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East Africa Oil and Gas Licensing Update – Q4 2014

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With Tanzania in the final stages of evaluating bids for oil and gas blocks offered in its latest bidding round which closed in Q2 2014, it was **Mozambique's turn to announce its latest round** in London on 23 October. **Uganda and Kenya are also expected to embark on fresh licensing next year** to complete a busy period for East African block auctions.

Country-by-country

Tanzania

- The Tanzania Petroleum Development Corporation (TPDC) recently announced that it was in the final stages of evaluating five bids submitted by CNOOC, RAK Gas, ExxonMobil/Statoil, Mubadala and Gazprom back in May and would declare the winners before the end of the year. Only one block is currently competitive with both ExxonMobil/Statoil and CNOCC bidding for Block 4/3A.
- **Regulatory update** – draft Local Content and Petroleum policies have already been produced this year and the Natural Gas Bill is expected to be submitted to parliament in November. This Bill will provide cornerstone provisions for the exploitation of natural gas discoveries. A Natural Gas Utilisation Master Plan; Petroleum Bill and legislation to restructure TPDC is all expected to follow.

Mozambique

- Launch of 5th licensing round consisting of 15 blocks (onshore and offshore) was announced on 23 October.
- **Regulatory update** – on 14 August, parliament approved a revised version of the Petroleum Law which we considered in the October 2014 edition of Petroleum Review. Fresh regulations will accompany the Petroleum Law 2014 and are expected to be published together with a new model Exploration and Production Concession Contract (EPCC) in mid-November.

Kenya

- Launch of 1st licensing round (understood to consist of 8 blocks) on hold pending finalization of Energy Bill and Energy Policy. Initially expected Q4 2014 but likely to be delayed.
- **Regulatory update** – the government is working on drafts of an Energy Bill (now in its fifth iteration) in parallel with a review of the Petroleum (Exploration and Production) Act 1986. Both pieces of legislation cover upstream segments.

Uganda

- Launch of 1st licensing round on hold pending finalization of regulations related to the new Petroleum (Exploration, Development and Production) Act which will, amongst other things, set applicable signature bonuses. The Petroleum Exploration and Development Department indicated earlier this year that an announcement was planned for the end of 2014 with licences to be awarded during 2015. At least 13 new blocks are expected to be marketed together with relinquished acreage.

- **Regulatory update** – National Oil and Gas Policy, 2008; Petroleum (Exploration, Development and Production) Act, 2013 and Petroleum (Refining, Conversion, Transmission and Midstream Storage Act, 2013 all recently put in place. The formation of a new NOC will herald significant changes going forward

10 key points for IOCs

- **Legislative change** As indicated above, unsuitable petroleum legislation and policies are being updated across the region creating a moving regulatory target for investors.
- **Production sharing contracts** Each of Tanzania, Mozambique, Kenya and Uganda grant oil and gas exploration and production rights through a form of production sharing contract/agreement. Each jurisdiction has its own model form which provides a basis for negotiations.
- **Bidding process** Licensing rounds are generally characterized by a public launch and a period for due diligence before bids are submitted and evaluated. Mandatory data packages are made available (often costing millions of dollars a time) and bids will be evaluated against criteria including strength of the proposed work program; technical capability; financial capability; fiscal package; and health, safety and environmental protection policy. In Tanzania, TPDC indicated that IOCs bidding in consortium or as part of a joint venture with domestic companies would be preferred (though this did not result in any domestic companies bidding) and Instituto Nacional de Petróleo (INP) has taken the same approach in Mozambique.
- **Bonus/tax/royalties** In Tanzania, the new 2013 Model Production Sharing Agreement (MPSA) introduced bonuses of USD 2.5m and USD 5m on signature and production respectively (no bonuses previously); makes the contractor subject to general corporate tax (30% of income) as well as additional profits tax (25-30% for both onshore/shelf and offshore – previously only for onshore/shelf); and applies a royalty of 12.5% for onshore/shelf and 7.5% for deepwater (offshore up from previous 5%). Global trends have seen bonuses increase and this is likely to be reflected in forthcoming East African licensing rounds.
- **Production sharing/cost recovery** Again, the trend is towards a higher state-take and Tanzania's 2013 MPSA reduced the contractor's share of profits from deepwater gas finds from 20-50% to 15-40%. There was also a significant reduction in the deepwater cost recovery limit from 70% of production net of royalty to 50%.
- **Participation rights** In Tanzania, TPDC has an option to acquire a minimum 25% interest and greater state participation can be expected in future across the region. In Mozambique, ENH currently has an interest in existing blocks ranging from 10-30% though the potential stake under the new regime is yet to be specified. States can also be expected to take a more forward role in the development of their own blocks and two blocks were held back from Tanzania's licensing round for development by TPDC in conjunction with a "strategic partner."
- **Local content** Specific local content policy is likely to strengthen the force of local content provisions included in production sharing agreements. Under Tanzania's 2013 MPSA, contractors are required to comply with the government's local content policy. Mozambique's Petroleum Law strengthened local content requirements and also requires oil and gas companies operating in the country to be partially listed on the local stock exchange.
- **Domestic market supply obligations** Tanzania's 2013 MPSA provides that TPDC and contractors must "satisfy the domestic market in Tanzania from their proportional share of production." Mozambique's Petroleum Law establishes a 25% domestic market supply obligation.
- **Capital gains** Capital gains tax regimes are being tightened across the region to capture disposals of assets via the sale in shares of offshore companies.
- Investor protection Recent trends are against the inclusion of economic stabilization clauses in East African production sharing agreements and Tanzania's 2013 MPSA does not contain any stabilization provisions. Various Bilateral Investment Treaties are in place with East Africa states and each of Tanzania, Mozambique, Kenya and Uganda is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.