



Namibia Oil & Gas Update: Legal & Business Considerations after Oil & Gas discoveries in Namibia

2ND Annual Southern Africa Oil & Gas Conference 2022

The Westin Hotel, Cape Town

16 September 2022

Shakwa Nyambe,
Managing Partner -SNC Incorporated

PRESENTATION OUTLINE

1. INTRODUCTION (About SNC Inc)

2. CONTEXTUALISATION OF NAMIBIA'S ENERGY SECTOR APPROACH

3. LEGAL CONSIDERATIONS AFTER OIL & GAS DISCOVERIES IN NAMIBIA

4. BUSINESS CONSIDERATIONS AFTER OIL & GAS DISCOVERIES IN NAMIBIA

5. CONCLUSION



1. INTRODUCTION (ABOUT SNC INC)



- **A Full-service Energy, Natural Resources, Commercial and Dispute Resolution Law Firm with Offices in Windhoek, Namibia**
 - Advise International Oil Companies, Service Companies, National Oil Companies, Governments, State Owned Enterprises
 - In sectors such as Energy, Natural Resources, Corporate & Commercial, Infrastructure, Mergers & Acquisitions, Labour & Employment, Dispute Resolution
 - Experienced and specialized lawyers
 - Recognized & Highly rated by Global Institutions

2. CONTEXTUALISATION OF NAMIBIA'S ENERGY SECTOR APPROACH

- **Energy Mix Approach (National Energy Policy of 2017)**
 - Promote the efficient use of all forms of energy
 - Ensure the security of all relevant energy supplies to the country
 - To incentivize the discovery development and productive use of the country's diverse energy resources
 - All forms of energy sources are promoted as it is

3. LEGAL CONSIDERATIONS AFTER OIL & GAS DISCOVERIES IN NAMIBIA

3.1 Sovereign Wealth Fund

- The Sovereign Wealth Fund for Namibia (The Welwitschia Fund) was launched on 12 May 2022. Need identified in National Energy Policy of 2017 ([Policy Statements P14.c and P14.d](#)) The Bank of Namibia manages the fund.
- Legal & Policy framework regulating the investment, withdrawal and management of funds to be in place to ensure transparency and accountability
- Consultation with the oil & gas sector will be vital to ensure we have a fit for purpose legal & policy framework

3.2 Local Content Framework

- **Current local content provisions in the Petroleum (Exploration & Production) Act of 1991 & Model Petroleum Agreement**
- **Need for detailed Local content identified in National Energy Policy of 2017 (Policy Statements P13) . Local Content Policy in final stages, it will provide:**
 - A clear and stable regulatory framework for Local Content requirements
 - Identify specific sectors for the development of local capacity
 - Maximize employment and development of Namibians
 - Maximize the participation of local suppliers along the value chain
 - Promote Namibian ownership and financing at all levels of the sector

3.3 Education and Training

- Strengthen legal provisions on Education and Training ([National Energy Policy of 2017, Policy Statements P10.c](#))
- Continues education and training related to the upstream oil and gas sector is vital to ensure:
 - Benefit from local content framework
 - Fiscal economics benefits the country
 - Country derive maximum value from its resources
- Need to capacitate PETROFUND with more resources
- Consider Vocational Training Skills as well, vital for the sector

3.4 Independent Regulator for Upstream Oil & Gas Sector

- Need to establish a Regulator identified by The White Paper on Energy Policy of 1998 and the National Energy Policy of 2017 ([Policy Statements P14.b](#))
- Government & legislature to establish policy, while role of regulator is to administer the regulations arising from those policies
- Regulator needed to administer supporting regulations' i.e. (local content)
- Regulator should therefore ideally be independent of the policy making process

4. BUSINESS CONSIDERATIONS AFTER OIL & GAS DISCOVERIES IN NAMIBIA

4.1 TAX (Income Tax, VAT, IMPORT & EXPORT DUTY, Petroleum Tax, CUSTOMS)

- Petroleum Taxation Act 3 of 1991
- Namibia Revenue Agency Act 12 of 2017
- Income Tax Act 24 of 1981 as amended
- Value Added Tax Act 10 of 2000
- Customs and Excise Act 20 of 1998 as amended
- Import and Export Act 30 of 1994

4.2 Corporate Formations & Registrations

- **Businesses intending to set up in Namibia need to have an idea as to what type of business entity they intend to register. There are various types available;**
 - Company - Private or Public Company (Companies Act 28 of 2004)
 - External Company-branch of a foreign company (Companies Act 28 of 2004)
 - Close Corporations (Close Corporation Act 26 of 1988)
 - Business Trust (Trust Monies Protection Act 34 of 1934 and Common law)
 - Partnerships i.e. Joint Ventures (no specific registration requirements)

4.3 Employment & Labour issues

- **Every business setting up or intending to operate in Namibia needs to have an understanding of the following;**
 - Basic Conditions of Employment
 - Ordinary Working Hours
 - Overtime
 - Calculation of Remuneration
 - Types of leave
 - Termination of Employment
 - Rights and Duties of Employers and Employees

4.4 Litigation Risk, Environmental Pressure Groups

- Potential litigation by environmental pressure groups litigating from an environmental protection perspective
- Examples; Court cases in South Africa and Namibia
- How to mitigate potential litigation;
 - Managing Stakeholders through effective communication
 - Early and continuous stakeholder engagements
 - Earlier involvement of lawyers in the projects so they better represent client when litigation arises
 - Involvement from licensing and permit applications
 - Environmental Clearance Certificate applications
 - Stakeholder engagements (interested, affected parties), strategies

5. CONCLUSION

- COLLOBORATIONS, COLLABORATIONS
- CROSS COUNTRY COLLABORATIONS AMONG GOVERNMENTS, LAWYERS, NOC'S, IOC'S, REGULATORS, INDUSTRY BODIES
- AND SHARE EXPERIENCES – WE SHOULD SUCCEED TOGETHER

Thank You

Email Address:
shakwa@snclawgroup.com

