the way other countries do can result in legal and regulatory changes that can impact our ability to maintain Foreign Investors business operations.

INTRODUCTION

Natural gas is the energy which result from the remains of the dead plants and animal or we can say result of decay and decomposition of the plants, animals the organisms containing organic molecules formed underground especially in the river sea or ocean viz., we can call it (fossil energy). Natural gas contains many various compounds resulted from the chemical process of decomposition. The huge component of fossil materials carried within the Natural gas is Methane (CH₄) which contains four hydrogen and one carbon. The Natural gas contains Natural gas liquids in a small quantity of which are also hydrocarbon gas liquids, such as carbon dioxide and water vapor. Natural gas is used as a source of energy and fuel in industrial sector and in different form as LPG for domestic purposes. Natural gas used in industry to materials and chemicals for different purpose. For the long time over a million years, the remains of decomposed plants and animal generate a certain layers on the Earth's surface and on ocean bed, to which it mixed up with sand, calcium carbonate and silt. On a certain time these layers covered by silt, rock and sand. Due to very high temperature resulted from the heat and pressure under the earth's surface that remains changed to coal, fuel and from that coal and fuel. Thus, we get Natural gas.

INSTITUTIONAL FRAMEWORK GOVERNING EXPLORATION OF NATURAL GAS

National Oil and Gas Company

The National Oil and Gas Company will have to take new roles and responsibilities in the light of natural gas discoveries and the need for development of the industry. Oil and gas activities

including commercial and regulatory roles shall be carried out separately by relevant entities. In addition to participating in upstream activities, the role of National Oil and Gas Company in the mid - and down-stream natural gas activities shall be: to promote and safeguard the National interest in the natural gas industry, to advise the Government on Policy issues pertaining to mid - and down-stream natural gas activities, to participate in development and own strategic natural gas projects and businesses on behalf of the Government, to acquire, analyse and disseminate information on issues regarding the natural gas industry, to carry out specialized operations in the natural gas value chain using subsidiary Companies, to acquire and own land for key natural gas projects, to establish and enable an Aggregator who will develop, own and manage the major infrastructures for mid- and downstream natural gas sector, this includes the pipeline network from central gathering stations to wholesale distribution and end users, the gas processing facilities and gas products, the central gathering stations – either jointly with the producers or on its own.

Establishment of TPDC Tanzania

Tanzania Petroleum Development Corporation (TPDC) is the National Oil Company of Tanzania through which the Ministry of Energy and Minerals implements its petroleum exploration and development policies. TPDC has manpower strength of about 400 and is organized into seven directorates and three Units, namely: Directorate of Upstream, Directorate of Downstream, Directorate of Finance, Directorate of Legal Services, Directorate of Cooperate Strategy and Planning, Directorate of Corporate Management, Directorate of Internal Audit, Communication Unit, Procurement Unit and Risk Management Unit. TPDC was established through the Government Notice No.140 of 30th May 1969 under the Public Corporations Act No.17 of 1969. The Corporation began its operations in 1973.ⁱ

TPDC is one of government parastatal to which its shares held by the Treasurer Registrar. The purpose for the establishment of TPDC is to be a leading integrated National Natural gas Company competing nationally, regionally and globally in an environmentally responsible manner to the benefit of all stakeholders as far as to participate and engage in the exploration, development, production and distribution of Natural gas and related services; facilitate a fair trading environment; safeguard the national supply of petroleum products; at the same time developing quality and safety standards to protect people, property and the environment.ⁱⁱ

Establishment of Natural gas Advisory Bureau

The Natural gas Advisory Bureau is a department in the Office of the President established for the purpose of advising the President and the Cabinet on strategic matters relating to Natural gas economy. This bureau cannot be independent as is a department under the Office of the President, this is because it is un luck that they can't have a direct autonomous power and free mind in their ideas as their ideas must or at any rate they should have to follow the directions of the president and where they have any idea which is contrary to the President , it's obvious that the Presidential powers may dictate their though and they remain with their positive ideas which could have the direct implications to the citizen in relation to the Natural gas exploration which should benefit the Tanzanian citizen.

- Designation of Tanzania Petroleum Development Corporation as the National Petroleum Company

The Tanzania Petroleum Development Corporation (TPDC) has been granted the status of the National Oil Company, with the primary responsibility of managing Tanzania's commercial petroleum operations in the upstream, midstream, and downstream sectors, as well as the government's participating interests in the oil and natural gas sectors.

Moreover, TPDC also act as an advisory organ to the government on issues relating to petroleum industry as well as participating in the petroleum inspection, exploration and production (development). Tanzania government retains 51 percent of share as well as being the owner of the National Oil Company. While the other 49% deposited in the Stock Exchange Market so far, the public may subscribe them so that to be part of the owners, this means they should be involved in the decision making in relation to the management of their natural resources. According to the report issued by Mr. Zitto Zuberi Kabwe the then Chairman of Parliamentary Audit Committee, , the 49% of the shares which was deposited in the Stock Exchange for public subscription will enable the them to participate in the overall management of the exploitation of natural resources of their country.ⁱⁱⁱ

The National Natural Gas Infrastructure Project (NNGIP)

Under the National Natural Gas Infrastructure Project (NNGIP) for the Mtwara to Dar es Salaam Natural gas pipeline, the project was announced in the year 2012 whereas the Chinese under concessional finance establish the potential consumption of gas, by escalating the offer of the national oil company though the Tanzanian Petroleum Development Corporation

(TPDC) as potential fertilizer plant. That been the part of public campaign since 1980s and was given renewed impetus with major gas finds in the 2010s, but which has not materialized, due to a lack of financing.^{iv}

The draft of published for consultation in October 2016, has been in development for at least two years. Authors' calculations, drawing on figures from relevant company's public reports. To appreciate the real scale of 37 tcf of Natural gas resources, we must bear in mind that these are not yet confirmed reserves and that this represents just the gas that is understood to be in the reservoir – the Gas Initially in Place.^v How much of that is a recoverable reserve is yet to be ascertained, and will be determined by how geology, technology, market conditions, fiscal frameworks and political risk are reflected in the economics of the final project. The experience of the mining sector after the passing of the Mining Act 2010 is a case in point. The Government pushed for, and got, revised terms on gold royalties in particular. As noted above, the terms of the Pan African Energy have also been under review.^{vi}

Some of the TPDC project reported to collapse, due to the inability to raise equity finance that being among of the institutional challenges when exercising their governing function and also the investors worry about prevailing investment climate in Tanzania, due to unstable policy which result to fears of nationalization and an incapacity to repatriate their profits so then this being among of the things which have directly affect the exploration project as far as in Natural gas sector by the International companies.

On the other hand, the midstream Natural gas investments, like the achievement of upstream investments for LNG power investment depend on intercontinental resources for upstream investment. Following the unsteady into legislation in the course of new legislation of Natural Wealth and Resources Contracts (the Review and Renegotiation of Unconscionable Terms Act 2017, which among other thing allows the review of natural resources contracts) and the similar use of ad hoc system, and the review made in PSAs that are all discourage investors as far as the Natural gas project concern.^{vii}

The Evaluation of Natural Gas Framework

The natural gas industry presents a multitude of opportunities and challenges for Tanzania. This Policy addresses some of the comprehensive issues arising from this development, and recognizes regulation which needed in many sectors to accommodate the demands and impacts of a growing natural gas industry in the country.^{viii} This is to the amount of separate

programmes, projects, or institutions take on board issues resulting from the natural gas industry, such issues will be integrated in the relevant programme, project, or institution's Monitoring and Evaluation framework. It is also important that the different stakeholders to the gas industry may develop a separate M&E framework to set for their specific prospect and wellbeing.^{ix}

The Natural Gas Policy Plan shall be developed through a review process as part of the Policy execution plan, and draw objective to the solution on presentation sign in each of the five pillars of the strategy. Moreover, the arrangement shall be an instrument to administer the progression of supervise, assess and coverage of the development headed for the purpose which was intended, therefore it explain the element of how and what the Ministry and other Government institution will have to do as mentioned herein that being to supervise to decide whether execution is on progress so as to achieve the planned Policy objectives, to assess the sufficiency of realization policy, to offer the lessons to learn from the explorations activities from other projects, to decide cost effective and to approximate the impact of individual interference in the project, lastly to serve as a communication tool, so that all stakeholders clearly understand the objectives being sought through this Policy and Government's actions emanating there under and mostly for early warning and signals about the required development and consequent alteration and/or review in the policy framework.^x

CONCLUSION

The current Institutional Structure of the Oil and Natural gas Industry is the challenging factor towards exploration of natural resources in Tanzania, the TPDC and EWURA are responsible for contracts arrangements and taxation respectively, so this brings confusion during managements of the sector, despite the existence of various policies and legislation related to natural gas, the involvement of local authorities where natural gas explored or discovered seems that there is no thoroughly information in relation to what is likely to happen and how the citizen surrounding that locality will be benefited to that exploration or extraction incase thereof, so that reflect in all areas with natural gas discovery as we can have a look on Mtwara incidence when the Government want to transport the Natural gas explored there to Dar es salaam as a result of deep conflict between government and the citizen of Mtwara, and that was a result of not involving councils and Village Executive so as they can carry out their

obligation through Act No. 7 the Local Government (District Authorities) which establish the Village and provide that there will be a village councils of which the village councils will be a body of corporate wherefore being a body of corporate it will have a power to hold and the word hold means to hold the land and anything subject to that land will be within the authority of the village councils, so to say in case of exploration activities or anything in relation to that land the village councils should be notified so that the immediate effect may take from there, that being to inform the villagers about the existence of that project and the way in which the citizen residing in that locality will be benefited from that project.

ENDNOTES

ⁱ [www.https://tpdc.co.tz](https://tpdc.co.tz) accessed on 16 March 2020 at 1100hrs.

ⁱⁱ *Ibid.*

ⁱⁱⁱ Tanzania's New Regime on Oil and Gas Laws- breakthrough attorney.

^{iv} National Natural Gas Infrastructure Project (NNGIP).

^v National Natural Gas Infrastructure Project (NNGIP).

^{vi} Ministry of Energy and Minerals, report of 2016.

^{vii} Natural Wealth and Resources Contracts (the Review and Renegotiation of Unconscionable Terms Act 2017).

^{viii} The National Natural Gas Policy of Tanzania - 2013

^{ix} The National Natural Gas Policy of Tanzania - 2013

^x The National Natural Gas Policy of Tanzania - 2013