For immediate release, August 2019

Kenya Civil Society Platform on Oil & Gas (KCSPOG) Statement

Expected Revenue from the Early Oil Pilot Scheme

Introduction

The Early Oil Pilot Scheme (EOPS) that commenced in June 2018 is a scheme aimed at assisting Tullow, its Joint venture partners Africa Oil, Total and the Government of Kenya get more information from the oil wells, test the market for Kenya’s crude and the logistics of handling crude. In August 2019, the President of Kenya indicated that Kenya has found a buyer for the 200,000 barrels of crude oil stored in Mombasa at 12 Million dollars. The latter would represent a discount of $3.50 on the price of brent crude in world markets. However, we are unable to determine the exact amount that shall accrue to government as the costs of EOPS are yet to be declared. It is worthy to note that while we have found a buyer the oil still sits at Mombasa and is yet to be exported. Additionally, EOPS has been fraught with challenges with the major issue being the stoppage in June 2018 occasioned by the exclusion of local communities in the decision-making process.

The Kenya Civil Society Platform on Oil and Gas a coalition of 16 civil society organisations in 2016 released a report, ‘Early Oil from Turkana – Marginal Benefits/Unacknowledged Costs Report.’ The report noted that EOPS is not economically viable for two main reasons. First, EOPS would be a loss-making and unnecessary venture secondly, if the Government insisted on proceeding with the venture at least 4000 barrels of oil per day (bopd) must be transported. Subsequently, in June 2018 KCSPOG released a press statement questioning Tullow’s commencement of EOPS without conducting an Environmental and Social Impact Assessment Study as required by the law and without public consultation and information. In an interview with local media, Tullow Oil Kenya noted that EOPS would be conducted in two phases and in the second phase which included extraction of oil and ESIA license would be granted in 2019. It is vital to note that in 2019, Tullow conducted and ESIA for what they dubbed as EOPS Phase 2.

Statement of Issues

This press release speaks to the recent announcement by President Uhuru Kenyatta stating that (1) Kenya has joined the league of oil exporters as it has (2) found a buyer for the 200,000 barrels of crude oil at a price of 12 Million US Dollars (Which translates to 60 US Dollars per barrel).

KCSPOG asserts that the circumstances around EOPS if not handled properly could be detrimental to the development of Kenya's oil for three main reasons as highlighted below:

Lack of Transparency and Accountability: EOPS has been shrouded in secrecy since its flagging off in June 2019. This has brought about issues with the host community who in June 2019 had a 30-day stand-off and

halted the project temporarily. However, there are still questions over the oil revenue allocation after the sale. There are additional questions over the cumulative cost of the EOPS and whether the cost will be recovered from the EOPS revenues or will be recovered under the Production Sharing Contract (PSC) for Block 10BB and 13T? Further, the question of revenue sharing with the local Turkana community who bear the highest social and environmental cost ought to be addressed.

The fact that the Government of Kenya has refused to publicise the PSC for EOPS that was signed in 2018 is a violation of Article 35 of the Constitution of Kenya on Access to Information. It only serves to breed mistrust between the host community and Government. We note, with deep concern, that the Government has adopted an attitude of non-disclosure citing lack of need for disclosure based on trust that they worked in Kenya’s best interest⁴. It should also be noted that KCSPOG has written on multiple occasions to the Government requesting public disclosure of all petroleum agreements signed by the Kenya Joint Venture since 2013.

The high and unclear cost of EOPS: In a recent session with the National Assembly Departmental Committee on Energy Tullow indicated that by 2021 they would have spent a total of 5 Billion USD on the exploration, appraisal and development of Kenya's Oil Fields⁵. KCSPOG is also aware that the Ministry of Petroleum and Mining recently undertook an audit of Tullow's costs but the results have not been published⁶.

Tullow will eventually recover the costs associated with their activities since 2010 once production begins, and this will impact the revenues that go to the national Government. The president's announcement should have specified how much of the 12 million US Dollars would cover the costs of EOPS and how much EOPS would eventually cost taxpayers cumulatively

Revenue Division: The Petroleum Act, 2019 provides for profit sharing between the National Government (75%), County Government (20%) and the local community (5%). In this case, the local community in Turkana shall rightfully expect a share of the 12 million US Dollars- yet the Government may be unable to remit it under the EOPS PSC.

This situation can be clarified and remedied by disclosing the PSC for EOPS and educating the local community and Kenyan public on the Government's petroleum development plan.

Requests

Considering the above issues, the Kenya Civil Society Platform on Oil & Gas makes the following requests:

1. Greater transparency and accountability around EOPS. We request the Government to disclose the Petroleum Sharing Contracts for the Early Oil Pilot Scheme as required by the Constitution of Kenya.
2. The Government and Tullow Kenya should clarify the cost of EOPS- how much will be recovered from the sale of EOPS oil and how much will be recovered after operations begin in 2021.
3. The Government should disclose how much money they will receive from EOPS. If they do not receive any share- the Government should disclose their benefits under the PSC.

⁵ On 20th June 2019, the National Assembly Departmental Committee on Energy invited Tullow Kenya BV for a committee session.
4. The Ministry of Petroleum and Mining and Tullow Kenya should **publicly disclose on their respective websites the development plan for Kenya’s oil.**

5. The Government should **disclose where the 12 million US Dollars from the sale of crude oil shall go** and how they will be allocated within Government.

Overall actual transparency within Kenya's upstream Oil and Gas Sector will ensure the sustainability of the sector and benefits accruing to the host communities.

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