
Uganda pins hopes on resolution of long-winded oil dispute

The Ugandan government is eager to point to progress in Tullow's deal to sell stakes in the Lake Albert blocks, but local pressure continues on allegations of dodgy dealing

By Kevin Godier

- **Tullow's deal with Total and CNOOC may be completed this month, according to officials**
- **Local criticism of the deal has slowed progress and delayed new work**
- **Tullow and Heritage have been accused of failing to follow proper procedure on Block 3A**

After a spate of disruptions, Tullow Oil's planned US\$2.9 billion sale of Ugandan oil assets could finally receive government approval in the near future, if recent remarks by Ugandan Minister of Energy and Minerals Irene Muloni are anything to go by. Tullow has been attempting to farm out three blocks in the Lake Albert Rift Basin to France's Total and China National Offshore Oil Corporation (CNOOC) since March 2011, but the agreement has not secured official approval, owing to a tax dispute dating back to 2010.

Finalising the deal would allow the blocks to move closer to the production phase, with related investments of around US\$10 billion – the largest oil development push in East Africa's history. The dispute stretches back to July 2010, when UK-listed Tullow paid US\$1.45 billion for UK-based Heritage Oil's stake in Blocks 1,2 and 3A, which cover the Ugandan side of Lake Albert. Tullow subsequently announced plans to sell CNOOC and Total one-third each of its Ugandan assets for US\$2.9 billion, keeping the remaining third of the equity for itself.

However, Kampala complicated matters, producing an argument that Heritage should have paid US\$404 million in capital gains tax from the sale, as determined by a local tribunal. Heritage, in return, has taken the case to the London courts, where it will be contested by the Ugandan government. Tullow is also seeking local arbitration over the government's demand for a separate US\$472 million in capital gains tax on the farm-in plan.

These complexities notwithstanding, comments on January 12 by Muloni said the Ugandan authorities expected to approve the sale by Tullow "shortly" after resolving most of the issues blocking the deal. "The conclusion is coming to an end soon," she told reporters in Kampala, underlining that the previous obstacles to an agreement had "to a great extent been addressed." Muloni had indicated in early December that a sale should be concluded by the end of January, if Tullow submitted certain relevant documents by December 22.

Other key Ugandan politicians have also given signs that the saga is about to come to an end. In November, Uganda's minister of state for mineral development, Peter Lokeris, said he expected the Tullow deal to be approved before the end of January. Furthermore, Ugandan President Yoweri Museveni informed the country's parliament in the same month that he was unlikely to delay the deal any further in order to maintain the government's credibility in future negotiations.

Acrimonious affair

Tullow's efforts to develop its Ugandan assets have been dogged by acrimony, casting long shadows over the prospects for exploring and extracting oil wealth that carries the potential to turn around Uganda's economic fortunes by dint of anticipated export revenues of up to US\$2 billion per year. When substantial amounts of oil were first found in Uganda's Lake Albert basin, on the border with the Democratic Republic of Congo (Kinshasa), five years ago, the discovery was welcomed by most Ugandan observers. There were, though, growing worries that the oil might prove to be more of a curse than a gift, replicating the fates of most other countries in sub-Saharan Africa that have cashed in their natural resource bonanza.

Illustrating the sheer rockiness of the country's political road, the Ugandan parliament voted in an

October emergency session to freeze any new oil contracts until an enabling regulatory framework was in place. The ruling National Resistance Movement (NRM) caucus subsequently overruled this, by voting to allow the government to sign off oil deals to start oil production.

This triggered a lawsuit by Ugandan activists seeking a ruling to declare that it was “unconstitutional” for the executive arm of government to compel ruling party lawmakers to overturn parliamentary resolutions. Uganda’s Constitutional Court has since stopped Parliament from discussing and handling any business regarding oil deals.

Allegations of graft have also persistently threatened to derail the oil push in a country long considered by international experts to be one of the most corrupt in the world. Before a single drop of oil has been produced commercially, several senior government officials – including the prime minister – have been accused of pocketing millions of dollars in bribes from companies, forcing at least one of the politicians to resign.

Allegations fly

The theme of oil sector wrongdoing has been flagged up by a case in which a city lawyer, acting as a private citizen, is seeking to halt the government from signing any oil agreements. The local Monitor newspaper reported on January 6 that the High Court in Kampala had summoned the Attorney General, Tullow Oil and Heritage Oil to defend themselves against a petition, filed on December 15.

The suit seeks to restrain the two companies from “undertaking any further dealings including but not limited to exploration, production, selling, assigning, transferring any interest in exploration [Block 3A] Kingfisher (Kajubirizi) of the Albertine Graben.” They were reportedly given 15 days within which to file their defences for the hearing of an application for a temporary stay later this month.

The plaintiff, Hamada Mulumba, was reportedly seeking a court declaration that the government granted exploration licences to the two companies in disregard of the Public Procurement and Disposal of Public Assets (PPDA) regulations, requesting a declaration that the Kingfisher discovery ceased to form part of the petroleum exploration area for Heritage and Tullow.

Mulumba quoted a letter from the former energy minister, Hilary Onek, written on August 17, 2010, alleging that Tullow held Block 3A – which contains the Kingfisher field – illegally. “The period within which you are supposed to have applied for a petroleum production licence for the Kingfisher field expired in February 2010,” Onek wrote to Tullow and Heritage.

In his petition, Mulumba also wants the court to compel Heritage and Tullow to explain to the government about the “benefits accumulated ever since their illegal utilisation of Exploration Area 3A” and to pay a statutory fine “for acting without a valid licence.” The petitioner also requested that the government must comply with PPDA rules in any future oil transactions.

Tullow has consistently defended its contracts as being in line with international standards. Its most recent comments on its Ugandan activity came in an interim management statement (IMS) on November 9, which stressed that it remained ready to proceed towards developing fields in the country.

On hold

“All rigs are now on standby awaiting completion of the farm-down before work can [restart],” Tullow said, adding that development planning for the basin had continued throughout 2011. This has included appraisal drilling in Uganda’s Jobi-East discovery in Block 1 in August and September, and the completion of an extensive 3-D seismic campaign to support the development of fields in Block 2.

As observers of Africa’s oil sector await an end to the Tullow saga, Uganda’s leaders have every reason to make sure that the Albertine Basin developments can go ahead. Uganda’s economic growth is expected to slow from 6.4% to 5.5% this year, according to the International Monetary Fund (IMF), as the country tightens its fiscal and monetary policies while suffering the effects of a global slowdown.

Clearing the path for a full oil sector development will allow Tullow and its partners to home in on the target of oil production of around 200,000 barrels per day by around 2015, the building of a refinery and the construction of an oil pipeline from the landlocked country to the Indian Ocean. Tullow also wants to list on the Ugandan bourse, but until such time as it can finalise its tax treatment, Uganda's entrance to the ranks of African oil producers will be delayed. ■