

PETROLEUM POLICY FOR SIERRA LEONE

POLICY GOAL

**TO USE THE COUNTRY'S PETROLEUM RESOURCES EQUITABLY
AND EFFICIENTLY FOR THE ACCELERATED DEVELOPMENT OF
THE COUNTRY AND IMPROVEMENT OF THE QUALITY OF LIFE OF
THE CURRENT AND FUTURE GENERATIONS OF SIERRA LEONEANS**

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TABLE OF CONTENTS

Introduction	2
Need for a Petroleum Policy.....	3
Resource ownership and the legal and Regulatory Framework.....	4
The Fiscal Regime.....	5
Good Governance, Transparency and Accountability.....	7
Health, Safety, Environment and Social Impact.....	8
Population Distribution.....	9
Licensing and Exploration.....	9
Work Programme and Operations.....	11
Local Content, Economic Development and Technology Transfer.....	13
Expectation Management.....	15
Transportation of Oil and Gas.....	15
Institutional Oversight and State Participation.....	16
Implementation of the Policy.....	17

1. Introduction

Petroleum exploration offshore Sierra Leone commenced between the 1970s and 1980s on shallow continental shelf. Exploratory wells drilled over the period penetrated significant thicknesses of reservoir quality sandstones ranging in age from mid-Jurassic to mid-Cretaceous. These exploration efforts were halted despite evidence of key hydrocarbon indicators, probably because of deep water economics, technology and distance from mature source rocks.

In 2001 the Parliament of Sierra Leone promulgated the new Petroleum Exploration and Production Act which established the Petroleum Resources Unit (PRU), with powers to regulate petroleum exploration activities in the country.

In 2000 – 2001, TGS-NOPEC acquired 5,800 line kilometers of 2D seismic offshore Sierra Leone. The area was divided into seven blocks, each of approximately 4,500sq km.

Following a bid round in 2003, four of the seven blocks were awarded to three companies. Further awards were subsequently made through direct negotiations and agreements between government and the companies.

In 2008, the Petroleum Resources Unit created three additional blocks.

Though exploration activities by the companies have been slow, one has advanced its exploration effort to the identification of petroleum prospects in one of its blocks. Drilling of one of these prospects in 2009 has led to the discovery of petroleum.

The announcement of this find together with the discovery of petroleum in neighbouring Ghana, has led to renewed interest in Sierra Leone by petroleum companies.

2. Need for a Petroleum Policy

Oil and gas are non-renewable resources which are therefore finite. Exploitation and utilization shall therefore be managed in a manner that creates durable and sustainable social and economic development for Sierra Leone. These resources have the potential to provide immense benefits to the country through creation of employment, generation of revenues, development of infrastructure and subsequently accelerated social transformation of the country.

Experience has however shown that successful management of any oil wealth based economy is strewn with significant challenges. The difficulties faced in trying to manage oil wealth result from the very specialized nature of the knowledge and skills needed in the oil sector, as well as the huge profit margins which lead to dependence on oil revenues. Over time, common features of what has come to be known as the 'oil curse' paradox have emerged which include; increasing the chances of conflict in a country; the tendency for the real exchange rate to become overly appreciated; exposing the country to volatility especially in commodity prices and environmental costs.

It is therefore necessary at this stage to develop a robust petroleum policy to address exploration and production of the country's petroleum resources more comprehensively than the Petroleum and Exploration Act of 2001. The Act will need to be reviewed through this policy, to bring it in harmony with the policy principles and the recent trends in the industry.

In 2009, the President set up a Presidential Task Force, mandated to review petroleum activities in the country and restructure the Petroleum Resources Unit (PRU), with a view to better positioning it to meeting the challenges of the developmental trends in petroleum exploration in the country. The Task Force set up several sub-committees

to address various areas of restructuring including one to formulate a draft petroleum policy document.

The draft policy provides for the administration, regulation and management of the upstream and midstream petroleum sectors through principles that address the following:

- Resource ownership and the legal and Regulatory Framework
- The Fiscal Regime
- Good Governance, Transparency and Accountability
- Health, Safety, Environment and Social Impact
- Population Distribution
- Licensing and Exploration
- Work Programme and Operations
- Local Content, Economic Development and Technology Transfer
- Expectation Management
- Transportation of oil and Gas
- Institutional Oversight and State Participation

Recognising the role stakeholders, civil society organisations and other institutions can play through advocacy, mobilisation and dialogue with communities, the draft policy was presented at a validation workshop involving the above, where the document was extensively discussed, and comments and suggestions made. Most of these were incorporated into the final document before presentation to and adoption by cabinet.

3. Resource Ownership and the Legal and Regulatory Framework for the Industry

Ownership of petroleum is pivotal to government's policy and necessary to prevent potential conflicts in the future. The legal frameworks supporting the industry shall protect the rights of all other participants in the industry and the citizens of Sierra Leone.

In order to provide predictability, stability and profitability to both investors and the nation, petroleum activities shall be conducted with due diligence and efficiency.

- (i) All petroleum existing in its natural state within the jurisdiction of Sierra Leone is the property of the state and shall be exploited and managed for the benefit of the people as a whole. This policy is enshrined in the Petroleum Exploration and Production Act, 2001.
- (ii) The conduct of petroleum activities shall be properly controlled through laws, regulations and contracts. The legal framework shall be transparent and provide predictability for the industry but shall at the same time be flexible enough to adjust for important changes in prevailing circumstances. The constitution empowers parliament to make laws regulating the exploration and exploitation of minerals and petroleum, the management of accruing revenues, payment of indemnities, and the conditions for the restoration of derelict lands. This mandate together with the Petroleum Exploration and Production Act, 2001 provide the legal and regulatory framework under which petroleum exploration has been promoted and regulated in the country.
- (iii) The Petroleum Exploration and Production Act, 2001 has so far formed the basis for the promotion, and current petroleum agreements in the country, but the Act will need to be reviewed after this Petroleum Policy is put in place, so as to operationalise the policy, make the Act more suitable to handle the development and production of oil and gas and appropriately capture the recent trends in the industry.

4. The Fiscal Regime

The policy defines the core principles according to which the fiscal regime is to be developed. This makes for transparency and predictability to the government, investors, the citizens and those regulating the industry.

- (i) The government institution responsible for petroleum shall cooperate with other relevant institutions to achieve development goals and objectives, optimal revenue collection, the highest possible local value addition and maximum environmental protection.
- (ii) The Government shall establish a transparent and predictable fiscal regime for the collection, verification and utilization of petroleum revenues for the benefit of current and future generation.
- (iii) The development of the petroleum sector and the use of revenues generated by it shall be coordinated closely with the country's National Development Plan. The sector shall not crowd out other sectors of the economy.
- (iv) Government shall also promote fiscal discipline to ensure that correct petroleum revenues are collected and accounted for, and establish mechanisms to facilitate and simplify fiscal administration. In the management of revenues generated by the petroleum sector, government shall take measures to prevent excessive volatility of the national budget or key macro-economic variables.
- (v) For fiscal progressivity, government shall, in addition to royalty and income tax, adopt an explicit Progressive Revenue Sharing Mechanism.
- (vi) To the greatest degree possible and for predictability, transparency and stability, fiscal terms shall not be determined by negotiations of individual contracts but established in laws and regulation.
- (vii) Revenues shall be properly managed and utilized to create new wealth. Government shall therefore ensure that petroleum revenues are used to boost balanced growth and sustainable development of the economy. One measure that shall be adopted shall be the establishment of a Petroleum Fund to ensure effective petroleum revenue management and to serve as a source of future funding to sustain the economy after the oil boom. In addition, the fund will contribute to overall price stabilization of shocks from fluctuating oil prices.

- (viii) Investors shall at the same time be able to obtain a reasonable return on their investments under a variety of economic circumstances.
- (ix) To minimize misreporting and transfer pricing abuse, government shall set out rules and procedures to ensure that companies make sales commitments to affiliated purchasers only at prices based on or equivalent to arms length sales to non-affiliated purchasers, and in accordance with such terms and conditions on which agreements would be made if the parties were not affiliated. This shall also apply to procurement of goods and services.
- (x) This Fiscal Regime shall be commensurate with adopted EITI principles and other international best practices. All companies / entities should comply with International Financial reporting and Audit Standards consistent with best practices and General Accepted Accounting, Auditing and Reporting Standards.

5. Good Governance, Transparency and Accountability

The policy provides a strong opportunity to infuse the legal regime with the values of good governance, transparency, and accountability, which are core elements of a petroleum sector that responds to the needs of its citizens and prevents conflict.

- (i) General principles of good governance shall be applied to the petroleum sector for the benefit of the nation as a whole and in order to entrench transparency, credibility, predictability, accountability and integrity in all activities of the industry such as licensing, procurement, exploration, development and production operations as well as management of revenues accrued.
- (ii) Key stakeholders such as the legislature, communities and civil society organizations shall be regularly informed about key developments in the sector through government information media. This will provide stakeholders the

opportunity to participate in policy decisions. Such openness will engender confidence and minimize, if not eliminate, suspicion and dissent.

- (iii) Government and other stakeholders shall participate in the Extractive Industries Transparency Initiative, as they currently do in other sectors. Relevant data on petroleum revenue will be published according to the principles, criteria and procedures established by the Initiative.
- (iv) Government shall publish the text of any existing or future petroleum agreements governing exploration and exploitation companies or groups but at the same time avoiding the disclosure of information whose publication would materially damage a party's legitimate business interests.
- (v) The expenditure of petroleum revenue shall be transparent and subject to rules that provide for oversight in accordance with international best practice.
- (vi) Gender equality shall be observed as far as possible for all levels of appointments and participation in the sector.

6. Health, Safety, Environment and Social Impact

The petroleum sector can have serious negative impacts on the health and safety of the country's citizens and communities, and on long term social and environmental sustainability. The policy lays out key principles that should ensure effective management of these risks.

- (i) The environment, human development and biodiversity should be neatly balanced for mutual benefit and survival. This policy shall contribute to and promote this balance to ensure sustainable development. Petroleum operations have the potential to cause irreparable damage to the environment and compromise the socio-economic conditions, health and safety of the people, thus affecting the sustainable development of the country. Government shall ensure that health,

safety, security and environmental issues are integrated into the planning and development of the petroleum sector.

- (ii) Environmental and Social Impact Assessment and Environmental Management Plan shall be submitted by petroleum companies, which shall be evaluated by the Sierra Leone Environment Protection Agency and any other competent authority, as required by the SLEPA Act (2008), prior to initiation of activities. Such assessment shall be comprehensive and cover areas specified in the Act, including oil spill contingency plan and an Emergency Preparedness Response Plan (EPRP). Anticipated or real negative impacts shall be mitigated and positive impacts promoted.
- (iii) The holders of a licence shall be strictly, jointly and severally liable for any pollution damage resulting from their operations; the principle of ‘strict liability’ shall apply in all such cases.
- (iv) Companies are required to comply with all sub-regional, regional and international conventions and treaties in the petroleum, maritime, fishing and other related sectors to which Sierra Leone is a signatory.
- (v) At the end of a petroleum activity, the environment shall to the extent possible be brought back to its original state. Companies shall provide financial assurances to ensure that the environment will be rehabilitated at the end of the activity.

7. Population Distribution and Local Socio-Economic Development

Petroleum activities could lead to demographic shifts within the country leading to pressure on limited infrastructure and social services, in areas of petroleum activities. The distortion in manpower distribution in the country could also negatively impact other productive activities such as agriculture. The policy attempts to minimize these impacts.

- (i) Experience from some countries shows that oil and gas producing regions may attract labour and threaten other sources of productivity thus leading to the abandonment and collapse of other sectors of the economy. It is therefore possible that large numbers of people may move to coastal towns where oil and gas activities are likely to be concentrated. To minimize this, government shall encourage industries to establish their operations in other centers, thus creating employment opportunities in those areas.
- (ii) Local industries supplying petroleum activities shall be encouraged, as far as possible, to be spread throughout the country to avoid concentration around typically petroleum centres of activities.

8. Licensing and Exploration

Experience has shown that the petroleum industry attracts well qualified companies as well as speculators. In order to protect the interest of the country, work with well qualified partners and provide information to the citizenry, the policy lays down the criteria to be adopted for obtaining the rights to conduct petroleum activities in the country.

- (i) The area of exploration and production of petroleum shall be divided into blocks, the sizes of which shall be determined by government but in any case not exceeding 2,000 sq km. based on international standards for countries in which oil has been discovered. In given circumstances a license may cover more than one block.
- (ii) Licensing shall be based on a transparent competitive bidding process to get the best returns for the country and attract well qualified partners. Bid rounds shall be announced as and when they are considered necessary.

- (iii) Only pre-qualified companies that meet government's criteria for pre-qualification shall be permitted to bid as part of the bidding where emphasis will be put on the obligatory work programme offered.
- (iv) More than one company may jointly bid for a licence. To benefit from the advantages of internal control a licence shall, as a main rule, be granted to more than one pre-qualified company, with one of them, subject to the approval of government, being the operator of the licence.
- (v) For transparency and equity, allocation criteria shall be published in order to inform petroleum companies of the basis for allocation.
- (vi) All exploration and production shall be conducted through licence granted by government following the bidding process.
- (vii) Any transfer of licence or operatorship shall be subject to approval by the government. These measures should minimize the risk of unqualified companies acquiring blocks or operatorship by indirect methods.
- (viii) No petroleum activity shall be permitted to be carried out in areas where the boundary with a neighbouring state is unsettled. Should an exploitable reservoir extend into an area under the jurisdiction of a neighbouring state, a joint solution based on unitization shall be found before the commencement of production. In addition, the policy shall promote transboundary cooperation based on existing foreign policy principles, agreements and protocols.
- (ix) Should an exploitable reservoir extend across two or more concession areas with different licence holders, the reservoir shall be exploited jointly by all the licence holders as a single unit.

9. Work Programme and Operations

One of the major goals of this policy is the establishment of principles to ensure that Sierra Leone's petroleum deposits are developed efficiently and effectively. Government shall therefore ensure effective oversight of petroleum activities and company actions that conform to effective international practices.

- (i) All operators of petroleum licence shall establish an office in Sierra Leone under Sierra Leonean law and jurisdiction.
- (ii) Operators shall be expected to conduct their activities diligently and efficiently in conformity with the best international techniques and practices prevailing in the petroleum industry and with due regard to safety and environment so as to ensure sustainable development of the resources.
- (iii) Government shall establish effective systems for monitoring and auditing petroleum operations to ensure compliance with prevailing conditions and shall for that purpose be granted access to relevant sites and materials.
- (iv) In order to protect national interests, important plans and any subsequent changes to plans for the monitoring of the activities, such as Field Development Plans, long term and yearly production programmes, phase-out and decommissioning plans, shall be submitted to the government and be subject to its approval.
- (v) The decision by a contractor that further production is no longer commercial does not preclude further production under different licences. Government shall therefore pursue ways and means of maintaining production in order to maximize resource recovery.
- (vi) Since decommissioning is of significant environmental importance in the national interest, government shall in addition to approving decommissioning plans, monitor the manner in which decommissioning of installations is performed to

- ensure that legal and environmental obligations to restore the environment are largely met and that other interests affected are protected. In the event that government decides to make use of any of the infrastructure the licensee shall be given adequate notice of this, and both parties shall agree on the terms and conditions of use of such infrastructure.
- (vii) Operators shall be required to provide the government with periodic reports on their petroleum activities. The frequency of reporting shall be determined by government. However government shall be immediately notified of any discovery made.
 - (viii) All data derived from petroleum operations shall belong to the state. A licensee or operator shall maintain in Sierra Leone, complete and accurate records of all petroleum operations carried out by the company. Such data must be collected and stored in a responsible and sustainable manner for easy access and use.
 - (ix) Government shall establish procedures and criteria for step-by-step relinquishment of licensed areas which shall be transparently and consistently enforced, to ensure that exploration is carried out within acceptable time limits.
 - (x) Surface rentals shall be levied and increased in steps to encourage the gradual relinquishment of those parts of the area where the petroleum companies do not plan to undertake activities.
 - (xi) Given that petroleum resources are finite, all petroleum companies shall be expected to optimize production, utilizing only the best available technology and field practices. To this end government shall closely monitor reservoir performance and shall engage with petroleum companies, when necessary, on improvements in the field development plan to ensure optimal recovery at all times but at a rate appropriate for the development of the country and its economy.
 - (xii) In furtherance to national and global efforts to reduce emissions of greenhouse gases, protect the environment and considering the fact that natural gas is a

valuable resource, government shall maintain a policy of no flaring or venting of natural gas, except for testing, emergencies and for safety reasons. Because of the high potential of natural gas for export and domestic use as a clean energy source, government shall provide incentives for its utilization.

- (xiii) With the aim to maximize efficiency and production, spare capacity in infrastructure, such as installations and pipelines shall be made available to other users on fair and equitable terms, provided such use does not unreasonably interfere with the owners' own operations.
- (xiv) The government shall establish procedures for remedial actions and penalties in cases of non-compliance by the petroleum companies.

10. Local Content, Economic Development and Technology Transfer

The petroleum sector shall be managed so as to promote the development of Sierra Leone. This shall be achieved through several mechanisms including revenues paid to government, development of local companies, transfer of technological knowledge to Sierra Leone and the training of Sierra Leonean professionals. Government shall as a policy decide on the macro-economic management of petroleum revenues.

- (i) Government shall ensure that petroleum revenue collected is invested in equitable, sustainable and value oriented national development for current and future generations of Sierra Leoneans.
- (ii) In addition to government's fulfillment of its primary responsibility for manpower development in the country, operators of petroleum activities in Sierra Leone shall have a responsibility to contribute to the building up of national competence in the petroleum industry and to include nationals on their staff. In order to maximize national participation, government shall facilitate a structured and organized collaboration among the petroleum industry, the local universities, business associations and local communities.

- (iii) All petroleum companies shall be expected to support the nation's efforts to achieve gender equality and expertise over time.
- (iv) In order to support local businesses, Sierra Leonean goods and services shall be used in the conduct of petroleum activities to the extent feasible.
- (v) The government may request petroleum companies to place at its disposal, quantities of petroleum produced, needed to cover national requirements, at an established market price.
- (vi) All companies are encouraged to undertake a robust self-financed and non-deductible Corporate Social Responsibility.

11. Expectation Management

The perceived importance and benefits of petroleum activities in the country have raised significant expectations in the public, while the poor management of the sector in some countries has raised some anxieties.

- (i) Government shall provide the public with accurate and timely information about the activities in the sector to address false expectations and pre-empt the dissemination of false and/or unfounded information about petroleum operations.
- (ii) Government shall engage with all stakeholders and civil society organizations, as and when necessary, to address matters of concerns.

12. Transportation of Oil and Gas

Transportation of oil and gas poses its own challenges, chief among which is environmental. Government shall therefore put regulatory framework in place for utilization of transportation infrastructure and effective oversight.

- (i) The laying and operation of pipelines, not being part of a development plan, shall be subject to a special licence.
- (ii) All infrastructure for transportation of oil and gas shall be designed to the highest industry standard and shall be utilized and operated so as to maximize production and utilization.
- (iii) With the aim to maximize efficiency and production, spare capacity in infrastructure shall be made available to other users whose interest shall be secured on fair and equitable terms, provided such use does not unreasonably interfere with the owners' own operations.
- (iv) Development and operation of the minimum infield transportation and pipelines for the production and disposal of petroleum to the primary market shall not require separate licences if developed as part of a field development plan.
- (v) Government shall encourage third party development, ownership and operation of pipelines and transportation infrastructure.
- (vi) In case of pollution, the pipeline owner/operator shall be liable based on the principle of 'strict liability'

13. Institutional Oversight and State Participation

Government shall establish effective systems for licensing monitoring and auditing petroleum operations to ensure compliance with regulations, laws and contract terms. It shall also set up a state-owned national oil company to participate in the whole spectrum of commercial petroleum activities in the country to enhance the benefits from petroleum for the government and people of the country, such as expansion of employment opportunities, acquisition of diversified skills and generation of revenues.

- (i) The Office of the President shall be responsible for formulating the policies, regulations and procedures governing the petroleum industry, and shall create institutions or bodies for the achievement of these goals.

- (ii) The President shall appoint and vest authority in a body or Board of Directors, with a technical/professional bias, to supervise the regulating authority, which shall be reporting to him. As part of its Terms of Reference, the Board shall have continuous communication with stakeholders and the public on developments in the sector.
- (iii) The Petroleum Resources Unit shall be restructured and strengthened with requisite capacity to continue to serve as the regulatory body.
- (iv) The Unit shall have monitoring and oversight responsibilities of the industry, ensuring that the activities of oil companies are in consonance with the laws and regulations governing the industry.
- (v) The Unit shall report periodically to parliament on the activities in the industry.
- (vi) The Unit, under the supervision of the Board, shall be responsible for licensing, cost monitoring and oversight of technical plans and production profile.
- (vii) Government shall set up and incorporate a state-owned National Oil Company, which shall participate in commercial activities of the sector and be responsible to optimize the value of the state's interest in any oil venture.
- (viii) Government shall at the appropriate time, determine the type of state participation in the sector.
- (ix) The company shall collaborate with other operating companies in the management of exploration, development and production of petroleum.
- (x) The company shall endeavour to strengthen human capacity in the industry.
- (xi) The company shall report regularly on its activities to government, through its Board of Directors.

14. Implementation of the Policy

Implementation of this policy will require revising the Petroleum Exploration and Production Act of 2001. The revised Act would encapsulate administration and management of petroleum revenues, developing and implementing a communication strategy to manage public anxiety and expectations, preparation of procedures and criteria for competitive bidding and licensing and creation of a new institutional framework for the sector.

