



## **Somaliland Non State Actors Forum**

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Date: 27/04/2016

## **Position Paper: 3**

### **Third Extractive Industries National Consultation Forum**

#### **1. Introduction**

On March 8<sup>th</sup> 2016, SONSAF hosted its third National Extractive Industry Forum in Burao, Togdheer region. This paper is a continuation of SONSAF's dialogues and initiatives towards the extractive industries and improving its governance and oversight in Somaliland and follows on from previous meetings hosted by SONSAF on 12<sup>th</sup> March 2015 and 3<sup>th</sup> December 2014. The aim of SONSAF's third extractive meeting was to revise and strengthen SONSAF's previous policy recommendations on the oil and gas exploration activities underway in Somaliland.

The Third National Extractive Consultation was attended by a wide array of stakeholders included of His Excellency Mr. **Hussein Abdi Duale**, the Minister of Energy and Minerals, traditional elders representing communities in the oil exploration areas, representatives of international oil companies (IOC), civil society organizations (CSOs), business people, universities, media youth, women and religious leaders.

During the forum, traditional elders recommended that mistakes committed by the Government of Somaliland and oil exploration companies such as lack of informing the grass-root people and lack of proper community engagement should not be repeated in any future exploration work. They, furthermore, stated that at present time the people living in the area of exploration are committed to work with companies and government as long as there is open and transparent information and dialogue around procedures. The Minister of Energy and Minerals has pointed

out that during forthcoming seismic assessments, the anticipated Oil Protection Unit (OPU) will not be used, but normal security personnel will be deployed during this phase.

His Excellency, the Minister declared that seismic operations will restart during 2016. Finally, SONSAF presented the policy recommendations generated from the previous national consultation forums on March 12<sup>th</sup> 2015 and 3<sup>rd</sup> December 2014 which focused primarily on the issues of community engagement, regulatory frameworks and improving all measures of transparent, accountability and proper utilization of Somaliland's natural resources.

## 2. General Overview

Somaliland Non- State Actors Forum (SONSAF) has conducted its third national consultation forum for extractive industries, focusing upon the oil and gas explorations. In this initiative, SONSAF aims to encourage the proper governance and regulation of the extractive industries in Somaliland.

If conducted well, exploitation of Somaliland's natural resources could be a strategic mechanism, to overcome the extreme poverty and poor infrastructure of the country. SONSAF, representing a united voice of civil society in Somaliland, has therefore organized this forum as an integral part of its policy development and-advocacy for improving oversight and effective development of this sector.

The opening of this debate around the extractive industries has created an opportunity for policy-makers and grass- root communities to come together and discuss issues concerning the extractive sector development and seismic process of the oil and gas to ensure that it meets community needs as well as those of national economic development.

In the opening session, the Minister of Energy and Minerals Hon. Mr. **Hussein Abdi Duale** stated; "that although the price of the Oil has been going down in recent years, but there are international companies which are still committed to continue in this process of exploration whether these blocks are currently commercially viable or not".

During the meeting, prominent traditional elders freely stated their views and opinions. Aqil Sead Ali, who was among many traditional elders who attended the forum, stated the following, "as traditional elders and communities who live in the area of oil and gas exploration, first we welcome the oil exploration activities but there are two main challenges – the Government of Somaliland did not sensitise the people in the area about what would take place and communities also misunderstood what oil and gas exploration is about, to the extent that propaganda against this process undermined the credibility of the project".

There was in addition, misleading information being spread across communities living in these areas so, as another participant stated, if these challenges are not addressed properly a head of time, it will be difficult to develop our natural resources together. The debate towards

community engagement was of high importance during the forum because past misunderstandings between communities, companies and government have contributed to the suspension of progress of this economic sector.

Moreover, participants felt that there were lessons to be learnt from the previous oil and gas exploration activities and this will be an asset to take some remedial steps prior to future seismic activities in the area. HE Minister of Energy and Minerals stated that the seismic phase will not deploy the anticipated new police unit, the Oil Protection Unit (OPU), however normal police will provide security in this first phase.

In the meantime, the Minister clearly indicated that “if the OPU is needed in the future, they will be selected from the existing police and military personnel and they will be professionally trained and operate during the second phase of drilling if the first phase of the seismic exploration is successful.”

Ultimately, this forum has produced essential dialogue on important issues between communities and policy-makers such as the Minister of Energy and Minerals. This dialogue is meant to help consolidate the understanding of the international oil exploration companies in order to move forward their operations and activities in a constructive way.

One important observation was how this forum has served to create an enabling atmosphere where the multiple stakeholders included community elders, government, civil society and international oil companies are able to have healthy and open debate and through this reach a common ground of how to proceed. .

### **3. Government role in oil and gas exploration activities**

Throughout discussions, the participants, especially traditional and religious elders, repeated many times the need for government to play its role in relation to exploration activities by engaging and collaborating with the grass-root communities consistently.

The emphasis was to draw attention to the fact that currently, the people living in these areas are required to encourage their effective participation from the grass-root level under the guidance of the Ministry of Energy and Minerals. They demanded that the implementation of the rule of law alongside the customary practices may reshape the whole arena of the natural resources exploitation.

In this regard, the Government of Somaliland, particularly the Ministry of Energy and Minerals should effectively handle on exploration of Oil and Gas in the country, to the extent that the issue of Oil and Gas is national project.

Hence, the Ministry of Energy and Minerals should coordinate a consortium which includes relevant government institutions such as the Ministry of Agriculture, Ministry of Environment and Rural development, Ministry of Interior, regional governors, mayors, and police

commissioners and other relevant institutions to ensure appropriate coordination and support across these sectors prior consultation and dialogue with these stakeholders is essential and should be done in addition to inclusive dialogue and consultation with grass roots communities in areas engaged by explorations.

With the assistance of civil society, the Ministry of Energy can also undertake community outreach and community mapping exercises to conduct community education and promoting solidarity and credibility of the project.

The examination and deliberation of the third national extractive industry forum discovered that without better understanding of the communities in the field, the operations of the seismic exploration cannot take place. Consequently, it is the role of the government to respond these demands and institutionalize the process of community participation.

Despite the above issues, the development of a regulatory framework for the petroleum and mining sector is essential. A comprehensive legal framework and mechanisms for transparency and oversight can address many questions arising locally and internationally as well as mitigating future conflicts or disputes.

Indeed, this issue was widely encouraged and we consequently urge the finalization of the extractive industry legal framework. The Minister portrayed that Ministry of Energy and Minerals has already submitted to the House of Representatives the draft of laws including the Petroleum law, Petroleum Revenue Sharing Act and Mining Code and developed the Petroleum policy. Civil society is very much keen to see these drafts in order to review and make contributions to ensure that natural resources governance in Somaliland is as comprehensive and effective as required.

During the forum the participants have also discussed many issues including environmental protection, employment and recruitment of the staff working in the field and tendering of contracts for work. Participants strongly emphasised the importance of eliminating any possible forms of malpractices. Many participants stated that the legacy of the 2013 operations in the field was not good due to the mismanagement and lack of transparency and if this is not properly managed in future, it may generate new obstacles that may result in delays to the seismic operations.

#### **4. The Role of the Grass-Root Communities for Oil and Gas Explorations**

It was noted that community elders were keen to support future seismic processes, but they also signalled out some reservations because they emphasized a greater need this process to be inclusive and consultative otherwise it cannot prevail.

The Minister of Energy and Minerals confirmed to the elders that his ministry will fully cooperate and encourage the grass-root communities to participate in this process.

Thus, if the trust between the community and government improves, tensions or differences of opinions between the two sides can be effectively managed and reduced, thereby the process of the oil explorations will be successful.

The grass- root communities indicated that they felt the government does not deeply consider the important role of the communities in exploration and that rumours or inadequate information can twist community perceptions towards oil exploration activities which would be detrimental to progress.

**Chief Caaqil Cali Xirsi** who was the oldest traditional elder in the forum stated that “I want to emphasise that traditional elders must be respected and incorporated into the process of governance of the extractives sector. Traditional elders are required to cascade and disseminate messages which are responsible and peaceful to their communities, therefore must be consulted.”

Therefore, the role of the communities must be coordinated and conducted under the guidance of dedicated civil society actors and Ministry of Energy. In addition, the intellectuals in the forum stated the communities must understand that this project will benefit local communities in terms of employment creation, improving health, education and water infrastructures.

Many participants talked about how the area in which exploration is expected to take place is socially and economically underdeveloped and development of the extractives sector should benefit them. Finally, the traditional elders recommended two main points: **(a)** the government of Somaliland should take the lead in the process of oil and gas explorations and develop an approach of dealing with the grass-roots **(b)** the local communities must be open, responsible, peaceful and collaborative, keeping in mind that the common interest is principle of all.

## **5. The role of the International Oil Companies (IOCs)**

The role of international oil companies is not only to invest the country but to institutionalize the process through a credible manner. These IOCs have a responsibility to develop and improve living conditions in the areas they work; therefore, these companies which are undertaking the survey have the obligation to conduct community needs assessment in the respectively potential sites.

It is essential that IOCs and their sub- contractors understand the country’s political, social and economic trends. Thus, IOCs must be aware that the Republic of Somaliland has adopted a hybrid political order which combines modern state institutions and deeply rooted traditional governance.

Hence, the companies must accommodate all these key actors of state and non- state actors. For instance, non- state actors including traditional elders, religious leaders, business people, CSOs, professionals, and Diaspora all have a political, social and economic stake in the country. These IOCs must create channels of communication and coordination mechanisms and enable the

Ministry of Energy and Minerals to take care of the community needs and promote participatory governance at all levels.

Civil society has noted that past exploration activities failed to conduct this essential dialogue with communities and resulted obstacles and tensions between communities, government and companies. Despite this, it is believed that past shortcomings can be prevented in the future as long as the necessary dialogue takes place and all essential stakeholders are involved.

The participants also requested that IOCs should be transparent, accountable and socially responsible. Traditional elders emphasized that low transparency and lack of accountability from the companies' side may create confusion, mistrust and low confidence. One of the elders said "at the present time, people in the field are very vigilant about how companies want to operate again while minimizing environmental damage with clear remedial steps."

## **6. International views about oil and gas explorations in Somaliland**

One of the challenges of Somaliland's development of hydrocarbon and mineral wealth has tempered lack of investment since Somaliland declared its independence in 1991, despite lack of international acknowledgement of its status as an independent nation.

Since then, Somaliland has made progress in developing its national resources where the Ministry of Energy and Minerals provides licenses for exploration to IOCs included of Genel Energy, RAKGAS and DNO who some of them have gone on to sign Production Sharing Agreement (PSA) with the Somaliland government and engaged to proceed seismic operations.

However, the contemporary development of Somaliland's extractives sector has been contested with some people in the international community arguing that Somaliland should offer preference for exploration to legacy contracts, signed by the Somali Republic to whom Somaliland belonged until 1991.

These legacy contracts were suspended following the declaration of force- majeure in the early 1990s following the fall of Siad Barre and the outbreak of civil conflict, however, Somaliland believes that it has the right to explore its natural resources.

Since Somaliland reclaimed its independence in 1991, it is understood that there have not been any bilateral discussions between Somaliland and other license holders. Therefore, the position of Somaliland is paving the way that the permanent natural resources over the territory can be exploited by the people and the State through keeping the interest of the people by issuing new licenses and drafting new petroleum and mining laws.

The claim of force majeure has been contested by a report by Adam Smith International, arguing that the legal basis for force majeure may not be valid.

*“These existing license holders (referred to as the pre-1991 licenses) are the source of a heated debate. On the one hand, they are still technically license holders until force majeure is no longer valid. But on the other hand, if other companies are currently active on Somali soil, then FM should no longer be considered as applicable.”<sup>1</sup>*

Finally, Somaliland is eager to develop its natural resources to address economic development needs and tackle social and economic challenges in the future.

## **7. Recommendations:**

### **7.1. Government should**

- Share drafts of legislation for the oversight and regulation of the extractive sector with civil society for review and contribution.
- Finalize drafts and facilitate parliament to approve the laws and regulatory framework of the extractive sector.
- Establish and coordination mechanisms of stakeholders
- Lead the process of seismic explorations in a consultative and collaborative manner.
- Establish consistent community engagement programs.
- Promote inclusivity and participatory governance of the sector.

### **7.2. Community should**

- Abide by the rules and regulations of country.
- Support the seismic operations and other activities of exploration on the basis of environmental protection, community development and utilization of the natural resources.
- Work with security forces to ensure effective security around seismic explorations.
- Create an accessible and safer environment that all investors can freely work.
- Establish communication channels and methods of dealing with government and companies.
- Present the needs of the communities based on needs assessment.

### **7.3. Oil Companies should:**

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<sup>1</sup> See Needs Assessment for the Development of Somalia's Extractive Industries, Adam Smith International, April 2014, p-27

- Respect the national laws and values of the society.
- Respect the labor law of any recruitment process.
- Contribute employment creation and development of the livelihood of the affected communities
- Safeguard environmental protection and human rights.
- Promote transparent, accountability and do no harm principles.
- Contribute the development projects of the respective areas of the seismic operations.
- Establish clear and well structured management system that guides the operations.
- Create public relation schemes and approaches to engage communities living around the sites of the explorations on activities and modes of working.
- Undertake conflict mapping assessment periodically to mitigate conflict in future.

## **8. Conclusion**

Although the debate to utilize the natural resources in Somaliland is ongoing throughout political, business and social circles, but the eagerness to produce hydrocarbon and mining resources in the country yet exists. Poor economic conditions, recurrent droughts and widespread poverty are issues high in the minds of Somaliland society.

Whilst such investment with sophisticated technology is required, strong rule of law institutions and leadership of all state branches are required because extracting natural resources of the country needs collective responsibility, accountability and national vision.

Somaliland has succeeded to build a hybrid political system in which its citizens have a strong contribution and ownership, therefore, building and promoting participatory governance of the natural resources may encourage a safer environment and therefore secure more international investors.

Mostly during this national consultative forum, the main discussions were focussed on community participation and leadership of the sector. Ultimately, many of the people attended the forum have had a clear understanding that the state has the authority to administer the natural resources of the country but they recommended the importance of the grass-root communities participation and that the government remain openness and transparent.