PETROLEUM (Exploration and Production) Act, 1980

Petroleum exploration and development in Tanzania is governed by the Petroleum (Exploration and Production) Act 1980. This Act vests title to petroleum deposits within Tanzania in the State and is designed to create a favorable legal environment for exploration by oil companies. The Act expressly permits the Government to enter into a petroleum agreement under which an oil company may be granted exclusive rights to explore for and produce petroleum. Under the Production Sharing Agreement (PSA) arrangements currently in place in Tanzania, TPDC is granted the licences under the Act with the Government and TPDC entering into PSA's with the oil companies.

The terms of the PSA's form the basis of the licences and are negotiable. The legislative framework offers considerable flexibility to the Government in negotiating acceptable terms with oil companies. An exploration licence normally consists of 60 blocks (each block being a 5 minute x 5 minute graticular unit) but the Act does provide flexibility for more than one licence to be granted and, in certain cases, for a licence to comprise more than 60 blocks. The Act also provides for exploration, appraisal, development and production periods.

Full details are given in the next section. In the event of a commercial discovery, the holder of an exploration licence has a right to a development licence, subject to the development plan ensuring the most efficient and beneficial use of the petroleum resources.

Model Production Sharing Agreement (MPSA)

Tanzania's Model PSA serves as the basic document for negotiations between foreign oil companies, the Government and TPDC. It sets out the terms under which exploration and production can take place. Although the terms – which are internationally competitive -mirror closely those incorporated in earlier PSA's concluded in Tanzania, the Government's flexible approach allows for the negotiation of the important issues (such as Area, Work Program and Economic terms etc.) within the framework of production sharing arrangements. The Government's objective is to negotiate terms with the oil industry which are fair and balanced, bearing in mind the usual risks associated with exploration and the State's legitimate desire for revenues as owner of a depleting, non-renewable, natural resource.

The Government seeks to encourage the development of small and marginal discoveries; obtain a higher share of profits from the more attractive fields, and satisfy national objectives such as the transfer of petroleum skills and the acquisition of more data. The following is a brief summary of some of the key terms in Tanzania's Model PSA;-

Parties to the Contract

The parties to the Contract shall be the Government of the United Republic of Tanzania, the Tanzania Petroleum Development Corporation, and the oil company.

Type of Agreement

Production sharing in which the foreign oil company undertakes the exploration, development and production activities.

Contact Area

Each PSA can cover more than one exploration Licence.

Term of Agreement

Exploration up to 11 years divided into an initial and two renewal periods of 4, 4 and 3 years respectively, Appraisal normally 2 years but more if necessary. Development and Production – 25 years with the possibility of an extension for a further 20 years.

Relinquishment

50% of the retained Contract Area upon each renewal of the Exploration Licence. However, in special circumstances a different rate can be negotiated.

Participation (Joint Operations) – Revised

There is an option for TPDC to participate in development whereby it will contribute to Contract Expenses. The MPSA provides for TPDC to negotiate a participating interest at 20% of the Contract Expenses, excluding Exploration (and Appraisal) expenses. TPDC's Profit Oil Share will then be increased by the rate of the participating interest, and the Oil Company's Share will be reduced accordingly.

Development Areas

There may be more than one Development Area in the Contract Area. The Model PSA provides for TPDC to exercise its participation option, and for APT to be levied, on a Development Area basis. However, it is possible to negotiate an alternative basis as part of the overall economic package.

Other Taxation

Apart from taxes of a minor nature of general applicability, the Oil Company shall be subject to Tanzanian taxes on income derived from Petroleum Operations. The Model PSA provides clearly that each part, TPDC and Oil Company has to pay its own Income Tax to the government.

Valuation

Petroleum produced from the Contract Area is valued at an average fair international market price which, in the case of arms length sales, is the average realized price.

Import Duty Exemption

All equipment and material etc. imported for use in petroleum operations can be imported free of all duties and import taxes and can be re-exported free of any export duty or tax. Expatriates enjoy similar privileges in respect of their personal effects.

Foreign Exchange Concessions

Free foreign exchange dealings.

Right to Export

Subject to the requirements to meet domestic crude oil demand (on a pro-rata basis with all other producers in Tanzania), the oil company can freely dispose of its share of petroleum and export it free of all export duties and taxes.

Natural Gas

The Model PSA envisages good faith negotiations upon the discovery of gas in order to reach an agreement on its development, production and sale. In appropriate circumstances the Minister will extend the appraisal period.

Accounting

Detailed accounting provisions are incorporated based upon those for joint venture arrangements commonly used in the industry.

Training and Resources

The Oil Company is expected to undertake a training programme, employ qualified Tanzanian citizens and give preference to Tanzanian goods and services if available.

Arbitration

Recourse to international arbitration is provided for in the Model PSA.

Assignment

The oil company may freely assign its rights and obligations to an affiliate providing the performance of the oil company obligations will not be adversely affected. Assignment to third parties requires the prior consent of government, not to be unreasonably withheld. (Several such assignments have in fact occurred in recent years).

Performance Guarantee

A performance guarantee is required against the committed work programme and budget.