

# BRIEF

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This REPOA/CMI  
brief features  
research on  
Tanzania as a  
future petro state



## Petro-Governance in Tanzania: Opportunities and Challenges

Recent significant natural gas discoveries have pushed Tanzania into the international spotlight as a new petroleum producer. How can the country ensure that its newfound wealth is translated into economic development? Much depend on the way in which the petroleum resources are governed by the country's new petroleum legislative framework. In this brief, we review the most important provisions of the new legislative framework, and argue that gaps and conflicts within and across laws must be resolved to ensure that Tanzania's petroleum riches become a blessing rather than a curse.

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Petroleum production consists of three sectors: upstream, midstream, and downstream. The *upstream petroleum sector* entails the search for petroleum and bringing it to the surface; it is also known as the exploration and production sector. Transportation and marketing of petroleum resources occurs in the *midstream sector*, while the *downstream sector* refers to the refinement, processing, and distribution of petroleum products to consumers.

### Institutional Quality and the Resource Curse

On average, countries that are rich in high-value natural resources such as oil and gas are more likely to suffer the effects of the so-called “resource curse”: violent conflict, poverty, and non-democratic government. Recent research emphasizes that good institutions are required for preventing these outcomes. The key institutions in question include the extent of the rule of law, bureaucratic quality, level of government corruption, and the risk of investment expropriation and contract repudiation. Strong institutions are important because they create incentives for government officials to use resource revenues to ensure the welfare of citizens and constrain them from engaging in harmful rent-seeking behavior and expropriation.

The legal framework represents the most basic and fundamental of institutions for managing natural resources. Legal regulations establish the government’s authority over the resources on its territory, determine the rules for how those resources will be extracted and produced, and say who can reap benefits from resource use and who must bear and mitigate the costs. They also establish the bureaucratic agencies that are responsible for implementing and enforcing the rules for resource use; guarantee property rights security and clarity; create accountability mechanisms in the form of effective checks and balances on government authorities; and establish transparency mechanisms to prevent corruption in resource management.

### Adopting a New Legislative Framework

As early as 1980, Tanzania put legislation into place to govern oil and gas exploration and extraction. Over the years, the Government has updated this legislation as the sector has evolved. Recent and new discoveries of vast petroleum reserves prompted the government to again update the sector’s laws in 2015 to better regulate upstream, midstream, and downstream activities. This new regulatory framework consists of three key laws and policies: the 2015 Petroleum Act; the 2015 Oil and Gas Revenues Management Act; and the 2015 Extractive Industries Transparency and Accountability Act.

What can be said about the quality of this new legislative framework and its ability to catalyze the country’s economic development? To answer this

question, we review the types of institutions established to govern Tanzania’s petroleum resources and their powers in the new legislation; evaluate how these powers are constrained; analyze the interaction and relationship of the various petroleum institutions to each other; investigate the potential institutional overlaps, conflicts, and gaps created by the legislation that could be counter-productive in terms of resource governance; and look at the mechanisms for transparency and accountability that are included in each piece of legislation to help enable good governance over Tanzania’s petroleum resources.

### The 2015 Petroleum Act

This Act creates several new institutions and grants decision-making powers to specific authorities. First, the Act charges the **Minister** who has responsibility for the petroleum resources with supervisory and policy-making authority over the sector, including the ability to grant oil licenses. The Minister is also responsible for ensuring transparency in the sector. The new **Commissioner for Petroleum Affairs** and the **Oil and Gas Advisory Bureau** provide policy advice to the Minister and the Cabinet regarding the management and development of the petroleum sector.

The **Tanzania Petroleum Development Corporation (TPDC)** is designated as the country’s national oil company. The TPDC is the vehicle for government’s commercial participation in petroleum projects, owns the country’s pipeline network for natural gas, holds land for petroleum projects, stores and trades natural gas, and advises the government on new petroleum projects.

The **Petroleum Upstream Regulatory Authority (PURA)** is a new agency designed to regulate and monitor upstream activities in the petroleum sector. PURA advises the Minister on agreements and licenses as well as on development plans; processes and manages license applications, and monitors license holders; promotes local content; maintains petroleum data; and is tasked with overall monitoring and auditing of upstream operations and activities. PURA is also responsible for maintaining data on petroleum agreements in the publicly available **Petroleum Registry**.

The revamped **Energy and Water Utilities Water Regulatory Authority (EWURA)** regulates the mid- and downstream petroleum and natural gas sectors. It

*“Tanzania’s new petroleum regulations represent a significant improvement over past legislation, but challenges remain.”*

grants operational and construction licenses; monitors petroleum quality, standards, and safety; charges and collects revenues; promotes the access and affordability of petroleum products and services as well as the maximum participation of Tanzanians throughout the value chain; helps to ensure transparency in the sub-sector; and maintains data on all mid- and downstream activities and the general status of the gas industry in the **National Petroleum and Gas Information System**.

### **The 2015 Oil and Gas Revenues Management Act (OGRMA)**

The new **Oil and Gas Revenues Fund** and **Decommissioning Fund** are supposed to channel revenues from sources such as royalties, profit shares, corporate income tax, and returns on Fund investment into socio-economic development activities. The **Tanzania Revenue Authority** (TRA) and the **TPDC** are to collect various types of oil and gas sector revenues and deposit them into the Oil and Gas Revenues Fund at the **Bank of Tanzania**. These monies are to be used for socio-economic development, to maintain fiscal and macroeconomic stability, and to develop the oil and gas sector. Funds equal to 3% of GDP will be for general budgetary use, with 60% of this funding to be used for socio-economic development purposes. Funds in excess of 3% of GDP will be transferred to a savings account for strategic investment by the TPDC. Revenues from a service levy will be transferred upon approval by the National Assembly to local government authorities in petroleum-producing areas.

### **The 2015 Extractive Industries Transparency and Accountability Act (EITAA)**

The independent **Tanzania Extractive Industries (Transparency and Accountability) Committee** (TEIAC) is responsible for implementing the global Extractive Industries Transparency Initiative (EITI) standards. The committee consists of 15 persons from civil society, extractive industry companies, and Government. The Committee is tasked with powers of information gathering, analysis, and dissemination; investigation; and public interface and consultation. It must develop a revenue reporting system; receive and publish information on revenues from companies and

Government; identify and conduct investigations on payment discrepancies; and promote citizen participation and awareness of resource governance.

### **Policy Implications: Regulatory Gaps that Should be Addressed**

Tanzania’s new petroleum regulations represent a significant improvement over past legislation. While clarifying regulations are still required for a number of provisions in the various pieces of legislation, a web of government entities now exists that make it more likely that governance over the sector will be streamlined and coherent. Relatively clear responsibilities have been assigned for upstream, midstream, and downstream activities, and provisions adopted to address core governance concerns such as corruption. Of course, translating what appears on paper into practice will be the ultimate test of what appear to be well-designed regulations. For instance, the newly created government authorities will need to ensure that they cooperate in practice, sharing information and maintaining trust levels. While formal mechanisms do exist to ensure cooperation between different government authorities, it is not clear the extent to which they actually coordinate, cooperate, and share information.

Despite this optimism, there are some significant regulatory gaps that raise concern. First, the state has assumed a large role in the petroleum sector, ranging from its exclusive authority to grant licenses and agreements to the requirement for joint ventures in petroleum projects. Oversight by the National Assembly (Parliament) over petroleum institutions is somewhat limited, largely restricted to reviewing periodic reports from the government’s various petroleum entities. Second, the President and the Minister responsible for petroleum resources have large discretionary powers over various aspects of petroleum governance, including final decisions about the awarding of licenses and agreements, as well as the final selection of individuals to lead PURA and TEIAC. Though the candidates for these positions are not supposed to be politicians, there are few mechanisms in place to prevent political interference and conflicts of interest in the nomination and appointment process, and there are no requirements for these appointment processes to be transparent.

Third, there appears to be a conflict of interest between the TPDC's production activities and its mandate to both advise policy makers on petroleum sector issues and promote new investments in the sector. The new pieces of legislation do not clarify the TPDC's political independence, and there is again the risk of political interference in its operations. Finally, there are conflicting requirements for transparency within the new regulations. On the one hand, PURA has the option to make contracts and licenses, as well as information from the Petroleum Registry and the National Petroleum and Gas Information System, to be available to the public. Additionally, TEITA makes revenue disclosures mandatory. Yet, Section 52 of the Model Production Sharing Agreement states that information provided by contractors to the TPDC is to remain confidential. How these various transparency requirements will be rectified is not yet clear, creating opportunities for corruption. This is concerning given the country's current poor rankings on global governance indices such as Natural Resource Governance Institute's *Resource Governance Index* and Transparency International's *Corruption Perceptions Index*.

## Conclusion

Tanzania's new petroleum laws have created the foundation for good management of the country's petroleum resources. The country has created a number of new government entities, and refreshed existing ones, to improve governance over the sector, setting a positive precedence. This is a promising sign, given that strong, high quality institutions are required to turn resources into development. But gaps and conflicts within and across the laws must be resolved in a timely fashion in order to ensure that Tanzania's petroleum riches become a blessing rather than a curse.



## Recommended reading

- Acemoglu, Daron, and James Robinson. (2013). *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*. London: Profile Books.
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