

Oil Exploration across boundaries

By Gloria Sebikari

Petroleum reservoirs do not follow political borders and, therefore, the possibility of sharing a reservoir across boundaries exists, sometimes

causing conflict. This raises the question of what happens if a petroleum discovery is made across an international border or the boundary of two exploration areas.

Transboundary conflicts over natural resources have existed over time. Japan, China, Vietnam, and the Philippines have had confrontations over which country owns what part of the Outer Continental Shelf (OCS) in the East and South China seas, while Norway and Russia had a 40-year dispute over the Barent Sea.

In Africa, Nigeria and Cameroon both laid claims to similar parts of the Bakasi Peninsular, whereas Ivory Coast and Ghana have had disputes over parts of the sea where Ghana is now producing oil. Within Eastern Africa, petroleum exploration on Lake Nyasa or Lake Malawi rekindled disputes between Malawi and Tanzania, whereas Rwanda's Methane gas project on Lake Kivu necessitated an agreement with the DRC over potential for common resources.

Historically, exploration of resources across boundaries was undertaken in line with the "law/ rule of capture", which provided that the licensee/country may "capture" (produce) the shared oil or gas resources by operations in their territory irrespective of the boundary. Therefore, if a discovery was made, the first come, first serve rule was used and the companies or countries would compete to produce the resource as long as the operations and facilities were within their borders. This implies that there was often duplication of infrastructure, less than optimal production and increased environmental foot print.

The inefficiency, as a result of the rule of capture, led to the development of international frameworks and institutions

CNOOC and government officials at kingfisher oil field in Bunyoro



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to provide guidelines on how disputes could be settled in international courts. The most common guideline on this is the UN Convention on the Law of the Sea (UNCLOS), which establishes rules governing all uses of the international waters and their resources.

OPTIONS

Different arrangements have been used by countries world over to jointly develop an oilfield straddling two or more different territorial boundaries or contract areas. Countries can opt for joint operatorship where the two countries identify one company to exploit the petroleum resources and they share the proceeds.

Alternatively, a Joint Development Zone (JDZ) is established, where the two countries appoint the board of directors to run the JDZ. The Nigeria/ Sao Tome and Principe Joint Development Zone is an area of overlapping maritime boundary claims between the two countries.

In November 1999, the heads of state of Nigeria and Sao Tome and Principe directed the officials of the National Boundary Commission of the two countries to commence negotiations on the maritime boundary. After extensive negotiations, the Joint Development Zone Treaty was signed

on February 21, 2001 and was subsequently ratified by the two countries and deposited with the Secretary General of the United Nations.

UNITISATION AGREEMENTS

Another more commonly used option is the Unitisation Agreements. Unitisation calls for a single development scheme to manage the common deposit and offers advantages such as ensuring optimum recovery of resources.

The objective of unitisation is to provide for the unified development and operation of an entire geological prospect or producing reservoir so that exploration, development and production can proceed in the most efficient and economical manner by one operator. Cross border unitisation agreements had its origins in the North Sea, which consists of a continental shelf bordering seven countries. The North Sea became a contested area with the discovery of major oil finds in the 1960's.

More importantly, the major oil and gas deposits straddled the Norway-UK borders, which meant the character of the area had become one of international concern. With unitisation, geoscientists determine how much of the reservoir extends in either territory and thereby calculate the resource entitlements for each party.

The Albertine Graben: Uganda, Democratic Republic of Congo agreement

The Albertine Graben, where oil has been discovered in Uganda, is an area that straddles Uganda's boundary with the Democratic Republic of Congo (DRC). The Albertine Graben is 500km long, averaging 45km wide and 23,000 sq km in Uganda. The successful exploration efforts on the Ugandan side have de-risked the DRC side of the Graben, spurring international interest in acquiring acreage in DRC. However, no discoveries have been made on the DRC side as minimal exploration work has been undertaken.

The governments of Uganda and

petroleum reserves, recommended the need to reach agreement, in advance, on the principle of co-operation in the petroleum sub-sector.

Subsequently, in 1990 an "agreement of co-operation for the exploration of hydrocarbons and exploitation of common fields" was signed between the two governments. This agreement,

respective licensees including the full and free movement of personnel and equipment, environmental protection, recognition of applicable law in the two countries and principles of international law; arbitration; and right for setting up common installations from one country to the other, among others.

An addendum to this

To date, none of the 21 oil and gas discoveries made in Uganda are shared with the DRC, but in the event of any common fields, development will be handled in line with this agreement through the international principle of Unitisation. The two Governments have since then held various discussions at both political and technical levels. Ministers from DRC together with their technical staff, have also visited the Albertine Graben on several occasions.

The governments of Uganda and DRC have showed strong



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