For immediate release

Monday 11th July 2016 Nairobi

KCSPOG welcomes new U.S. Securities and Exchange Commission (SEC) Rules

The adoption of the new rules for resource extraction companies by the U.S. Securities and Exchange Commission (SEC) are a welcome initiative and will prove to be a boon for organisations like the Kenya Civil Society Platform on Oil and Gas (KCSPOG) as we continue to carry out our mandate of increasing access to information. This shall in turn improve transparency and accountability of the Government of Kenya to its citizens. The new rules, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, require oil, mining and gas companies to disclose payments made to the government for the commercial development of oil, natural gas or minerals. The payments to government that must be disclosed include taxes, royalties, fees (including licence fees), production entitlements, bonuses, dividends, payments for infrastructure improvements and, if required by law or contract, community and social responsibility payments. The companies are also required to file annual reports with the commission under the Securities Exchange Act. These new rules are intended to promote greater transparency about payments related to resource extraction.

The Kenya Civil Society Platform on Oil and Gas has long called for the disclosure of not only contracts but also payments made by companies to the government. We hope that the new rules by the SEC will go a long way in promoting transparency and accountability and a significant step towards curbing corruption in both the extractives industry and the government. These increased levels of transparency allow for a number of things: 1. Reduced information asymmetry as information regarding payments is made accessible to the public, both companies and the government are discouraged from malfeasance; 2. it will be a crucial tool towards deterrence of tax avoidance. 3. The raising of questions by civil society and citizens as to how the revenues being received by government are being utilised on both the national and county level (sub national); 4. The ability to raise questions also works to improve governance as officials are held responsible for the management of the monies received putting the national and county governments under increased scrutiny 5. Reduce the vulnerability of the extractive sector to tax evasion strategies.

In April 2016 the platform released its Potential Revenues from Turkana Oil report, the report indicates that annual receipts could range from USD 800 Million to as much as USD 3 billion. Increased disclosure in the oil and gas sector will help increase accountability by allowing Residents of oil producing areas to raise questions about how oil revenues are being used to contribute to the socio-economic development of their country especially in relation to the negative impacts associated with the extraction of oil on their environment and community.

These new rules shall cover companies operating in Kenya including Anadarko operating offshore, Camac (now Erin energy) in Block L1B, L27 and L28 and ERHC operating in Block 11 A in Turkana.

KCSPOG remains committed in mobilising and engaging civil society and citizens in ensuring the oil revenues are accounted for and contribute to the ongoing poverty reduction efforts and the sustainable development of the country.

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