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Commercialisation Of The East Africa Crude Oil Pipeline (EACOP) Project

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Background

The **EACOP project**, which runs on 1,443km, is a crude oil export pipeline that will transport Uganda's crude oil from Kabaale – Hoima in Uganda to the Chongoleani peninsula near Tanga port in Tanzania.

On April 11, 2021, Governments of Uganda and Tanzania, International oil firms **Total E&P Uganda Ltd, Total East Africa Midstream (TEAM) B.V, and the China National Offshore Oil Company Uganda Ltd (CNOOC)** signed four (4) key project agreements to commence the long awaited 14-year commercialization of the project. Since Uganda discovered commercial deposits of oil in 2006, significant milestones were made which brought an estimated visibility to the long awaited announcement of the full project Final Investment Decision **(FID)** at the end of the second quarter of 2021 and the first oil production estimated to start in 2025.

The high level signing of these agreements took place at Uganda's State house in Entebbe with the participation of the incumbent President of the Republic of Tanzania, Samia Suluhu Hassan. Though there are a number of agreements to be signed (bundle of agreements) the four key project bundle agreements that were signed include; **the two Host Government Agreements (HGAs)** each executed by the Governments of Tanzania and Uganda as well as the **Total East Africa Midstream (TEAM)** B.V who is the lead project developer for the **EACOP** (these had previously been initiated by the two Governments (i.e. Uganda Government on September 11, 2020 with the Tanzanian Government initialed on October 26, 2020)

The Shareholders Agreement (SHA) between the four shareholders **in the EACOP holding company (EACOPCo); the Joint venture Partners (JVP)** from the upstream project **(Total E&P Uganda and CNOOC)** as the majority shareholder with Seventy (70%) per cent shareholding, the **Uganda National Oil Company (UNOC)** with Fifteen (15%)per cent, and the **Tanzania Petroleum Development Corporation (TPDC)** offered Fifteen (15%) per cent shareholding (still holding as a tentative share allotment option), and the **Tariff and Transportation Agreement (TTA)** between the Pipeline company (represented by **Total East Africa Mid-stream (TEAM) B.V)** and the shippers of Uganda's crude oil through the pipeline
(represented by the **Minister of Energy and Mineral Development** in Uganda on behalf of the JVP Upstream crude oil production companies and UNOC).

Implication and highlights of the key commercialization agreements signed:

i) The Inter-Governmental Agreement

The Inter-Government Agreement (IGA) also referred to as the **Heads of State Agreement** represents an international treaty or agreement between or amongst the countries across which the crude oil pipeline traverses. The first key project milestone in relation to the commercialization of the **EACOP** project was earmarked by the signing of the **IGA** between the governments of Uganda and Tanzania providing the overarching regulatory framework for the crude oil pipeline in May 2017. The **IGA** defines countries' commitments to authorize planning, design, construction and operation of the project highlighting the fundamental project principle that transit countries have a key obligation not to interrupt or impede the freedom of transit of petroleum.

ii) The Host-Government Agreement

The **Host-Government Agreements (HGA)** is an agreement between project investors **(Pipeline Company)** and the respective pipeline host governments. The HGA generally expands on some of the issues identified in the IGA but they are both aimed at facilitating the implementation of the crude oil pipeline projects and should be consistent.

The **IGA and HGAs** spell out obligations that the respective host states must fulfil in relation to the pipeline project. The **HGA** is governed by the **IGA** and the National laws of the host country. Each host State make commitments under these agreements that they are obligated to honor and defines tax regimes applicable to the pipeline company and its shareholders in the country of activity. The **HGA** will also stipulate the conditions for obtaining the necessary ‘pipeline license(s)’ and ‘permits’ in each host country prior to the beginning of construction and operation of the pipeline. Generally, the full execution of the **HGA** commits all key players in the project to establish and maintain a favorable environment to enable the pipeline project. As a key indication, the Government of Uganda (with 20% of the project pipeline) and Tanzania (with 80% of the project pipeline) are keen to implement the provisions in these agreements that enhance economic prosperity as well as safeguard the well-being of citizens and uphold national sovereignty. This can practically be done if there is an enabling force of law to ease the implementation of the terms by the respective host.

iii) The EACOP Bill 2020

The **EACOP Bill** is an enabling legislation arising out of the project that is meant to enable some of the agreement aspects in the **HGA** that are not covered by an existing law. The Bill provides for amendment of existing laws where necessary.

Some of the key aspects covered by the Bill include national content, as well as decommissioning and third-party access. In developing the **EACOP Bill**, consideration is being made to harmonize the aspects of the laws held by Uganda & Tanzania that operationalize **EACOP** as an integrated pipeline project as provided for by the IGA.

iv) The Shareholders Agreement

In general, a **Shareholders Agreement (SHA)** also called a **Stockholder's Agreement**, is an arrangement among shareholders that describes how a company should be operated and outlines shareholders' rights and obligations. The agreement includes information on the management of the company and privileges and protection of shareholders. A SHA is intended to ensure that shareholders are treated fairly and that their rights are protected. The agreement includes sections outlining the fair and legitimate pricing of shares (particularly when sold)

It also allows shareholders to make decisions about whether outside parties may become future shareholders. It also provides for and safeguards minority positions.

Specific to the **EACOP project**, a special purpose vehicle called **the 'EACOPCo'** is yet to be incorporated as the project company. As a precursor to this, the agreed shareholders as defined by the **HGA** are **UNOC,** the **Joint Venture Partners (JVP)** from the upstream project **(Total E&P Uganda and CNOOC)** and **Tanzania Petroleum Development Corporation (TPDC.)** The Government of Uganda will own 15% through **UNOC**, the **JVP**, 70% which leaves a 15% allocation to **TPDC** yet to be taken. The **SHA** defines many aspects of the **EACOPCo** including funding of the shareholding, financing of debts and general governance of the company (voting rights, decisions making, management, transfers and defaults.) Unique to the **SHA**, it defines the treatment of historical costs, which are costs incurred by all shareholders in relation to the development of the **EACOP** prior to the incorporation of the **EACOPCo**.

v) The Tariff and Transportation Agreement

The Tariff and Transportation Agreement (TTA) is another key agreement under the project bundle of agreements entered into under the **IGA** and **HGAs** that commercializes and defines the relationship between the pipeline company 'the carrier' and each of the users 'the shippers' of the transportation system. The **TTA** for the **EACOP** project has been defined to be an agreement between the **EACOPCo** and the shippers who are the owners of the crude oil who are in this case, the **Government of Uganda (through UNOC)** and the **JVP** because of their cost and profit oil.

The **TTA** defines the framework under which crude oil will be transported as well as crude oil measures, tests and analysis. The Transportation aspects of the agreement on the one hand cover among other key aspects; the relationship between the shippers and the transporter, transportation and shipping commitments, delivery and offtake rights and obligations as well as operational and quality requirements. The Tariff aspects of the **TTA** on the other hand define among other key contractual issues; the mode of payment, invoicing and payment, options available to GoU under the legal and regulatory framework including payments to EACOPCo whether in kind or cash (GoU being a shareholder in the company.)

According to the Petroleum Authority of Uganda, the signed **TTA** will only apply to the crude oil from existing oil fields defined as fields that issued production licenses by the time the **IGA** was signed in 2017. All fields currently under exploration and future licensees to be issues will enter into their own **TTAs** with the EACOPCo.

Current Project Estimated Revenue Numbers;

According to the **Petroleum Authority of Uganda (PAU)**, the total cost of EACOP is currently estimated at $3.5bn, with a debt to equity ratio at 60:40. The total project cost of both **EACOP** and Upstream projects (production of oil projects) is expected to be $20 billion throughout the 20-year life cycle including both capex and opex.

Specific to the **EACOP** project, the execution phase should commence shortly after **FID** (expected to be taken by end of second quarter of 2021) with significant expenditure on building the production facilities, the crude oil pipeline, refinery and the associated supplies and services. Local and international investors have been positioning for the economic prospects that the development of Uganda's oil and gas sector will present.

The **FID** will commit to the availability of at least $10bn for the development phase followed by the awarding of the **Engineering, Procurement, and Construction (EPC)** contracts for both projects **(Upstream and EACOP.) PAU** has projected the actual revenue numbers of this $10bn initial project investment to be broken down as follows; an estimated $6.7bn for developing **Total E&P's** Tilenga oil project and **CNOOC'S** Kingfisher project in Hoima and Kikuube districts (JVP upstream projects), as well as $3.8bn which is the capex for the **EACOP.**

The awarding of EPC contracts will commence the construction phase of the project which is expected to run for at least three years paving way for the commercial oil production earliest by 2025.

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