Invest and share
Oil and Gas

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Talking to my friend of my tribulations brought about by the persistent Nairobi traffic jams, he quickly made me aware that the traffic in Lagos is worse and attributed it to the impact of oil and gas.

We digressed and noted that Luanda in Angola is one of the most expensive cities to live in. In the heat of our discussions we wondered whether Lamu would end up with the double trouble of being Kenya's most expensive city and with the worst traffic. I just hope that the coincidence is brought about and is limited to the fact Lagos, Luanda and Lamu all start with the same letter.

With careful and deliberate planning, implementation and commitment, oil and gas can become Kenya's ticket to the big league. As you can tell, I assume that Kenya will move out the club of a net oil importer to a net oil exporter by 2030.

The taxation arrangements that characterize oil and gas is the Government's most significant factor for managing oil and gas. If one looks at the typical analysis of the cash flows of an Exploration and Production (E&P) company, you will notice that exploration and development phases, funds are spent without any revenue being earned.

It is generally known that there is a one-in-ten chance of declaring a commercial discovery. The risks that an E&P company needs to identify and manage are significant and few have the financial muscle to take on such an investment. Apart from the normal business risks, there are risks and uncertainties involving geology of oil and gas, uncertainties as to the availability and the cost of financing E&P activities.

The overall objective of a country is to maximize the value of the petroleum resource. For any company investing in E&P, the most significant objective is to attain the greatest return to its shareholders. For Government on the other hand, its aim is to provide a fair return for the country taking into account the environment. Governments in Africa do not usually have the financial muscle, technical skill and experience to undertake E&P activities. Government therefore aims at attracting investors to risk their capital in E&P activities. In return the Government promises the investor a share in the oil and gas revenue. Underlying this statement is that the oil and gas discovered belongs to the Government.

According to the Constitution of Kenya, all minerals and mineral oils shall be vested in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.

The Petroleum (Exploration and Production) Act stipulates that all petroleum existing in its natural condition in strata lying within Kenya and the continental shelf is vested in the Government. So why would an E&P company risk its capital where the Government owns the oil and gas? Risk and reward are fundamental to capital flow and therefore E&P can either take on all the risk or spread the risk and rewards by inviting partners.

It is on this basis that the relationship between the Government and an E&P company in Kenya is negotiated and on that basis a an agreement called a Production Sharing Contract (PSC) is signed by the parties. The terms of the PSC are guided by a Model PSC as contained in one of the schedules to the Petroleum (Exploration and Production) Act.

Should you require more information please contact.

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