The Kenya Civil Society Platform on Oil & Gas wishes you a prosperous 2020. As you embark on your planning and programming for the year, we have developed a brief outlook of 2020 based on events in 2019 - public statements by stakeholders in the oil and gas industry and our experience to help you navigate the industry. This Outlook explores the expected developments by the Government of Kenya, Companies within the Kenya Joint Venture (KJV) and Stakeholders globally.

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**2019**

- In 2019 the journey towards full field development (FFD) gained momentum with key events including the gazettement of land for compulsory acquisition in the South Lokichar Basin (February), commencement of the Petroleum Act, 2019 (March) and signing of the Heads of Terms Agreements (July).
- In August 2019 under the Early Oil Pilot Scheme (EOPS) Kenya exported its maiden shipment of 200,000 barrels of oil purchased by ChemChina. During this period the Platform raised issues over the secrecy around EOPS revenues and agreements.
- The Environment and Social Impact Assessment (ESIA) Study processes for the Lamu-Lokichar Crude Oil Pipeline and the Upstream Development kicked off with the Pipeline ESIA released for public comment in December 2019.

**2020 TRENDS**

- We expect the KJV Partners to seek environmental approvals, conclude commercial agreements and reach a final investment decision (FID) on both the pipeline and South Lokichar projects.
- In 2020 we are keen on seeing whether the petroleum agreements shall be published and upon FID and ratified by Parliament.
- In December 2019 Africa Oil indicated that they would be unable to raise funds for the upstream development. They expect Total S.A. to inject 405 Million US Dollars into the project. Given these financial uncertainties. In 2020, we may see the KJV partners source for funds on the international market and, this could potentially change the First Oil date.

**OTHER TRENDS**

- To enable FID and FFD the Government will work towards creating requisite regulation under the Petroleum Act, 2019 and expedite the creation of institutions.
- 2020 may see an end to the Kenya-Somalia Maritime dispute as the governments may negotiate a settlement.
- In 2020 Tullow and KRA will receive a judgement from the Tax Tribunal over the disputed 50 Million US Dollars Value Added Tax for the Block 12A farm out to Delonex Energy in 2015 but this may not be the end of the dispute.
- Global Funding trends changes in the past decade and funding directly related to natural resource management has evolved; requiring project proposals to be related to social, political and economic rights and presented through joint partnerships.
1.1 Commercial agreements:

- In July 2019 a Heads of Terms agreement was signed by the GoK and the Kenya Joint Venture (KJV) which laid the foundation for further negotiations in anticipation of the final investment decision (FID). In 2020 The State Department of Petroleum will continue negotiating with the KJV to reach a commercial agreement and an FID for the South Lokichar Upstream Development Project at Block 10BB and 13T.

- In 2017 the CoK, Africa Oil, Tullow Oil and Maersk (Now Total S.A.) signed a Joint Development Agreement (JDA) for the Lokichar-Lamu Crude Oil Pipeline Project. Through 2019 the JDA partners have worked on various components of the pipeline project including obtaining the completed Front End Engineering Design (FEED) and concluding the July 2019 Heads of Terms Agreement. In 2020 we expect the Government and KJV Partners to reach a FID, form a Pipeline Company and source for project funds on the international market.

1.2 Legislation:

- In March 2019 the President signed The Petroleum Act, 2019 that commenced on 28 March 2019 into law. In 2020 the government will implement the Act through the formation of the National Upstream Petroleum Advisory Committee and formulation of the National Petroleum Policy. Additionally, the Ministry will start developing regulations to the Act including the Transparency and Accountability Framework and Action Plan for Kenya’s Petroleum Sector (May 2019).

- In March 2019 the Energy Act, 2019 was also signed into law and established the Energy and Petroleum Regulatory Authority (EPRA) previously the Energy Regulatory Commission. In 2020 EPRA and other government agencies will continue realigning and assuming their new functions under the Energy Act, 2019.

- In February 2019 the Draft Kenya Sovereign Wealth Fund Bill, 2019 was released by the National Treasury for public comments. In 2020 we expect to see the Bill that legislates the usage of the national government share of oil revenue introduced into Parliament and by 2021 become a law.

- In July 2019 the Local Content Bill, 2018 was passed by the Senate in July 2019 and was introduced into the National Assembly in September 2019. In 2020 we expect the Bill to sail through the National Assembly and be presented to the President. It is, however, unclear whether the legislative process will consider the parallel process by the State Department of Petroleum to develop a Local Content Policy and Local Content Oil and Gas Regulations.

- In May 2019 the Public Participation Bill, 2018 was passed by the Senate and introduced into the National Assembly on 29 October 2019. In 2020 we expect the Bill to be passed by the National Assembly and assented to by the President.

1.3 Land

- In August 2019 the Land Value Index (Amendment) Act, 2019 was assented to however various issues relating to (i)abolishing of Free Prior Consent of communities, (ii) government taking possession of land before compensation, and (iii) zero-rating of community land by including provision such as uninterrupted occupancy for 6 years and proving of profits from the land through tax returns is detrimental to the pastoralist communities in Turkana County. In 2020 we expect the Turkana County Government as well as community members to contest these provisions through various avenues.

- The February 2019 gazettment of land for compulsory acquisition by the National Land Commission was contested by the Turkana County Government in the High Court, an injunction was granted, and the national and county governments were given 12 months to negotiate on the acquisition by March 2020. In 2020 we expect the TCC and National Government to conclude negotiation and acquisition and compensation of land for upstream and pipeline developments to begin.

1.4 International Relations:

The ongoing Kenya Somalia Maritime Dispute before the International Court of Justice in the Hague will resume hearings in September 2020. The Kenyan Government in 2019 indicated that they would continue trying to negotiate with Somalia to come to an amicable solution.
2. COMPANY UPDATES

2.1 Tullow Kenya BV:
In November 2019 the Chief Executive Officer (CEO) and Exploration Director resigned. In a board update, Tullow downgraded their production guidance for 2020 due to changes in their Ghana operational fields.

In 2019 Tullow appealed a decision by KRA to charge them 50.2 Million US Dollars Value Added Tax on the transfer of 25% of its interests in 2015 and a further 10% in 2018 both in Block 12A to the UK-based Delonex Energy. In 2020 the Tax Tribunal will give a verdict, however the case may be appealed at the High Court.

2.2 Africa Oil Corporation (AOC):
Based on the terms of the farm-out agreement completed in 2016 with Maersk- upon FID and the fulfilment of additional conditions Total S.A. may be required to carry an additional amount of 405.5 Million US Dollars.

Africa Oil’s current capital resources will be insufficient for Kenya’s planned full field development and will need to raise funds externally but cannot give assurance of contributing to the KJV

For the financial year ended 30 September 2019 AOC spent 39.6 Million US Dollars on appraisal stage projects for Blocks 10BB and 13T.

In 2020, we may see the KJV partners source for funds on the international market and; this could potentially change the First Oil date.

3. PROJECT DEVELOPMENTS

3.1 The Lamu- Lokichar Crude Oil Pipeline
In December 2019 the JDA partners concluded the Environmental and Social Impact Assessment (ESIA) Study and the National Environment Management Agency (NEMA) has declared a public comment period that expires on 17 January 2020. In 2020 the Government of Kenya will fast track the approvals for the LLCOP, finalise land acquisition and make a Final Investment Decision as part of the JDA.

3.2 South Lokichar Upstream Development Project
The FEED for upstream was completed in 2019 and Tullow proceeded with the ESIA study. In December 2019 Tullow released a draft ESIA report for public review. In 2020 Tullow will carry out extensive stakeholder engagement and by the end of 2020 submit the ESIA to NEMA for approval.

The Final Investment Decision for the upstream may take place in mid-2020- however, based on the practice in previous years, the decision may be delayed.

3.3 Early Oil Pilot Scheme (EOPS):
Since its inception in 2018 EOPS has steadily transported 2000 barrels of oil per day from Turkana to Mombasa- in August 2019 the first 240,000 barrels of oil left the Mombasa Port and were sold to ChemChina earning Kenya 12 Million US Dollars.

In December 2019 EOPS was temporarily suspended due to the heavy rains and roads being swept away- this will delay the second shipment of oil slated for March 2020.
4. GLOBAL TRENDS

From our engagement in 2019, it is clear that development partners are funding projects in the following thematic areas:

- Gender and Extractives
- Climate change- mitigation and adaptation & Environmental protection
- Shrinking civic space and democratic space
- Transparency and Accountability- contract & revenue transparency as well as
- From Aid to Trade- embassies and country missions are dedicating funding on projects that include civil society, communities and private companies in their projects

Projects in the extractives sector should be anchored and linked to at least one of the areas; it is also more efficient and desirable for organisations to run projects with two or three other organisations. Civil Society Organisations are encouraged to work in coalitions to secure more substantial and secure funding.

5. REFERENCES

2. Africa Oil 2019 Third Quarter Financial and Operating Results: https://news.africaoilcorp.com/releases/entry/122770
3. Ministry of Petroleum and Mining Website: https://www.petroleumandmining.go.ke/petroleum/