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New Petroleum Producers Discussion Group

Summary of National Seminar for Ghana

6 December 2018, Accra, Ghana

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New Petroleum Producers Discussion Group

National Seminar for Ghana, 6 December 2018

In December 2018, the New Petroleum Producers Discussion Group (or ‘New Producers Group’ or ‘NPG’) held a brainstorming session in Accra, convening Ghanaian government agencies and non-governmental stakeholders, onshore oil companies, and officials from emerging producer countries with onshore projects. Discussions were held under the Chatham House Rule. The aim of the national seminar was to anticipate how possible successes in exploration onshore in Ghana could affect the operating environment for Ghana National Petroleum Corporation (GNPC). Clearly, the impact of onshore development is more visible to the public and communities than offshore projects. It therefore requires a closer management of community needs and concerns (related to local content opportunities, environmental impacts, land acquisition and consultation with subnational authorities – specifically traditional leaders). A key question was whether onshore projects would require adaptation of some of the legislative and regulatory frameworks that were designed for the offshore.

Introductory statements made by the heads of the host organizations stressed the importance of the meeting as an opportunity to share ideas and learn from each other’s onshore and offshore-exploration experiences and best practices. They encouraged participants to be open and have an objective discussion with the aim of providing feedback and suggestions to Ghana for policy inclusion.

Representatives of Ghana indicated that challenges were inevitable in moving from offshore to onshore exploration including regulatory gaps, environmental and land issues, expectations regarding compensation, community concerns and local content. These should not be taken lightly because onshore exploration inevitably has a bigger impact on the lives of people and must be handled with consideration for the concerns of local communities.

Review of local content implementation and outlook for onshore exploration

The first presentation of the morning session looked at the plans in place for GNPC’s onshore exploration. GNPC is collecting 2D and 3D seismic data and will process it in order to determine exploration prospects. Environmental impact assessments and extensive community consultations were carried out. Consultations have revealed some concerns, including loss of land and income for landowners, questions regarding compensation to be paid to affected landowners, health, environmental and other development-related issues.

Key takeaways, it is important to:

- Engage with the community and listen to feedback;
- Go beyond the community level and engage with civil society organisations (CSOs) who can influence discourse on issues related to onshore exploration;
- Codify the engagement process (not necessarily in law but possibly in procedures);
- Provide local job opportunities early on; and
- Pay adequate and fair compensation for land access.

The second presentation outlined Ghana’s local content policy and how it had been implemented over the years. Lessons were learned from the failure to include local content provisions in the mining and

telecommunications industries and in the initial stages of the petroleum industry (though some provisions existed in The Petroleum Exploration and Production (PNDC) Law 84 and 64).

Ghana's Petroleum Commission was mandated to coordinate local content strategies for the country. The Petroleum Regulation 2013 (Local Content and Local Participation) – LI2204 – sought to make local content measurable in monetary terms and a key component of every petroleum activity to be undertaken. The objectives were as follows:

- Promote the maximization of value-addition and job creation through the use of local expertise, goods and services, businesses and financing;
- Development of local capacities in the petroleum value chain through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes;
- Increase the capacity and the international competitiveness of domestic businesses;
- Create petroleum and related supportive industries that will sustain economic development; and
- Provide for robust and transparent monitoring and reporting systems to evaluate the efficacy of local content policies.

This law has been implemented through a number of strategies:

- Review of IOCs' procurement plans to ensure they included a provision for local companies to bid for some goods and services;
- Developing contracts in a manner that ensured some specific goods and services were reserved for local companies;
- Unbundling contracts and shortening contract periods so that local companies were able to build their capacities to engage in future tenders;
- Ensuring a certain minimum in-country spend (taking into consideration the local capacities and also the provisions of the LI2204);
- Evaluation criteria and scoring model – all tenders should include plans for in-country investment and spend; and
- All non-indigenous companies have to incorporate joint ventures before their tenders can be considered valid.

Even though a number of successes have been realized, there have been several challenges and constraints to full implementation of the local content regulations. These challenges are mainly to do with quality and standards, low-cost competitiveness, lack of suitable, experienced businesses, and lack of the requisite managerial skills. Additional challenges related to transfer pricing, which caused a greater share of the value of contracts to be paid to foreign affiliates, and very low Ghanaian participation in joint ventures.

Lessons learned by the Petroleum Commission:

- Efforts should be made to promote shared local content goals between government and IOCs – both should be committed to transfer of expertise and growth of the economy;
- Focus should be on in-country capacity-building and production/provision of goods and services rather than solely on partnership, thus emphasizing domestic value creation rather than mere ownership of companies;
- Effective coordination is needed to support local companies develop the resources to do the job;
- Local content targets should be realistic and based on plausible economic assumptions;
- Time limits should be set in order to avoid excessive protection;
- Planning for local content should commence right from the beginning of the contracting period;
- Focus should be on capacity-building – institutional, individual skills and enterprise capacity;
- Local content should not be seen as the be all and end all – it will not solve all the country's problems;

- Both government and IOCs must have a strategy to manage expectations (with the onus resting more on the government).

The way forward:

The Petroleum Commission should:

- Conduct rigorous reviews of joint ventures between indigenous and international companies and periodically audit their operations;
- Encourage the amalgamation and partnership/alliance of companies to give them a better chance at bidding for certain projects;
- Assist local companies to focus on areas where they have a competitive advantage and not spread themselves too thin;
- Identify and establish key infrastructure that would facilitate the development of local content e.g. Tema Shipyard;
- Train and equip regulatory bodies – including Ghana Revenue Authority (GRA), immigration, media, upstream companies, educational institutions – to be more efficient at enforcement and ensuring the objectives of the LI2204 are achieved;
- Undertake rigorous monitoring to ensure local content obligations are fully implemented; and
- Make local content policies more relevant to current realities.

Ugandan experience:

Uganda's definition of local content includes goods and/or services that are value-added or created in Uganda. The aim is to increase value addition and build capacity/transfer skills.

Uganda started off by analysing its own economic potential. Officials conducted a resource mapping exercise that identified 25 areas where local content provision could focus.

They also undertook an industrial baseline study to assess the capacity of local firms to supply the goods and services needed for the oil and gas sector, as well as an assessment of employment needs – from the perspectives of both firms and individuals. Their studies investigated their amount of capital, whether they met requirements and standards, and whether they could meet timelines for delivery.

Next, they identified industrial sectors that were most likely to be impacted by the oil and gas sector and assessed future labour skill requirements, and certification of companies that could provide direct services to the sector.

Participants highlighted the requirement for certification as a potential gap. They recognized the need for improvement in communication, and support for skill gaps in the workforce.

The government introduced ring-fencing in their local content regulations for Ugandan citizens in the identified areas of service provision.

Outcomes:

As a result of Uganda's actions, 25 per cent of total project expenditure has been retained in-country. The process of mapping out eligible and qualified local companies has helped in providing critical information to oil companies.

Their focus is to add value to Uganda and not necessarily simply through ownership. Companies are able to submit tenders or bid for businesses under the local content provisions if they are able to show they add value for Uganda.

Lessons learned in Uganda, it is important to:

- Know what resources the country has and what is needed to achieve local content goals;
- Consult with the population and businesses for local content development;
- Agree realistic targets;
- Set time frames for the removal of certain protections of local companies so as to avoid unintended negative consequences;
- Focus on value creation rather than ownership; and
- Recognize that onshore considerations can be more complicated than offshore, given the direct impact on the community.

Comments/discussion:

Questions and comments from participants touched on the importance of the NOC having a clear role with regards to local content delivery and stakeholder consultation.

Equitable distribution of revenues to drive local development

This session considered Ghana's experience in revenue sharing, looking at the experience of redistribution of revenue in the minerals sector and the proportion going to local district assemblies for development activities. A key lesson from the discussions is that there is a need to develop an online portal to track inflows and withdrawals and the use of funds that go to local assemblies.

Kenyan experience:

Kenyan participants shared their perspective regarding onshore exploration in the Turkana basin. Speakers highlighted the treatment of subnational revenues by local authorities, challenges faced in managing expectations and dealing with the unique livelihoods of the pastoralist majority, poverty, and compensation for displacement.

Discussion centred on compensation for displacement, the need for early sensitization and community engagement, a strong legislative framework to back subnational revenue allocation mechanisms, such as the Ghanaian Minerals Development Fund, and environmental management.

Key takeaway:

A key takeaway from the discussions were that the demands for benefits grow when operations move onshore, along with the risks of impacts to communities. Revenue sharing is not a panacea to conflicts and the provisions do not necessarily result in good governance. There are risks in distributing revenues to subnational entities with limited capacity or accountability. Implementation and effective disbursement of funds are critical and it is necessary to monitor compliance with revenue-sharing mechanisms.

Communication and consultation

This session focused on measures to ensure meaningful stakeholder communication. The Ghanaian, Kenyan and Ugandan experiences were shared, and they covered such issues as: deployment of engagement teams to work directly with affected communities for long periods; interactions with civil society, local government authorities, traditional leaders, town hall meetings and focus groups; social investment activities; enhancing understanding of the contracts between governments and IOCs; timely and targeted communication; credible messaging; and the security and safety of IOC staff and equipment.

Lessons learned through presentations and discussions, it is important to:

- Build trust. New producers are encouraged to allow a lot of time for decision-making and consensus-building through communication. It is challenging but essential to communicate simply about this complex, technical industry.
- Understand and recognize that there are multiple layers of interest groups.
- Enable communities to self-determine their own development needs;
- Coordinate early with regional, local, county governments to ensure that plans are compatible with county/local/regional development plans;
- Communicate local content planning early to affected communities to enable better understanding of opportunities;
- Have a clearly defined plan for conflict resolution;
- Treat communities as legitimate local partners;
- Map early stakeholders; and
- Clarify roles and responsibilities of key stakeholders

Review of any required modifications to legal and regulatory frameworks

The afternoon session was devoted to looking specifically at the need (or otherwise) for a review of regulations and legal provisions in the areas discussed during the morning sessions.

Issues for consideration in reviewing local-content provisions include:

- Making regulations more gender friendly and inclusive.
- Carry out an up-to-date industrial baseline survey, to better understand the current situation.
- Emphasizing value creation over ownership. Given the challenge of getting solely owned private local partners, consider amending regulations to include government entities, e.g. GNPC to partner with the IOCs.
- Adopting a timeframe for protecting local suppliers and services in local content regulations.
- Producing a long-term development plan to guide the local content plan.
- Recognition of exploration risks. Examine what role the NOC should play in catalysing national content and the type of activities that are most strategic to get involved in. There is a need to measure in-country value creation.

Issues for consideration in revenue distribution:

- The relative strength of accountability in subnational versus national revenue management.
- Expectation management.
- Defining who benefits from a project's rent.
- Whether the subnational institutions have the capacity and resources to manage revenue flows.
- Whether it is worth applying the revenue savings schemes designed for the offshore to the onshore, when current funds generate interests of 1–2 per cent and the government borrows at 7–10 per cent to meet budgetary needs.
- Review the effectiveness of the disbursement of revenues from the minerals fund.

- Further investigate the existing provisions regarding onshore royalties in the PRMA and whether the provisions designed for the minerals sector can be applied in the oil sector where the rent is potentially much larger.
- Examine the value of thinking in terms of investments in community welfare rather than percentage of rent.

Issues for consideration regarding consultations and community engagement:

- Operators (including GNPC) should minimize the impacts of exploration (or other stages of development of the project) in order to obtain a social licence to operate; but they should coordinate with government.
- Partnerships are valuable for community engagement.
- It is important to consider the messenger and demonstrate concern for community fears and expectations.

Conclusion

The Ministry of Energy will coordinate organizations on a joint way forward on the above issues.