

BRIEF

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Lack of consultation

Stakeholders' perspectives on local content requirements in the petroleum sector in Tanzania

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Tanzania has recently discovered huge offshore natural gas fields. This has led the Government to develop Local Content Policies (LCPs) to increase local job and business opportunities. This brief presents the main findings from a study of the stakeholders' assessment of the LCPs the Tanzanian Government has developed. While there is widespread support to LCPs, the government is criticized by stakeholders for not conducting a transparent and inclusive consultative process which may weaken the implementation of the LCPs. This study follows the process from the first draft of the LCP, published in May 2014 by the Ministry of Energy and Mineral, to the Petroleum Act, passed by Parliament in July 2015 and assented to by the Tanzanian President in December 2015.

The importance of a proper policy process

LCPs have been applied both in developing and developed countries as a tool to create jobs, promote enterprise development and accelerate the transfer of skills and technologies. Yet, LCPs are controversial. They may entail a redistribution of benefits that often trigger rent seeking, corruption and non-productive.

There are inherent difficulties with the ambition of LCPs to bring developing country labor and companies into the high-tech petroleum business. The high level of skills, knowledge and technology required poses a barrier that is sometimes insurmountable in the relevant project period. This mismatch can be hard to comprehend for parties outside the petroleum value chain.

The challenges and complexities posed by the introduction of an LCP underline the need for a thorough consultative process with stakeholders in order to manage expectations about what can be achieved and to prepare for effective implementation. An in-depth consultation process with stakeholders adds to the knowledge base of the decision makers and ensures that divergent views and positions are made public. Consultation can be an effective approach for the government to communicate with stakeholders, to inform them about plans and requirements, as well as to manage expectations. Openness and transparency are also considered important tools for avoiding corruption and favoritism. Finally, a proper consultation process can create a dialogue that may provide a platform for a broader mutual understanding among stakeholders regarding all of the challenges involved in the employment of such policies. This communication may, in turn, build trust and reduce tensions and conflict.

Urgency hindered inclusive and open participation

In May 2014, the Ministry of Energy and Minerals published the first draft of the LCP for the oil and gas industry in Tanzania. The aim of the LCP was to ensure that more Tanzanians are employed in the petroleum sector and that local companies become suppliers to the petroleum industry. At the same time, the Ministry made a press release inviting all stakeholders to provide inputs and suggestions to the draft. Comments had to be submitted within 13 days, this short deadline proved to be challenging for many stakeholders.

By giving stakeholders less than two weeks to respond to the draft LCP, and only four days to provide comments on the Petroleum Bill, the government made it impossible for stakeholders to organize and provide well-founded feedback on key elements of the LCP. As a result, most of the LCP activities such as roundtable discussions and seminars had to be organized in an ad hoc manner by a few powerful stakeholders themselves, such as the international oil companies, thereby

leaving out other important stakeholders such as academics and civil society organizations.

In a bid to redress the situation, opposition parties and civil society groups protested and called for public hearings. Several stakeholders expressed concern over the urgency in decision-making, arguing that it hindered inclusive, open and informed participation of the citizens, industry stakeholders and legislators. In the end, they were unsuccessful as partisanship meant that the ruling party, which had the majority of the members in Parliament, had the last say on the issue.

In July 2015 the Petroleum Act, which included many local content requirements, was passed by the Parliament under a “certificate of urgency” clause allowing only cursory examination by the Parliamentary Committee for Energy and Minerals.

LCP is an important tool for generating jobs and business

The majority of stakeholders interviewed were positive towards local content requirements. There is a strong consensus among academics, NGOs, government institutions, donors and the international oil companies (IOCs) that the LCPs have potential to generate employment for Tanzanians.

Employment generation for the local population is perceived to be the most important goal of the LCP. Across all categories of stakeholders, the respondents stated that an LCP could be instrumental in creating more jobs for Tanzanians in the petroleum sector as well as encouraging employment more broadly in other sectors. However, they warned about the possibility of corruption that they feared would reduce or even remove the positive effects of the LCP. All the stakeholders interviewed, including the IOCs themselves, held the view that the IOCs should contribute to the development of the local economy. Domestic stakeholders generally thought that if no requirements are set, the local population will benefit very little and the petroleum companies will keep most of the surplus.

According to stakeholders, capacity building and skills transfer is the second most important goal of LCPs. However, skills transfer and building local capacity take time and stakeholders emphasized that the LCP needed to have a long-term perspective. To ensure the longevity of the LCP, the Government must develop a direct link between the activities of local institutions, colleges and universities and the petroleum sector.

Stakeholders also agreed that LCP should ensure that local companies are given opportunities to participate in the petroleum sector by establishing requirements for the IOC’s use of local goods and services in their operations. However, requirements for purchases of locally produced goods and services will have no effect if the domestic companies cannot deliver according to the technical quality standards. To this end, one stakeholder

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suggested that the government should provide incentives to IOCs to support capacity building of local companies. He argued that this was important because «a gradual and strategic build-up of local capacity is usually the most effective way to develop sustainable business.»

The absence of a consultative process undermines local ownership

The general view among all stakeholders is that the Government did not organize a proper consultative process about the local content policy. They did not allow stakeholders' voices to be heard and considered. Stakeholders argued that this omission was a major challenge to the current LCP. Involvement of stakeholders is essential to create a sense of ownership of the policy and thus to improve the chances of successful implementation.

The lack of a comprehensive consultation process led to a highly uneven participation in the policy debate during the development of the Tanzanian LCPs. Only the IOCs and a few selected donors were invited to the table by the Ministry of Energy and Minerals, while many government agencies, think tanks, universities and civil society organizations were left to organize their own events, mostly after the deadlines for submitting comments had passed. This meant that many highly relevant stakeholders who did not have a budget for organizing such events or the network for participating in others' events were excluded from the decision making process.

The exclusion of universities and local intellectuals from the discussion was seen as a serious mistake. This oversight was perceived by local organizations as an invitation to foreigners to secure their own interests above those who could provide suggestions of how the resource could benefit the majority of Tanzanians. One academic to the situation by warning that the government should «never implement something that is not sanctioned by local intellectual minds.»

Suspicion and Mistrust

Our study reveals a high degree of suspicion between key stakeholders. In particular, several stakeholders from both public and private sectors argued that the Ministry of Energy and Minerals monopolized the process and kept other government authorities and non-state actors out of the LCP development process. Many stakeholders also argued that the government has weak implementation capacity, and this together with corruption can jeopardize the implementation of the LCPs.

Among domestic stakeholders, there was a high degree of suspicion of foreign companies. Many believed that the IOCs would do all they could to avoid implementing any LCP. These stakeholders considered the LCPs important tools to ensure that the IOCs contributed to developing Tanzanian society.

“Never implement something that is not sanctioned by local intellectual minds”

Discussions about the type of requirements that should be imposed focused on the degree of flexibility that should be allowed. Many of those advocating for strict, non-negotiable requirements did so because they feared that the IOCs would use flexibility as an excuse for not implementing the LCP.

Stakeholders view employment generation requirements as less risky compared to requirements intended to engage local companies in supplying goods and services. Many of the stakeholders expressed distrust of the government's political will to implement the LCP in an effective and fair way. In addition, they argued that there was a high risk of mismanagement due to lack of institutional capacity to implement the policy. Stakeholders fear that weak capacity, corruption and unproductive rent-seeking could jeopardize their implementation of the LC policies.

Overall, the high degree of mistrust between key stakeholders, and the difficult business climate arising from widespread corruption and patronage, could undermine the implementation of the LCPs in the country. Stakeholders claim that the lack of inclusion has led to an absence of local ownership to the LCP, and that it has added to an overall sense of distrust of the policy and its implementation. Stakeholders fear that this distrust may reduce the likelihood of success as many institutions, which are vital to the LCP implementation, have been excluded from the process.

Way forward for the Tanzanian Government

PREVENTION OF CORRUPTION

Stakeholders outside the government should be assigned a role to prevent corruption, for example through rigid transparency checks. The high degree of suspicion and lack of trust between stakeholders both within the public sector, between public and private sector actors, and among private sector stakeholders hamper an effective policy dialogue and is likely to impact on the implementation of the policies. Without external checks, and if the LCP is left entirely to the government to handle, the likelihood that the policy will generate corruption is high.

NON-NEGOTIABLE REQUIREMENTS

Stakeholders proposed strict non-negotiable requirements in order to ensure that benefits also would accrue to Tanzanians. This would also prevent IOCs from taking advantage of flexibility in the LCP for their own gain.

ENHANCING TRUST

Enhance trust between the involved parties by investing in good monitoring and evaluation systems of the implementation of the LCP to make it clear to all stakeholders both what is done and not done.

CONSULTATIONS

Future Tanzanian policy development should include in-depth consultations to maximize the decision maker's knowledge base, add to the transparency of the process and manage expectations. This would also contribute to effective implementation and lessen tensions, conflicts and suspicion among stakeholders.

KNOWLEDGE TRANSFER

Knowledge transfer between companies is important and there is great potential for domestic companies to learn from the extractive sector. Stimulating spillovers may not only be important for local companies that provide supplies to the extractive industry, but also for the local industries' ability to develop in other directions. The high level of technological complexity and its use of specialized inputs and knowledge equip these companies with tools that can also be used in other industries. Cluster development and regional trade can be used to promote such spillovers, clusters may be important for innovation and technology transfer.

EMPLOYEE EDUCATION

Skills development is a fundamental aspect of LCPs. Education and skills enhancement at all levels are crucial. Shortages of qualified employees are a key obstacle for generating local content in almost all natural resources-producing countries.

ADMINISTRATION

The government must keep the administration of the LCPs simple and transparent. The costs of complying with complex

requirements may be high and may in turn make it harder to detect corruption – especially if transparency is low. It is important to incorporate measures that take into account the fact that in natural resource extraction, corruption are generally more prevalent than in other sectors.

Recommended reading

Hansen, MW., L. Buur, AM. Kjær and O. Therkildsen. 2015. The Economics and Politics of Local Content in African Extractives: Lessons from Tanzania, Uganda and Mozambique, *Forum for Development Studies*.

Kinyondo, A. and E. Villanger: *Local content requirements in the petroleum sector in Tanzania: A thorny road from inception to implementation?* CMI Working Paper number 6 2016/ REPOA Working Paper number 17/1, Bergen, 2016.

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Ovadia. 2016. Local content policies and petro-development in Sub-Saharan Africa: A comparative analysis, *Resources Policy*, 49, 20–30.

Tordo, Silvana, M. Warner, OE. Manzano, Y. Anouti. 2013. Local content in the oil and gas sector. A World Bank study. Washington DC; World Bank. Available at: <http://documents.worldbank.org/curated/en/2013/01/17997330/local-content-oil-gas-sector>

Methodology

To complete this study, we interviewed 40 stakeholders who had direct interests in the development of an LCP in the country: government officials, civil society organizations, educational institutions, private sector companies, and international oil companies (IOCs). We also interviewed main donors involved in the LCP process, all of which also have strong commercial interests in the natural gas sector in Tanzania: the United States of America, the European Union, the United Kingdom, Germany, Denmark and Norway. We applied a semi-structured questionnaire allowing open-ended answers to guide the interviews. The interviews were conducted in February and December 2015. In addition to these formal interviews, there were numerous informal interviews and feedback from workshop presentations of the material to selected stakeholders. A literature review was used to understand the context and to develop hypotheses and research questions for our study.

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