

AFRICA RISK CONSULTING

Tanzania Monthly Briefing April 2015

Tanzania Summary 17 April 2015

The National Electoral Commission suspends indefinitely the referendum on constitutional reform, citing a lack of biometric voting registration equipment. The more likely reason is the inability of the ruling Chama Cha Mapinduzi (CCM) to reach consensus on reform across the political spectrum, and CCM fears of losing the in-built political advantages it enjoys from the current 1977 constitution. The referendum suspension also increases political tensions ahead of the October general election where the CCM is expected to face a significant challenge from the main opposition parties. Norway-based Statoil confirms a large offshore gas discovery but lower energy prices and local market uncertainty, caused by continuing government delays on key policy and regulatory issues, deter foreign majors from committing significant investment in the sector. The government revokes Tanzanian Port Authority (TPA) contract for the development and management of Dar es Salaam Port.

National Electoral Commission postpones referendum

The **National Electoral Commission (NEC)** has postponed indefinitely the planned 30 April constitutional referendum, highlighting again the glacial pace of political reform in Tanzania. The proposed new constitution would have replaced the current 1977 constitution, created when Tanzania was a single-party state and reflecting the obsession of founding father **Julius Nyerere** (1961-1985) with Maoist **China**. The NEC postponed the referendum on 2 April, citing a lack of biometric voting registration kits. Both the ruling **Chama Cha Mapinduzi (CCM)** and the opposition **Chama cha Demokrasia na Maendeleo (Chadema)** had criticised the preparedness of the NEC after it had only launched its biometric voter registration system in February.¹

There are bigger issues behind the postponement. Chadema has had long-standing concerns about the drafting process for the new proposed constitution, notably over the status of **Zanzibar**. Tanzania is notionally a “united republic” of two territories: **Tanganyika** (the mainland) and Zanzibar (the offshore islands). The CCM-dominated constitutional assembly approved a draft document in October 2014 after Chadema and the other main opposition party, the Zanzibar-centred **Civic United Front (CUF)**, had boycotted the process.² The CCM’s built-in majority in the constitutional assembly had rejected an earlier draft, written by a committee of independent experts, proposing a devolved, three-tier federal government structure consisting of Tanganyika, a semi-autonomous Zanzibar and a political union of the two for major national questions, defence and foreign policy.

The CCM-backed draft retained the current constitutional arrangement of separate governments for the mainland and Zanzibar, with the Zanzibar-based government responsible for matters that affect Zanzibar alone. The draft alters the relationship between Zanzibar and the mainland: it proposes that the president of Zanzibar would automatically become one of three Tanzanian vice presidents, the others being the prime minister and one appointed by Tanzania’s president. However, this is a largely symbolic gesture, and the CCM’s opponents have said it will make little difference given what they call the CCM’s history of vote-rigging in Zanzibar elections.

¹ The Citizen, 21 Jan 2015.

² Reuters, 8 Oct 2014.

An **Afrobarometer** survey suggests public backing for the opposition's stance, with mainlander support for Zanzibari autonomy up from 8% in 2013 to 32% in 2014.³ Zanzibar is key to the new constitution passing, as the **2013 Referendum Act** states that any draft must obtain 50% (plus one vote) of both the mainland and Zanzibar electorates in order to pass.⁴ In addition, the Referendum Act stipulates that in the event of a "no" vote, another referendum must be held within 60 days.

Zanzibar was not the only contentious issue. CCM also removed from the earlier draft a proposal limiting presidential powers, including one giving parliament the authority to approve senior government appointments. Concerns over alleged CCM manipulation of the drafting process has pushed Tanzania's two main opposition parties into an increasingly united front – Chadema and the CUF (**Chama Cha Wananchi** in Swahili) have agreed to put forward joint candidates in the October general election and had threatened to boycott the referendum. Chadema's support is concentrated in Tanganyika and the CUF's on Zanzibar, meaning that the CCM for the first time faces a broad-based national electoral threat.

Suspension threatens to undermine CCM's authority

The referendum suspension is a blow to the already-damaged authority of the CCM, following a series of major corruption scandals, Tanzania's economic under-performance, and ongoing infrastructure problems, especially electricity generation. The CCM's dominant political position ensures that it enters the October general election as favourite to retain the presidency. The CCM has ruled Tanzania formally since the advent of multiparty democracy in 1995, but in reality since independence from the **United Kingdom (UK)** in 1961. Among other things, the party controls the security forces, the major organs of state and key regional appointments.

However, the October elections will also involve elections for parliament and local government, which play to Chadema and the CUF's local organising strengths. Ongoing CCM infighting over a candidate to succeed President **Jakaya Kikwete** (2005-present) who is in his final term, has contributed to a public perception that the party is only interested in securing jobs for itself.⁵ This perception is not new: the CCM's vote share decreased from 80% in the 2005 elections to 62.5% in 2010. Analysts expect it to fall further this year.

The front-runners in CCM for the nomination to succeed Kikwete are prime minister **Mizengo Pinda** and **Edward Lowassa**. Pinda is Kikwete's favourite and a close friend, yet is hard to sell to the public.⁶ He was implicated in the **Independent Power Tanzania Ltd (IPTL)** scandal in 2014, where it was alleged that officials sought to use a vehicle owned by a **Malaysian** company to siphon off government debt repayments. Lowassa resigned as prime minister himself following the earlier and separate **Richmond** power scandal in February 2008. Though Lowassa was never prosecuted, "*his name is a by-word for corruption*".⁷ Pinda's and Lowassa's chances are not helped by the fact that early front-runners in CCM elections seldom win. Several outsiders are still in the frame, including foreign minister **Bernard Membe** – who has family connections to Kikwete (and Kikwete himself was foreign minister before winning the nomination)⁸ – and the **United States (US)**-educated and youthful **January Makamba** (whose father is a long-standing CCM stalwart and ally of Lowassa).

The CCM has also been struggling to attract support from Tanzania's increasingly young (urbanised and unemployed) population with only 44% of under 35's supporting CCM; compared to 60% of the 35-50 age group.⁹ Neutral CCM sources report that Makamba might prove attractive to some in the party who want to break with past scandals and renew the party's popular standing.

³ www.mtega.com

⁴ Clyde & Co, Nov 2014

⁵ Source, business consultant, Tanzania

⁶ Africa Review, 2014

⁷ Source, former western diplomat

⁸ Source, business consultant, Tanzania

⁹ East African, 2014

Statoil confirms large offshore discovery

Norway-based Statoil confirmed an offshore discovery of 1-1.8 trillion cubic feet of gas on 30 March.¹⁰ The government's repeatedly delayed publication of key policy and regulatory frameworks for the oil sector have created market uncertainty and means that commercial production of offshore deposits remains a distant prospect. Expecting no movement from the government before the October elections, international oil companies are currently working to a timetable of final investment decisions in 2016 and shipping the first liquefied natural gas (LNG) cargoes by 2020.¹¹ But, according to sources in the sector, even these targets may now be optimistic, especially with pressure from parliament on the government and the **Tanzania Development Corp (TDC)** to publish the production sharing agreements (PSAs) it has so far negotiated with foreign investors.¹²

Recent allegations of official corruption in the sector are also unlikely to encourage investors to accelerate their decision-making. The energy ministry was embroiled in the IPTL scandal (see above), which led to mines and energy minister **Sospeter Muhongo** resigning in January. The slump in international oil prices since mid-2014 has also raised concerns about profit margins; much of Tanzania's offshore gas is in deep water and will be costly to extract and export (if, as expected, government will seek to oblige producers to bring it onshore first). There is also a global surplus of LNG at present, raising questions about whether there is a sufficient long-term market to justify the capital outlay on development and the LNG terminal construction.

Many of the sector's concerns are longstanding. Government decision making remains slow, with officials yet to approve a proposal for an LNG plant or to implement the host government agreements for the offshore project. There is also ongoing regulatory uncertainty.

"Two years ago no-one thought of huge gas projects in Tanzania. So, policy makers face a steep learning curve in the process of finalising very complicated gas legislation... Many policy decisions they are facing are quite new. But slow decision-making is inherent in CCM; every major investment is political and everyone in the party wants their say and/or seeks to gain an advantage. It is almost as if the needs of investors don't matter."¹³

The government is also yet to pass the long-overdue **National Natural Gas Policy (NNGP)**. It had aimed originally to ratify the NNGP – which will replace the **1980 Petroleum Exploration and Production Act** – by November 2012.¹⁴ The cabinet eventually approved the draft policy in November 2013, but – nearly two years later – the government has yet to even introduce a bill centred on the draft to parliament. The NNGP draft calls for the establishment of a national revenue fund to ensure transparency over the allocation and management of gas revenue.¹⁵ The draft also argues that the domestic energy market should be prioritised over export markets, potentially limiting the freedom of producers to secure the best price for their gas and complicating their investment planning.¹⁶ The draft also states that the government may levy *ad hoc* windfall taxes and royalties as well as corporate and income taxes, and take a stake in gas production projects, but does not specify exact terms.¹⁷

The government's own pronouncements have merely encouraged uncertainty. In April 2014, Kikwete said that the government simply hadn't yet decided whether to introduce a super profits tax on the gas sector.¹⁸ The government, in November 2013, had published model PSAs stating that the TDC

¹⁰ Energy Voice, 2015

¹¹ Ophir Energy PLC Capital Markets Presentation, 2014

¹² East African, 11 Jan 2015

¹³ Source, economist, Tanzania

¹⁴ Reuters, 19 Nov 2013.

¹⁵ Reuters, 19 Nov 2013.

¹⁶ Reuters, 19 Nov 2013.

¹⁷ Bloomberg, 14 Apr 2014.

¹⁸ Bloomberg, 14 Apr 2014.

should hold a 25% stake in all blocks, even during the exploration and appraisal stages.¹⁹ It is still unclear whether the NNGP, if adopted in law, would alter this. The government also published in April 2014 a draft local content policy for the entire gas sector supply chain, potentially increasing investor costs yet further, but has yet to publish any details or numbers.

The government is also yet to reform its institutional framework that will set out tariffs and charges. A draft upstream policy contains provisions for the partition of the TDC into an independent upstream regulatory body and a new national oil company.²⁰ But there are no signs of this unbundling process getting under way yet. Even if it did, it may only – in the short term at least – create institutional confusion and bureaucratic turf wars.²¹ The government is also yet to establish an independent gas authority, as set out in the NNGP. This authority, if/when operational, would be responsible for important issues like issuing licences to investors, approving gas infrastructure and determining tariffs.²²

Government revokes port development contract

The government on 21 April revoked a **Tanzanian Port Authority (TPA)** contract for the development and management of **Dar es Salaam Port**.²³ The government's official policy is to develop Tanzanian rivals to the dominant **Port of Mombasa (Kenya)** as the gateway to **East Africa**. But regional shipping sources say that local corruption, bureaucratic inefficiency and logistical challenges make this improbable even as a long-term goal.

The then acting TPA managing director **Madeni Kipande** had agreed a joint venture contract with **Impala Terminals Tanzania Ltd**, part of the **Trafigura Group**, in September 2014²⁴ to expand the Dar es Salaam port. But the government suspended Kipande in February 2015 (the TPA is a parastatal company overseen by government officials) amid allegations of a lack of transparency in TPA tendering processes.²⁵ Under the now-revoked agreement, Impala Terminals Tanzania would have acquired a 51% stake in Dar es Salaam port plus the development rights for the port's expansion (traffic passing through the port is currently increasing at 12.8% annually, despite the operational and capital constraints it faces).

As well as looking to expand Dar es Salaam port, the government has signed separate contracts for the \$11 billion Chinese-financed and constructed **Bagamoyo Port** (a short distance north of Dar es Salaam). Sources report that completion of the first stage of construction is expected by 2017-2018, though delays are inevitable. The project aims to give Bagamoyo the capacity to handle 20 million twenty-foot equivalent container units (TEUs) a year and the government has been looking to international markets for investment in the project. In March 2015, finance minister **Saada Mkuya Salum** confirmed the government hoped to obtain credit ratings before the end of the financial year in June as a first step to issuing a \$1 billion Eurobond in the middle of the year to fund this and other investments.²⁶

Implications

The suspension of the constitutional reform referendum leaves unanswered key questions around Tanzania's commitment to modernisation. The perception that the CCM has used the process to push through proposals that favoured only its interests has succeeded in unifying Chadema and the CUF, something that the opposition parties themselves had been unable to do on their own. Nevertheless,

¹⁹ www.tpsc-tz.com

²⁰ www.nortonrosefulbright.com

²¹ www.nortonrosefulbright.com

²² www.nortonrosefulbright.com

²³ The Citizen, 21 Apr 2015.

²⁴ The Citizen, 21 Apr 2015.

²⁵ Tanzania Daily News, 17 Feb 2015.

²⁶ Bloomberg, 17 Mar 2015.

the power of incumbency – notably control of the electoral machinery, the police, the army and intelligence services – and the ability to make it difficult for the opposition to reach the rural population – combine to ensure that CCM still enters the general election as favourite.

The competition for votes in urban areas, where the opposition is increasingly visible, threatens to make these elections the most hotly contested and potentially violent in the country's recent past.

“Before the 2010 elections, fearing a strong Chadema performance, senior army generals made an unprecedented public statement, in effect saying: ‘have your election, people, but don’t be stupid enough to vote for the wrong crowd’. This sent a chill through civil society, and may have had the effect of scaring some people into voting for CCM, especially in rural areas. Given the opposition’s greater relative strength this time, the generals must be planning a similar statement before October. But if they do, it could well backfire with the voters and the international community, who still fund much of the government budget. Either way, it would be a dangerous statement of intent, that the old CCM guard does not intend to surrender the state, whatever the people decide. And it would merely galvanise the opposition to prepare accordingly.”²⁷

The political and regulatory paralysis affecting the Tanzanian oil and gas sector is not going away soon, whoever wins the elections in October. Even if an opposition coalition does not win the presidency, it will show strongly in parliamentary and local elections, and in Zanzibar, enough to delay or derail those government policies that even progress to legislative stage. A new CCM president will also mean a new team of ministers and advisers, each seeking to advance his or her own interests and agendas. The CCM government’s failure to move the key gas policy and regulatory dossiers forward to date is likely an admission that everything will change in 2016 in any case, including the NNGP.

All this uncertainty will further delay final investment decisions by major potential investors and may even encourage some of the smaller (or cash-strapped) ones to pull out. But the scale of Tanzania’s offshore deposits, their proximity to finds in **Mozambique** and Kenya, and their geographical advantage for meeting **Asia’s** long-term LNG requirements should encourage most investors to be patient.

The government’s revocation of the TPA contract and plans to launch a Eurobond suggest that the CCM still holds notional hopes about meeting its infrastructure deficit. Infrastructure investment is key if Tanzania is to maximise the benefits from its natural gas deposits as well as open its agricultural potential for export. Dar es Salaam could also benefit from the growth of regional markets: the port is still the main route for goods to neighbouring **Burundi** and the **Democratic Republic of the Congo (DRC)**. But Dar es Salaam port has been a problem for years. Attracting replacement investors and/or issuing a Eurobond may not be as easy as the government thinks. **Uganda** failed to attract bond investors on the right terms earlier this year, and Tanzania does not enjoy nearly the same market reputation for delivery or fiscal discipline as neighbouring Kenya.

²⁷ Source, former senior diplomat and Tanzania analyst previously based in Dar es Salaam

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