The politics of oil, gas contract negotiations in Sub-Saharan Africa

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THE POLITICS OF OIL, GAS CONTRACT NEGOTIATIONS IN SUB-SAHARAN AFRICA

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SUMMARY

Much attention has been paid to the management of revenues from petroleum resources in Sub-Saharan Africa. An entire body of literature on the resource curse has developed which points to corruption during the negotiation of contracts, as well as the mismanagement of revenues on the continent. The analyses provide the basis for policy advice for countries as well as donors; transparency and anti-corruption initiatives aimed at lifting the curse flourish. Though this paper is sympathetic to these initiatives, it argues that the analysis may underestimate the inherently political nature of the negotiation of contracts.

Based on a review of the existing literature on contract negotiations in Africa, combined with a case study of Tanzania, the paper argues that the resource curse need not hit all countries on the African continent. By focusing on changes in the relative bargaining strength of actors involved in negotiating processes, it points to the choices and trade-offs that invariably affect the terms and conditions of exploration and production activities. Whereas international oil companies are often depicted as being in the driving seat, the last decade's high oil prices may have shifted power in governments' favor. Though their influence has declined, donors may still want to influence oil and gas politics under these circumstances. This requires careful analysis of the game. Support to building capacity in the institutions that govern and regulate the petroleum sector as well as to local communities and authorities may be avenues of engagement for donors.

INTRODUCTION

More countries in Sub-Saharan Africa have become petroleum economies since new discoveries of oil and gas were made in the 1990s and 2000s due to a combination of technological innovation, higher fuel prices and increased levels of investments (IEA 2014). Recently, a virtual oil and gas hype has gripped countries in eastern and south-eastern Africa, and with good reason; the potential new revenue streams are substantial. In a country like Tanzania the costs of establishing the single most expensive investment alone, a two-train liquefied natural gas (LNG) plant including infrastructure, is estimated to amount to approximately US$ 20 billion in 2012 prices. Simulations indicate that government revenues may reach around US$ 3 billion annually (Baunsgaard 2014; Ledesma 2013). By comparison, Tanzania received US$ 1.77 billion in official development assistance in 2012.

The prospect of large revenues profoundly affects a country's whole political and institutional set-up – its political economy. The management of wealth rises up the political agenda: how are the benefits from these resources to be distributed? This paper focuses on the political economy of oil and gas in Sub-Saharan Africa. Much attention has been paid to the characteristics of contracts and the management of revenues. By focusing on the relations – the 'relative bargaining strength' – between the main actors in the negotiating processes prior to the signing of contracts, the paper aims to shed new light on petroleum politics on the continent. It is based on a review of the literature on the experiences of countries in Sub-Saharan Africa that have entered the natural resource game recently and have yet to develop their resources. These countries differ from pioneer petroleum countries like Nigeria and Angola because they may have been influenced from the outset by the new types of administrative procedures and policy guidelines that have emerged since the late 1990s in order to prevent the resource curse: the Extractive Industries Transparency Initiative (EITI), the Publish What You Pay (PWYP) financial transparency initiative, private petroleum companies' CSR programmes, and the proliferation of policies aimed at enhancing local content and local participation, to mention but a few.

The paper argues that these good governance initiatives may have been important in setting an agenda, but they do not influence negotiating processes to the same extent as do other factors that are more fundamental to the context of the negotiations: geological features, market fluctuations and national politics. However, petroleum affairs are gradually changing on the continent. Whereas the late 1980s and the 1990s were characterized by liberalizations, low prices, weak governments and a myriad of domestic and foreign interests (Clarke 2008, 66ff), a prolonged period of high oil prices on the world market means that contemporary negotiating processes are being influenced by markets and national politics in new ways.

The paper argues that host governments have become more assertive. Whereas it is often claimed that international companies are in the driving seat, an 'obsolescing bargain' may be developing, that is, a shift in favor of the government once investors have invested (Patey 2014a, 17). Donors, on the other hand, see their influence reduced, and if they wish to be relevant to petroleum politics, for instance, in order to promote social and environmental sustainability and the eradication of poverty, they need a realistic understanding of national politics and of their diminished role in it. They need allies, for instance, by linking up with domestic elites with overlapping agendas. Local communities may benefit from this development too, though benefits sometimes have been more programmatic than real. It is still unclear if the recent fall in oil prices heralds a new turn in the 'commodity resource cycle' that will alter the relations between actors fundamentally (Bindemann 2000; Mossavar-Rahmani 2010) or if they are mere fluctuations with no long-term effects.

The recent focus on transparency and contract disclosure, typically based on assumptions about irregularities during the negotiation of contracts, may skew the analyses of petroleum negotiations out of two reasons. First, negotiating processes are inherently opaque, to some degree even to the actors themselves (Khelil 1995). In a competitive environment in which governments are vying with each other to attract private-sector investments and private companies are vying for attractive investment rights, all actors guard their bits of information carefully. Some degree of confidentiality is probably unavoidable. As one informant phrased it, when governments enter into negotiations with private-sector investors, a balance has to be struck between creating a level playing field for them both (which means that the government cannot share all its information about its negotiating strategy) and total transparency (see also Radon 2007, 98). Secondly, since these processes involve trade-offs as well as major decisions about the development of the national exploration and production regime, they are extremely political. From a donor perspective the challenge should therefore be how to influence these processes. The focus on transparency is important, but it also risks diverting attention from where decisions are really made.

These characteristics of petroleum contract negotiations make research a challenge. Not much has been written on the topic. Therefore, the paper is based on information extracted from the existing literature, though this is often about the later stages in the petroleum project cycle. Literature searches were conducted in EBSCOhost, one of the major online reference systems for full text database searches, combined with cross checks in Scopus, which sometimes includes more Africa-relevant material, and with Google Scholar on Tanzanian petroleum affairs. Search phrases systematically combined words like 'gas', 'petroleum', 'oil', 'contract', 'Africa, 'Tanzania', etc. in order to find as much relevant material as possible. Much literature dates from the 1980s, as it was responding to the nationalizations of the 1970s. The review of the broader literature is therefore combined with a more in-depth analysis of Tanzania, for which a particular literature search was conducted to include policy and project documents, 'grey' consultancy publications and current new items. During two short field trips to the country during the writing of this paper, I also talked to several people knowledgeable about the sector. It is my hope that the combination of overview and case study analysis will provide a valuable insight into the contemporary negotiating processes of petroleum contracts.

NEGOTIATIONS IN COMPETITIVE ENVIRONMENTS: BUILDING CONTRACTUAL RELATIONSHIPS

In a perfect market situation, the rents that a government can expect to extract from oil and gas production would be decided through competitive bidding processes. However, the auctioning of oil and gas exploration rights rarely takes place in perfect markets. Investment decisions are made in an environment of uncertainty and limited knowledge. Negotiation processes are therefore not only about distributing rents, but also about distributing risk. This implies that actors use judgment and make trade-offs and that no single model result can be achieved (Blitzer et al. 1985; Hurst 1988; Radon 2007). Inspired by Hurst (1988, 161) factors influencing negotiations can be summarized in three overall categories: geological features, political risks and market contexts.

- Geological features include both risks and expenses related to geology. Most often, there is limited knowledge about the geology of the area that is about the subject of negotiations, both among the host government and investors, and nine out of ten exploration efforts end up being loss-making (Radon 2007). Even if deposits are found, the costs of exploiting them vary and may be higher than what world market prices can justify (Blitzer et al. 1985; IEA 2014).

- Political risks include the fiscal regime, contract stability and access to finance. The fiscal regime (or fiscal system) covers all the payments made to a government, that is, not only the payment of rents related to production (Khelil

1995). These, and contract terms in general, may change over time and affect profitability. Developing countries are perceived to be particularly risky because of their lack of experience and volatile political cultures. These risks also affect access to finance (Radon 2007; Hurst 1988).

- The market context may cover a range of factors. Obviously, the fluctuation of prices on the world market is likely to affect investors' interests, though they are likely to make decisions based on long-term expectations. Distance to markets is still an issue, since developing countries' domestic markets are relatively small, and operations therefore typically target world markets (IEA 2014; Asche, Osmondsen, and Tveterås 2000). Because of transportation costs, which are higher for gas than for oil, governments compete regionally; a country like Tanzania competes more with neighboring Mozambique than with Norway on the terms and conditions it may offer international petroleum companies (Khelil 1995; Blake and Roberts 2006; Radon 2005; see also Mitchell and Mitchell 2014).

In reality, contracts are formulated on the basis of actors' relative bargaining strengths, influenced by the three factors outlined above.

The negotiating parties also navigate in an environment of imperfect information. It is often stressed that there is an asymmetry of information and that oil companies possess better information about a discovery's geological features and how to exploit it, in particular after they have had the chance to do some exploration (Radon 2007). They also often have more resources for and more experience in negotiating contracts. However, a contract is a relationship. Due to the resources that are invested in oil and gas operations, it is most often a long-term relationship (Hurst 1988; Boucher, Hefting, and Smeers 1987). For the sake of stability, these relationships should ideally be characterized by some degree of goodwill and a fair balance of interests between the investor and the government. However, evidence suggests that short-term price fluctuations may affect contract regimes (Stroebel and van Benthem 2012; Hogan and Sturzenegger 2010). Therefore, companies often seek to insert stability clauses into contracts, that is, clauses that refer to international treaty obligations and that freeze contractual and regulatory matters for the lifetime of a contract, especially in developing countries, which are perceived to be particularly volatile (Radon 2007).

These precautions reflect the fact that the contractual relationship is dynamic, as the relative bargaining strength changes over the course of a project cycle. Whereas companies may be in the driving seat before the signing of contracts, once the investment has been made and the infrastructure for exploration and extraction put in place, the government has the upper hand. As noted by Bridge and le Billon, when oil begins to flow, there is pressure from resource holders to renegotiate the terms agreed at the outset (Bridge and Billon 2013, 29). This reflect what has been called the reemergence of the 'obsolescing bargain', that is, 'an initial favorable bargaining strength for international companies [that] shifts in favor of the government over time, as fixed asset investments increase' (Patey 2014a, 17; see also Hogan, Sturzenegger, and Tai 2010, 9).

The relative bargaining strength also relates to market conjunctures. Bridge and Billon wrote their book after a long period of sustained high oil prices. Indeed, the high prices in the 2000s led to a wave of renegotiated contracts, which increased governments' take, and of various kinds of direct and creeping expropriations (Emeka 2008; Hogan, Sturzenegger, and Tai 2010; Stroebel and van Benthem 2012). In contrast, Chakib Khelil in 1995, based on a larger study of changes in fiscal systems in 144 countries that was carried out when oil prices were low, observes that most changes reduced the government's take (Khelil 1995). Fluctuations in petroleum prices are increasingly incorporated into contracts, which in turn tend to become increasingly complex over time (Jacobsen 1987; Aghion and Quesada 2010). In sum, in an oligopolistic environment like that of oil and gas, relationships are characterized by some degree of mutual dependence among actors. Renegotiations of contracts are therefore not uncommon. Even a stable country like Norway initially offered better terms to attract investments, only to increase the government's take a few years later (Hognestad 1987). Indeed, the same study referred to by Khelil above showed that more than half of all fiscal systems were changed over the years.

BOX 1. CONTRACT NEGOTIATION IN TANZANIA

For a long time, the prospects of oil and gas production in Tanzania were dim. Geologically the country was largely unsurveyed, politically it was not attractive to private foreign companies after the period of nationalizations in the 1970s, and in market terms it was distant from buyers in the more developed markets. Though gas reserves had already been discovered in 1974, it was not until thirty years later, in 2004, that production began, and only on a small scale and with donor money. This situation changed around the turn of the millennium, when sustained high world energy prices and a more stable policy environment made Tanzania an increasingly attractive investment destination. The four bid rounds that have been carried out so far have attracted a number of companies, including some larger players like Shell, Statoil/ExxonMobil, Petrobras, CNOOC, RAK Gas, Mubadal and Gazprom (Confidential 2007, 2012; James and Jones 2014).

The first major deep sea gas discovery was made around 2010. Since then, a number of discoveries have steadily increased the total proven gas reserves in the country, which currently stand at more than 50 trillion cubic feet and are expected to rise to 200 trillion cubic feet within the next two years (Petzet 2012; Daly 2014). According to the latest estimate by the Tanzania Petroleum Development Corporation's (TPDC), the national oil company, international oil companies have invested almost USD 5 billion in the country (Citizen 2014).

Not much is known about the negotiating processes involved beside the fact that they are headed by TPDC. The Tanzanian opposition has alleged that bribery has been involved in the award of licenses between 2004 and 2007 (Confidential 2012). The involvement of a middleman in one deal and a couple of non-competitive awards could be indices of irregularities. However, with 25-26 licenses awarded in the first three competitive bidding rounds and more coming, and still no substantial evidence, it is hard to sustain claims of corruption on a larger scale at present.

Nonetheless, heated political discussion has taken place, with calls from civil society, the opposition and even ministers and tax authorities to review and renegotiate contracts, creating the impression of a not very stable policy environment (Ledesma 2013; Obulutsa 2012; Authority 2014; Manson 2014). The recent row over a leaked addendum (TPDC 2012) to the production sharing agreement (PSA) of 2007 between Statoil and TPDC contributed to this impression. The opposition and civil society noticed that the addendum deviated from the model PSA, resulting in a significantly lower government take, which thus confirmed fears that the government lacked the capacity to negotiate contracts (Bærendtsen 2014).

However, it soon became clear that the issue was more complicated than anticipated; the original PSA was made for oil exploration, but Statoil found gas, which is more expensive to process (Lamtey 2014). In August, the Natural Resource Governance Institute (NRGI) published an analysis of the Statoil deal based on the available information. They concluded that it was 'not out of line with international standards for a country that had no proven offshore reserves of natural gas at the time when the original contract was signed' (Manley and Lassourd 2014, 1). Though it is unclear what NRGI means by 'international standards' (Bofin 2014), their assessment is somewhat in line with those of other analysts, who found that Tanzania's model PSAs were generally favorable to the government (Newcombe 2014, 14; Baunsgaard 2014).

The aftermath to the addendum affair did not make things any better. After changing positions several times over, the government created a conflict with the legislature by finally refusing calls for disclosure of contracts even to the parliament (Kasumuni 2014; Mirondo 2014). There is no doubt that the disclosure would help demystify the content of the contracts. It would also, however, raise a number of other questions. First, whether it would weaken the government's relative bargaining position vis-à-vis international oil companies in a less than perfect competitive environment. Secondly, whether it would really contribute to reducing the political tensions that may have more to do with the forthcoming elections than with matters of substance. In other words, disclosure is unlikely to solve the contentious issue that a government needs some level of discretion to deviate from the model when negotiating a contract.

Some observers are wondering whether the political climate, combined with a toughening of terms for exploration and production in the model PSAs, will reduce foreign investors' appetite for investing in Tanzania. The companies behind a major potential investment, the construction of a multibillion dollar LNG plant in the south-eastern part of the country, have already announced that they will not make a decision until after the forthcoming elections in 2015 (Confidential 2013). Some see further confirmation in the fact that the last bid round only attracted a few bids for the eight blocks on offer (Guardian 2014; see also Kabendera 2014; Makene 2014).

IT'S POLITICS, STUPID: NATIONAL OR INTERNATIONAL OIL COMPANIES

The judgments and trade-offs that are made when deals with foreign oil companies are struck are linked to national politics (see Box 1). Decisions on the structure of the national exploration and production landscapes are also political in nature. Investments in exploration and production are typically capital-intensive and require specialized skills and knowledge to an extent that African host countries can rarely lift alone. The involvement of an international oil company is often required (Hurst 1989). But should national companies play a role too?

Many scholars suggest that African countries are better off with the highest possible oil prices than with stakes in operations because of the reluctance of international oil companies to let national oil companies in (Hurst 1989), the more transparent processes associated with pure revenue streams (Clarke 2008) and the 'better performance and greater efficiency' of private oil companies when compared to public ones (Wolf 2009). On top of that, accountability may become blurred when the state at the same time acts as the owner of companies and as the regulator of the very same companies (Gary 2008). Finally, national oil companies in Africa have often been seen as vehicles of patronage.

Still, most countries wish to develop their own oil industries. National oil companies are seen as potential vehicles for capacity development, transfers of skills and technologies and, ultimately, industrialization (Berrie and Leslie 1978; Marcel 2013). The negotiation of contracts requires skills and knowledge that can only be fully achieved through national capacity developed in or through a state's own oil and gas sector. Furthermore, it has not gone unnoticed that the bigger reserve-holders globally today are not international oil companies, but national oil companies in the Middle East and South America that have generated huge revenues for their owners (IEA 2014, 53; Bridge and Billon 2013, 39). African petroleum economies like those of Nigeria and Angola have also gradually developed their own industries, which now, furthermore, have begun to expand abroad (Clarke 2008, 510).

There have been ebbs and flows when it comes to ownership. The 1960s and 1970s saw waves of nationalizations and the establishment of national oil companies. The tide reversed with the neoliberal reforms of the 1990s, which brought the market back in (Bridgman, Gomes, and Teixeira 2011). Today there may be a new equilibrium underway, and again this seems to be related to world market fluctuations. After a period of high oil prices, governments are better positioned to toughen contract terms and demand carried interests in operations, joint ventures and local content in production processes (Marcel 2013).

For countries that have not yet entered the petroleum economy, there may be a further incentive for state involvement in exploration and production in the fact that the competitive bidding rounds that are typically recommended as better alternatives may not be feasible. Frontier areas with no proven reserves may only attract few or no bidders, which makes auctions uncompetitive and puts the government at a disadvantage (EITI 2013, 14; Marcel 2013). It may therefore choose to engage more directly in exploration activities in order to improve the prospects of attracting investors.

However, the strengthening of national oil companies imply trade-offs between policy objectives and economic gains. First, bigger stakes in operations will invariably reduce revenue, at least in the short term. Secondly, despite the strong political interests in promoting national oil companies these companies tend to be difficult to control in the longer run; National interests and the interests of national oil companies are not always the same (Noreng 1994).

IS THERE A RESOURCE CURSE? LIMITS TO TRANSPARENCY INITIATIVES

The discovery of hydrocarbon deposits is often depicted as a blessing in disguise. However, the problematic effects that natural resource wealth has had on African countries have given rise to a concept and an entire body of literature: the resource curse. According to this literature, resource-rich countries have observed slower economic growth and higher levels of corruption than have resource-poor countries in Africa. There are a large number of possible explanations for this, covering both economic and political aspects or a combination of the two (Ross 1999). Much resource curse literature tends to focus on informality, irregularity and corruption, often in conflict or post-conflict situations, as the major explanation (see, for instance, Oliveira 2007). The assumptions about corruption have been so strong in the resource curse literature that empirical research into these matters has hardly been deemed necessary (Clarke 2008, 526; Billon 2014).

Over the last 25 years, a number of initiatives have been taken to address corruption in the extractive sectors, more or less explicitly referring to the resource curse theory. The most notable may be the Extractive Industries Transparency Initiative (EITI) of 2002, which aims to improve transparency and reduce corruption in resource-rich countries. It involves governments, private companies and civil-society organizations and entails mechanisms that aim to reduce corruption by targeting the reputational concerns of states and companies through public naming and shaming. Whereas the initiative has been successful in promoting anti-corruption norms, a recent review of anti-corruption instruments suggest that it may have been less successful thus far in changing behavior. The review points out that EITI's claim to success is based on the high number of actors that ascribe to its transparency standards, but that the evidence for compliance is 'very limited' (Johnsøn, Taxell, and Zaum 2012, 39-40).

More in-depth analyses from Nigeria, which was among the first countries to join the EITI process, suggests that progress against corruption may have more to do with political will unrelated to the EITI process than to EITI itself (see Box 2). If this political will wanes, so will progress against corruption (Asgill 2012; Shaxson 2009). This has to do with the fact that, even though EITI may provide the tools for civil-society organizations and the media to put pressure on governments and companies, this does not address existing power inequalities. If groups are marginalized, civil-society organizations are weak or accountability mechanisms are stymied by entrenched elite interests, EITI is unlikely to have any significant effect. Issues like power and politics are important, but they tend to be overlooked in the EITI process.

BOX 2. CONTRACT NEGOTIATIONS IN A RESOURCE CURSE-HIT COUNTRY

Nigeria is notorious for widespread irregularities in its petroleum sector (Katsouris and Sayne 2013; Oliveira 2007). A leaked draft report from the country's Economic and Financial Crimes Commission (EFCC) in 2012 revealed that up to $100 billion had been lost in state revenues over the preceding decade (Confidential 2014c). The problem goes from outright theft of crude oil via mispricing to corruption related to the negotiation and enforcement of contracts. The widespread use of middlemen and shell companies, not least during military rule in the 1990s, is a sign of irregularities (Frynas, Beck, and Mellahi 2000). Recently, conflicts over contracts have reached international courts and helped shed some new light on shady dealings that we rarely get to get to see.

One of the most spectacular cases began in 1998 under the reign of the dictator Sani Abacha. Back then, a promising oil block license was sold to a person with no oil experience, supposedly pushed through by the Oil Minister with the support of actors in the political and administrative elites and the dictator himself (Economist 2013; Confidential 2014d). The deal reappeared on the public agenda in 2011, when Shell and the Italian oil company, ENI, paid more than $1 billion for the block, not directly to the owners, but to and through the Nigerian state.

Since the new deal was carried out in 2011, the dictator's son has been complaining to the EFCC that he did not get his rightful share of the revenue, and two middlemen have sued the then Oil Minister (who they believe is the real owner of block) in the London High Court for a commission fee for brokering the deal. Italian prosecutors are investigating whether ENI has paid bribes to win the license, something the company denies because the contract was with the Nigerian state, not the private license-holder. However, the New York Supreme Court has stated that the Nigerian state had merely acted as a straw man in the deal. Global witnesses have called the case a 'lesson in corruption' (confidential 2014b, 2014d, 2014a).

According to a 2011 report, some progress was made in the fight against corruption in Nigeria after the return to civilian rule in 1999, but the report also shows that priorities in this regard have changed from one president to another. Much remains to be done (Abutudu and Garuba 2011). This raises some important questions about how to influence petroleum affairs if anti-corruption is a matter of political will just as much as of transparency rules and regulations.

The limits to EITI and similar initiatives may have to do with a skewed analysis from the outset. In recent years, the resource curse diagnosis has been challenged by a number of scholars who question the causality between the extraction of mineral deposits, slow economic growth and weak governance indicators. Most point to the fact that there are countries, even in Africa, that have managed to exploit their resources productively simply because they are doing many things right (Buur et al. 2013). This finding redirects analytical attention towards the role of institutions that manage resources. Informality may persist in the better governed countries, but in less harmful ways. It is, in other words, the context-specific combinations of formal and informal institutions that matter.

Duncan Clarke has reached a similar conclusion regarding the oil curse, highlighting that what is typically depicted as the outcome of the curse – weak and corrupt institutions that fail to develop the economy in any productive way – most often predate oil's arrival on the scene (Clarke 2008, 537). This implies that weak institutions are not necessarily caused by wealth generated from petroleum assets, but that institutions are weak from the outset. This weakness may indeed be exacerbated by the discovery of new resources. Therefore, it matters when and where deposits are found and extracted; a country's political and institutional set up at the time of extraction matters for how resources are managed.

BOX 3. DONORS' WANING INFLUENCE IN THE DEVELOPMENT OF TANZANIA'S PETROLEUM INDUSTRY

For long, donors were vital in facilitating the cooperation between the Tanzanian state and the private foreign companies that could provide know how and capital. From a commercial point of view, the country was not an attractive investment destination. Geologically, it was largely unsurveyed. Politically, after the nationalizations of the 1970s, the country was deemed risky. And in market terms, the Songo Songo gas field that had been found in 1974 was small, world market prices were low, and the costs of transporting gas to developed markets were too high.

In 1979, when private-sector interests in developing Songo Songo were exhausted, the World Bank and other donors stepped in with credits to finance further exploration activities (Davison, Hurst, and Mabro 1988). This included training TPDC personnel in exploration activities and in project and financial management (Bank 1991). In 1988, Davison et al. observed that the TPDC was 'well supplied' with engineers and geologists, many of whom had been trained by the Norwegian aid agency (Davison, Hurst, and Mabro 1988, 210). Donors also supported the development of Tanzania's regulatory framework. The Petroleum (Exploration and Production) Act of 1980 was formulated with British Commonwealth support. An important aspect of the Act is to provide security for investors. This is no small feat after the previous decade of nationalizations of private companies under Tanzania's version of African socialism.

It was the production of electricity for local consumption that finally led the way to the commercial production of gas. A call by donors for a reform of the electricity sector in the early 1990s resulted in the re-commercialization of electricity services, including an opening up for private-sector power involvement in electricity production (Ghanadan 2009, 407). The Songo Songo Gas-to-Electricity Project, which only started producing electricity in 2004, thirty years after the discovery of the gas field, also became a reality with donor support. The project involves support from the World Bank, the European Investment Bank and SIDA, without which it would probably not have been possible to attract private foreign capital. Unlike other projects of this type, equity ranks over debt in the Songo Songo project (Hobbs 2001).

With higher world market prices and private investment projects underway, relations between the Tanzanian government and donors changed after 2000. Donors are still involved in the Tanzanian petroleum sector, but their role has become more advisory now that they are less needed for infrastructure investments. Norway is explicitly mentioned as being involved in the making of the draft petroleum policy, and it is also involved in other aspects of the current reform row that is changing the entire Tanzanian institutional and regulatory framework. Other bi- and multilateral donors are also trying to influence the development of the sector (Kamndaya 2014; Mission. 2013), but some are complaining that the government no longer listens.

WHAT DONORS CAN DO

The discovery of major oil and gas deposits in Sub-Saharan Africa means that donors' ability to influence the governance of natural resources is decreasing. Once petroleum deposits are discovered, the relative bargaining strength of actors – host governments, international oil companies, local communities and donors – changes (Mahmud and Russell 2002). Host governments become more assertive, and donor influence is reduced. Despite recent price fluctuations, the time when donors had a decisive say over petroleum policies and institutions (see Box 3) is probably over.
Generally, donors are likely to achieve more if they work along with the government's priorities rather than if they work against them. The identification of mutual interests provides a good point of departure. Some do so already. It is hardly a coincidence that oil-exporting Angola and Nigeria – not exactly beacons of transparency and good governance – were the biggest recipients of oil-importing US aid to Africa in the mid-2000s, though this may now be changing due to the US shale revolution (Klare and Volman 2006; Ndumbe 2004; Blas 2014). Less clear-cut is Norway's position. Through its own petroleum industry, Norway has economic interests at play in many places. Furthermore, however, through continuous support to capacity-building over many years, it has also been able to influence governance standards in developing countries, seemingly in the direction of more transparency, participation and openness (see Box 3). Indeed, Norway's example may provide elements to a model for donor engagement: while acknowledging that they are not direct partners in the negotiation processes, donors can contribute to building capacity in the institutions that govern and regulate the petroleum sector. Among the more important elements highlighted in the literature that deserve support is the establishment of an independent auditing capacity, in particular if a state participates directly in production through the development of its national oil company (Gary 2008; Marcel 2013; Bauer, Rielveld, and Toledano 2014).

Anti-corruption and transparency initiatives provide another possible avenue through which donors may seek to influence petroleum politics. There is donor money behind EITI, which provides an increasingly influential standard for the extractive sectors. By requiring some of the main actors – governments, companies and NGOs – to work together (EITI 2013, 40), it constitutes an innovative attempt to create a debate on these matters. EITI has been important in setting an anti-corruption agenda in many countries. The evidence that it has been successful in achieving compliance with this agenda is far less conclusive. This has to do with the political character of petroleum resources. Traditionally, petroleum in Sub-Saharan Africa has been considered closer to high politics, that is, it is seen as a strategic national resource that should be dealt with at the national level, with limited participation by actors other than state agencies and investors (Noreng 1994; Bridge and Billon 2013). The power inequalities may be influenced by initiatives characterized by voluntary participation like the EITI, but they are unlikely to be fundamentally changed by it.

If donors wish to influence the agenda in the direction of more participation and a better distribution of benefits, they have to acknowledge that petroleum is also about politics and relative bargaining strengths. This requires careful analysis of the political game and, in particular, of the interests of domestic elites. In a recent article on China's oil-backed loans, Ane Alves stresses that the impact of foreign involvement relies on the institutional structure of a country's oil sector and political economy. She finds that China is less successful in a liberalized context like Brazil than in a country like Angola, where the executive controls the oil sector closely (Alves 2013). In liberalized markets, the US strategy of improving the investment climate (for its own oil firms) may be more successful (Klare and Volman 2006). In other words, an avenue for influencing negotiating processes would be to ally with the actors, who may have overlapping agendas.

The proliferation of requirements for local content, community participation and CSR in laws and the increasingly ambitious CSR programmes of private companies testifies to the fact that there are other actors who may also be interested in doing good. These initiatives may not always be set in motion out of benevolence; experience has shown that conflicts at the local level may affect the profitability of operations. This does not make the incentive to make them work smaller. However, it has turned out to be difficult in practice (see Box 4). Often local-level actors are too weak to enter into any meaningful dialogue or partnership with governments and oil companies. Until recently, communities were not even on the radar when contracts were negotiated (Radon 2007, 91). The build-up of capacity of local-level actors and of those representing them at the national level is therefore no less important than that of the national authorities. This is also acknowledged by the petroleum industry itself, which, due to disappointing result of past programmes, increasingly stresses that it has to build on existing local capacity in order to make social investments successful. Where private oil companies previously tried to avoid local authorities, they are increasingly seeking to strengthen their capacity in order to create partners, increase transparency and improve the government's ability to respond to demands (IPIECA 2008, 14).

Donors without private-sector interests may play an important role as honest brokers in facilitating these relations among actors; governments preoccupied with national affairs may not always pay much attention to local interests, and, despite CSR programmes, private companies are only likely to work with communities as long as there is a business case for doing so. By supporting the capacity of existing local authorities and cooperation among actors, donors may have to look beyond the western-inspired NGOs based in the capitals and work with local governments at various levels, trade unions and associations of employers, and community, traditional and religious leaders. Ideally, support should not only include support to participation in specific investments projects, but also in formulating the policies and regulations that shape these projects prior to operations.

BOX 4. INVESTORS AND COMMUNITIES IN TANZANIA'S GAS SECTOR

In the 2000s, Tanzanian witnessed a move away from the do-no-harm approach to more interactionist relationships between investors and communities. This is reflected in changes in both policies and practice. Policy-wise there has been a change from the 1980 Petroleum Act, which merely states that operators shall affect as little as possible (Petroleum (Exploration and Production) Act 1980 1980, 73.3), towards more elaborate requirements on companies regarding how to engage with communities. Both the new Gas Policy and the Draft Petroleum Policy call for more formalized relations between communities, local government authorities and investors by making CSR activities contribute to local development plans (Draft Petroleum Policy 2014; The National Natural Gas Policy of Tanzania 2013).

The larger foreign oil companies currently involved in exploration and production are indeed taking a pro-active role by initiating impact assessments, preparing CSR activities and drafting memoranda of understanding with the government. Western companies are typically more ambitious in this regard than required by Tanzanian law, partly because of vigilant publics at home and partly because it is required in order to access international finance, for instance, from the World Bank's International Finance Corporation (IFC), which tends to set the standards on social and environmental issues. Recent violent protests in the south-eastern city of Mtwara against the construction of a gas pipeline have only increased the companies' interests in making the right entry. Experience from elsewhere in Africa indicates that non-Western firms may be less focused on CSR, but that they are catching up (Patey 2014b).

Despite progress, however, the challenge is to make these initiatives work in practice. Tanzania has a long tradition of drafting superb laws, only to see provision undermined by insufficient implementation. Observers point to the problem of coordination when both central and local governments as well as local communities and private investors are involved. In particular, the low capacity of local governments, ill-equipped and understaffed in this field as they are, and of local communities should be addressed if they are to engage in any meaningful dialogue and cooperation with investors and the government. The monitoring and enforcement of investor promises also require capacity. Communities affected by a rumored industrial park in the vicinity of the expected LNG plant in southeastern Tanzania will be beyond the reach of petroleum companies' CSR policies and thus deserve particular attention.