ZERO DRAFT

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POLICY FRAMEWORK FOR EXTRACTIVE INDUSTRIES IN TURKANA COUNTY

PART 1: THE POLICY CONTEXT

a) County Overview

At 68,680.3 km^2 Turkana County is Kenya's second largest county after Marsabit. Topographically, the County is relatively flat, its lowest point at lake Turkana being 365 metres above mid-sea level and its highest point on the Ugandan border being 900 metres. Its climate is hot and dry with temperatures that range from 20ºC to 41ºC. Its bimodal rainfall is highly variable and generally low - with a mean precipitation of 200mm per annum. When it rains, it is in brief, violent squalls that cause flash floods, a perennial problem. The soils in most of the county are friable and climate change has aggravated both the problems of low precipitation and soil productivity. The principal economic activity has been nomadic pastoralism but this too is under threat from the effects of climate change.

According to the 2009 Kenya Population and Housing Census (KPHC), the county had a population of 855,399 but projected to be 1,122,207 in 2017 and expected to rise to 1,366,596 by 2023, suggesting an inter-censual growth of almost 60 per cent. In four decades, the County's population has grown eightfold. At an annual growth rate of 3.36 per cent for men and 3.34 per cent for Women, Turkana's population is rising at a faster rate than the national average. More than the growth rate is the fact of a young rather than merely youthful population: the cohort between 0-14 years account for 46 per cent. Based on the 2017 projections, the population between 0-19 years was 56.7 per cent of the total population and expected to fall marginally to 54.2 per cent by 2023.

The majority of the people in Turkana County live in rural areas and the urban population at 14 per cent of total is low but growing rapidly, driven by growing numbers but most particularly by a bulging youth population and the impact of climate change on pastoralist livelihoods. Though aquifers with an estimated 248.3 billion cubic metres of water were discovered in 2013, these have not been commercially utilized and less than one-third of the land is currently usable for farming. The Kenyan government says that the aquifer water is too salty for human consumption, unless desalinated by reverse osmosis.

Two generations of chronic under-investment in the Turkana and contiguous counties in Northern Kenya have aggravated the problems of inhospitable geography. The result is deep and chronic poverty with Turkana's overall poverty index topping 71%. Unemployment is high and less than one-third of the population is in wage employment. Fishing takes place in Lake Turkana, the world's largest desert lake, but that is now under threat from climate change impact and upstream construction of Gibe 3 and Gibe 4 dams on the River Omo by the Ethiopian government. Both stocks and species of fish are in decline.

More long-term, low inflows of water from the Omo - which accounts for 90% of Lake Turkana water - coupled with high evaporation is expected to increase the salinity of the lake, significantly changing the biotic environment and further decimating the available fish species. That will have knock-on effects, including reducing the overall value of the lake and its three national parks — Sibiloi, Central Island and South Island - all of which are Unesco World Heritage Sites.

With pastoralism also buffeted by demographic and climate change factors, the livelihood options for a majority of the people of Turkana County have shrunk considerably. Environmental stress will grow and limit the policy options available to the county government.

Though geography is not destiny, these realities bring the recently discovered natural resources in Turkana- especially Oil and Gas- into play. Population growth and geographical factors will necessitate large and sustained investments in resilience programmes to cope with climate change; better health services and expansion in educational facilities as well as develop opportunities in agriculture and livestock sectors to both build the skills base of the population and provide employment outside of traditional sectors. In the coming years, the county government must look to non-traditional sectors - especially extractives- to provide these services and opportunities.

b) The Turkana County Extractives Endowment

Oil and Gas: Though it was long suspected that the geology of Turkana County held oil and gas promise, it was not until 2012 that oil was discovered by Tullow in the Lokichar basin, which on current estimates holds 750 million barrels of recoverable oil. Exploration continues further afield and there are good prospects not only of increased deposits in the Lokichar Basin but also of new finds elsewhere in the county. As the CIDP points out, Tullow has drilled more than 40 wells in Turkana, finding oil in exploration wells at Twiga-1, Etuko-1, Ekales-1, Agete-1, Amosing-1 and Ewoi-1. Production is scheduled to begin in 2021. Plans to build a 750 km pipeline from Turkana to Lamu County are underway but in the meantime, Tullow has begun transporting the 60,000 barrels already been produced and in storage at Lokichar by road to Mombasa. Even before actual drilling comes fully on-stream, the magnetic effect of a prospective oil economy is already having an effect: there is an influx of job seekers; urban implosion and incipient conflict. The expectations raised by the oil find have not been as rapidly met as thought and the problems of oil economies are already evident: environmental degradation;

lack of backward linkages to the local economy and preferential recruitment of outsiders.

These early challenges underline the urgent need for robust remedial policies to be put in place before drilling in earnest begins in 2021. The policy priority is to link the oil and gas economy to the local economy; ensure tangible benefits to the local communities and safeguard the environment so as to secure existing pastoralist livelihoods. In addition to current needs and consistent with the constitutional commitment to inter-generational equity, the policy must also secure a bequest to future generations so that the benefits of current extraction are distributed to the community across both geography and time.

Other Minerals: Though it is oil and gas that make the news, Turkana County has more untapped minerals but these have not been fully tapped and many have so far been extracted principally on a small scale or artisanal basis. There are known deposits of gold, clay, limestone, gypsum and garnets. According to the CIDP these minerals are found across the County: there is gold in the Naduat area of Makutano and in the Sasame region. Gemstones-green garnets, red garnets, ruby and sapphire – are found in Kaleng and Nadung'a. there are gypsum deposits in the Kapua and Lochwaa and though there is no official mining of the gypsum, there are reports of illegal extraction of small quantities.

There are also a wide range of industrial and building minerals: eugsterite, tsavorite, halite, pyrope, rhodolite, and zircon, mica, beryl, graphite, garnet and limestone. Building stones, hardcore, ballast and building sand are widely available. Quarrying takes place in Lokore, Makutano and Kakuma areas whilst sand harvesting happens along the riverbanks and wind-deposits pans throughout the county.

Unlike the oil and gas, little geological mapping of any of these minerals has been done and the exact scale of the deposits is unknown even though the geology is extremely promise.

This Policy Framework has been developed based on two different elements that is, 1) an analysis of some of the general problems of the extractive industry and 2) a diagnosis of the specific problems of the extractive sector in Turkana County based on consultations with both the executive and the County Assembly of Turkana County. Some of the problems identified will require national government response; others must be addressed at the county and community levels and all require a three- way collaboration between the national, county and community levels.

PART 2: SECTOR OVERVIEW AND CHALLENGES

a) General Challenges of Extractive Industries

In addition to the problems diagnosed by the county leadership- described below- extractive industries everywhere have general challenges that are salient to this policy framework and to Turkana County more specifically. The four most intractable are one, their tendency to foster Dutch disease; two, their tendency to create enclave economies; three, the opacity of revenue management and its predilection towards tax evasion through transfer pricing and four, contract opacity and widespread non-disclosures.

Extractives and the Dutch Disease: The "Dutch Disease"[1], a concept coined by The Economist in 1977, describes an economy in which extraction of and dependency on natural resources leads to decline of the manufacturing and agriculture sectors. Countries that produce and export minerals or oil and gas- especially countries in which such natural resources tend towards a one product economy- experience two harmful effects: a) the 'resource movement effect' and b) 'the spending effect'. The resource movement effect describes the way in which booming resource sectors draw labour and capital from agriculture and manufacturing and therefore raise production costs in those sectors. The spending effect comes from a boom in the resource sector raising the real exchange rate that shrinks exports because it makes it cheaper to import agricultural and manufactured goods. A resource boom eventually leads to relative shrinking of the manufacturing and agriculture. This often means that discovery and intense extraction of natural resources often leads to a) de-industrialization; b) enclave economies built around the natural resource and c) shrinking of the alternative – wider - economy. **In the context of Turkana County, relatively high wages in extractives are likely to lead to abandonment of pre-existing economic activities and further urbanization both of which could negatively impact communal livelihoods.**

The tendency of extractives to create enclave economies: The enclave nature of oil economies arises from the fact that these industries are highly capital intensive and use relatively low labour.[2] That problem is also related to the fact that oil and extractive companies buy few products from local firms, preferring highly specialized equipment from a few global suppliers.[3]

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[1] It was so called because it was based on the economic problems that Netherlands faced after discovering oil and gas in the North Sea gas.

[2] Off shore drilling illustrates the point. A deep-water platform "can cost over US$500 million to build and may rent for US$200 million a year" and yet, once in place, it can be operated by 200 people who actually live on the rig and many of whom might be foreigners. In Saudi Arabia oil accounts for 90% of the GDP but the entire sector employs only 1.6% of the active labour force. Ross quotes one study that showed that textile companies make US$13,000 worth of investment per employee whilst oil and gas spend US$3.2million per employee, making it the most capital-intensive industry.

[3] Ross quotes from Peter Maass' Crude World, where Maass describes his poignant experience at a US$1.5billion dollar facility in Equatorial Guinea ran by Marathon oil and staffed by expats. Noting that this might as well have been on the moon for all the benefit it offered to local business, Maass noted that…

> "Instead of buying cement from a Malabo company that might not deliver on time, Marathon built a small cement factor on the construction site. Raw materials were imported, and the factory would be dismantled when construction ended. The trailers in which (foreign workers) lived were prefab units, no local materials or local labour was used to build them. The plant had its own satellite phone network, which was connected to the Company's Texas network- if you picked up the phone you would be

Sometimes the decision to buy from outside the local economy is driven by fiscal opacity, the desire of extractive companies to reduce their tax burden by buying from associated companies and affiliates abroad.

Revenue Volatility and Transparency: Cycles of boom and burst in commodity prices generate highly volatile revenues, a problem that is often aggravated by the opacity that is often associated with the management and use of these revenues. Some countries- such as Brazil, New Zealand, Norway - have transparent fiscal mechanisms that show what the oil revenues are like and provide relative clear mechanisms for the spending of such revenues. Others are more opaque, both at the national and local level. One analysis of Cameroon oil and gas revenues showed that between 1977-2006 only 46 per cent of the country's oil revenues were transferred to the budget and that 54 per cent could not be accounted for. The tendency to keep unreported off-budget accounts for oil makes these revenues phenomenally corrupting as examples from Indonesia[4]; Azerbaijan[5]; Angola[6] and Mexico[7] have shown down the years.

Contract transparency: One source of revenue opacity is contract opacity. Sometimes contracts between governments and extractive companies are designed to exclude very many aspects of such contracts from disclosures. How much should extractive companies disclose about their impact on the environment? How money will go to government and how much to the oil company? What costs are deductible? What tax breaks does the extractive company get? How much equity and of what type will the government, local or national hold in the extractive company or its affiliates and associated companies? What kind of information can extractive companies keep confidential and why? How are revenue share arrangements worked out?[8]

b) Challenges Identified from County Consultations

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in the Houston area code, and dialing a number in Malabo would be an international call. The facility also had its own power plant and water purification and sewage system. It existed off the local grid."

[4]President Suharto used the national oil company, Pertamina, to distribute benefits to supporters. At one point, Pertamina controlled a third of the government budget.

[5]About half the government budget in Azerbaijan goes through the national oil company, SOCAR but the actual figures are secret.

[6]During Dos Santos long rule a large fraction of the Angolan government's budget went through Sonangol, the national oil company that was closely controlled by do santos daughter and his close allies.

[7]Mexico's Institutional Revolutionary Party relied on funding from the national oil company, Petroleos Mexicanos (PEMEX) from 1929-2000. PRI reportedly corralled more than US$100 million for its campaign in 2000 through the workers union.

[8]Oil revenues, for example, have fixed and variable components: the fixed component is the price below which oil prices won't fall and variable component is the difference between that price and whatever maximum price the oil gets to. Whoever gets the fixed component experiences no volatility at all whereas whoever takes the variable component experiences all of it. In the past, government received the fixed component and companies the variable component. Company incomes was volatile but they also had many 'windfall gains.' Today governments receive variable component and companies the fixed component, which exposes government to greater volatility than before.

Negative Impact on the Community: Among the key findings from the consultation is that oil and gas are changing the face of Turkana. County leaders are concerned that the community has not benefitted as they should have from exploration activities: job opportunities have been fewer than initially made out; conflicts and misunderstandings have arisen and in exploration areas and elsewhere land prices have gone up. One of the factors driving land prices has been the increasing number of people, non-residents, buying land in the county and also opening small businesses hoping to benefit either from a speculative rise in land prices or from trade opportunities that an oil boom is expected to have.

Increased immigration has not substantially improved economic performance. More urgently, disputes about the environment are mushrooming – partly to do with water and partly to do with waste management. There is also concern about social impact especially the health and education of young children. No systematic study of these impacts has been done across the various exploration basins: Lokichar; North Turkana, Turkwel, and Kerio.

Oil and gas and Inter-Regional Conflict: A recurrent theme was concern that the oil find would aggravate inter-regional conflicts. Oil and gas are often correlated with civil violence. When oil is controlled nationally, as Kenya's is, it may generate disproportionate revenues for the national government and only limited employment and minor procurement benefits for local people. This could generate new conflicts or aggravate pre-existing ones. The North Rift region has historically experienced chronic insecurity. The consultations revealed there is growing concern that extractives will impact the pre-existing conflicts in the Northern Rift, especially West Pokot, Turkana and Baringo (and East Pokot- which is in Baringo).

As is, years of national government neglect have left the northern regions exposed to insecurity. The discovery of large deposits of extractable natural resources extractives have heightened the stakes of some of these conflicts and are likely to fuel intra-elite conflicts over the struggle for control of these vital resources. In the geothermal fields of Kapedo, a border dispute has already turned lethal and become increasingly intractable.

The Looming Water Crisis: There is growing concern that water will become a growing cause of conflict as extraction begins in earnest. The problem is that water is needed in all stages of oil and gas extraction and processing. Drilling consumes as well as abstracts water. How much is used and abstracted will depend on "the fuel type, the method of extraction, the geology, the degree of processing required, the geography, and the climate of the site under development."[9] Conversely, constraints on water availability influence the choice of technology in the industry, site selection, and other aspects of resource development. In terms of volume, 3-4 barrels of water are needed to extract one barrel of oil. In Turkana, there are various options currently being

[9] See *Thirsty Energy (II): The Importance of Water for Oil and Gas Extraction* at https://openknowledge.worldbank.org/bitstream/handle/10986/23635/Thirsty0energy0I0and0gas0extraction.pdf?sequence=1

discussed about where this water will come from. The national government has not developed a water infrastructure for oil extraction in Turkana.

The Environmental Impact of Oil and Gas: The environmental impact of drilling has emerged as a major source of community concern. There is significant information asymmetry between the community, the extractive companies, the county government and the national government. This has undermined oversight as well as community monitoring of drilling and extractive activities. The Environmental Oversight process by the County has gaps and though the County is in the process of formulating an environmental policy, that policy will need to be linked to the county extractives policy and legislation.

Of immediate concern is the management and disposal of the Hazardous Waste that come from drilling activities. The drilling and extraction of oil produces a wide range of hazardous wastes, the largest component of which are “produced waters” which are a mixture of naturally occurring saline water from the rock formation and products like benzene and radionuclides, and chemicals added for treatment (e.g., corrosion inhibitors). These waters – which are separated from the oil and gas products on the surface - account for 95 per cent or more of oil and gas wastes. Other wastes include drill rock removed during drilling- drill cuttings- and drilling muds that are an assortment of fluid pumped into the drilling pipe to manage pressure; provide lubrication seal off the bore to stop contamination etc. These fluids account for 2 to 4 percent of wastes. Small amounts of radioactive materials such as radium may be brought to the surface with the crude oil.

The Management of Hazardous Waste: The volume of waste generated by Oil and gas waste depends on the level of extraction that varies, of course, with oil and gas prices. But whilst the volume of hazardous waste varies toxicity may be a constant. Given that the waste is toxic and its disposal costly, the management of oil-generated wastes is always a grave if controversial issue. Our consultation established that a particular bone of contention is a hazardous waste plant managed by Environmental & Combustion Consultants Ltd (ECCL), a subcontractor of Tullow. The Company’s Oil and Gas Services – relevant to its operations in Turkana- which it says it supports with “proprietary and state-of-the art technologies coupled with competent personnel” include:-i) Tank Clean up Services; ii) Cellar Pit Clean ups; iii) Well sites clean up and restorations; iv) Management of Drilling Mud Cuttings and v) Management of Drilling Chemicals. The company is developing a transfer- and recycling station in the Kangpetei Area of Lokori, Turkana East Constituency. However, they are concerns about how hazardous waste is managed on site but, oddly, Tullow- the principal- says that it does not approve of the transfer and recycling station.

Local Content Policies: The employment of local people and the influx of outsiders into Turkana county raises larger questions about the local content framework agreed between extractive companies and both the national as well as county governments. The county governments primary concern is that locals be employed across the extractives value chain, not merely in its low-skill and unskilled end; that local procurement support the local economy not merely the interests of the local elite and that other aspects of local content be designed and delivered, not merely employment and procurement. The policy challenge is that extractive companies end up setting product standards that cannot be met locally and that implementation of local content policies may end up aggravating inter-county inequities.

PART 3: THE POLICY RESPONSE

a) Forestalling Dutch Disease and Enclave Economies

Policy Thrust: The Turkana County Government Policy thrust is to work collaboratively with the national government and local communities to pre-empt the problems endemic to extractive industry in order to meet a variety of social and economic objectives, including:

- ✓ Ensuring that natural resources extraction in the county generates earnings and create jobs in the local economy;

- ✓ Shielding the local economy from the economic shocks that accompany commodity booms and busts.

- ✓ Incentivizing the building of backwards and forward linkages between extractive industries and the local economy based on support for local businesses through capacity-building, skills-transfer, technology transfer and training.

- ✓ Finally, mineral and hydrocarbon economies create the Dutch disease, that is, the problem that arises when extractive operations undermine the rest of the economy.

- ✓ Ensuring that where value-add processing operations are set up, these are not vertically integrated into the mining and extraction companies.[10]

- ✓ Developing an even-handed local regulatory environment that guarantees that local companies are treated no worse than foreign ones.
- ✓ Leveraging the extractive sectors for social service delivery in education, health and social programmes.

Policy Goals: The policy vision is to keep the ‘social contract’ between government and citizens strong even as extractive rents and earnings grow. The policy commitment at county level is to:

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[10] Often this integration is a transfer-pricing ploy. It is often the same company that extracts – or its subsidiary- that also does the processing. Profits are then expatriated. Such extractive operations could as well be located abroad, thus the enclave economy.

- ✓ A sound macro-economic policy to insulate county programmes from commodity shocks;

- ✓ A policy of fiscal restraint limiting the purposes for and amounts from extractive revenues that could be used for particular purposes, ensuring in particular that in no case shall revenues be used for recurrent expenditure; and

- ✓ A clear value-add policy linking extractive activities to the local economy. Below is a brief overview – with examples- of each of these three elements.

Policy Content and Instruments: The first goal is to develop a macro-economic policy that shields Turkana County from cycles of boom and bust associated with widely variable commodity prices. To ensure that this goal is meant the county will:

- ✓ Establish a both a County Wealth Fund and a Community Heritage Fund to stabilise revenues draw-downs and limit the usage of funds so as to ensure that either fund only makes disbursements to the budget within clear terms set by county fiscal laws and policies.

- ✓ The county government will commit to a hard budget constraint subject to two conditions, that is to say:

    - o No more than a percentage of revenues may be drawn down from the County Wealth Fund or the Community Heritage Fund in any one year;

    - o All revenues from extractives will go into investments not consumption since these are revenues from the sale of assets. The policy commitment is the progressive accumulation of assets since assets used to finance other assets increase or maintain the overall asset base that will be available when minerals and hydrocarbons are exhausted.

- ✓ The County's commitment to the asset replacement principle means that implies that so far as possible, the county government will aim to finance its recurrent budget from recurrent sources.

- ✓ In addition, the county commits to a progressive policy in which as the resource is exploited it will put more of the revenues to savings and investment with the goal of investing close to 100 per cent of its share of revenues as the various resources near depletion.

b) Sector Transparency and Disclosures

Policy Thrust on Sector Transparency, generally: The policy thrust of the Turkana County government is to work co-operatively and collaboratively with the national government and national institutions to create a transparent extractive sector in Kenya and in Turkana county more specifically. At the national level, the County Government will lobby for adoption of international best practices into local extractives policies, especially the Extractive Industries Transparency Initiative, EITI, and The Africa Mining Vision 2009 and incorporation of the provisions the United Nations Convention Against Corruption into local policies or legislation. The County Government would like to see a complementary National Extractive Policy that distills the transparency guarantees of these international instruments by committing to publish "timely and accurate information" on Kenya's natural resource management practices, that is to say, disclosures on:

- ✓ Openness about how licenses are allocated;
- ✓ Disclosures on the types and amounts of tax and social contributions made by extractive companies pay;
- ✓ The terms under which extractive companies operate; the revenues generated and the uses and applications of those revenues.

Policy Goals: At the County level, the county policy goal is to limit the type of information that is kept secret. Whereas incorporation of companies os a national function, the County will take measures to ensure that on issues of local application transparency is built into the extraction relationship. In particular, the county is committed to ensuring:

- ✓ **Disclosure of ownership interests in local supply companies**: The County will require that companies that do local supplies or are contractors to extractive firms disclose not just legal owners but also beneficial owners of such interests. That means disclosing the name, nationality and country of residence of the interest holders.
- ✓ **Increased local contract transparency[11]:** Contracts, lease-terms and licences in extractives are often opaque and hemmed in with confidentiality clauses. Contract transparency supports the policy goal of securing the best deal for the County by making the public and community joint partners in the terms of such contracts through openness. The County government will require extractive companies to make public disclosures of the terms of agreement between themselves and local service providers.
- ✓ **Transparent environmental management practices**: The county government is committed to ensuring that both the management of Turkana water and of the environment more generally is subject to oversight and community monitoring and that it is based on full disclosures of risks and threats know to the extractive sector operators and their contractors. Towards this end, the County

[11] See Rosenblum, Peter & Maples, Susan: Contracts Confidential: Ending Secret deals in the Extractive Industries a study done for the Revenue Watch Institute, 2009.

Government will ensure that, as regards to water:

- o Extractive industries, especially, the oil producers sign a Memorandum of Accountability on sustainable water use which sets out the water requirements of extraction activities; no-depletion commitments; sensitivity to water use by other sectors especially livestock and human consumption.

- o There is an appropriate oversight mechanism to ensure that abstraction and consumption of water by extractives do not damage the aquifer, destroy water quality through spills, leaks and inefficient treatment of wastewater.

✓ **On Waste Management,** the policy transparency issues revolve around a) disclosures about the nature of the waste and the dangers it poses; b) assurances about potential contamination of ground water and the general environment and c) supervision of waste transport, disposal and overall management. Though the mandate for the designing policies to manage waste lies with the NEMA, the waste management itself is a devolved function and oversight must necessarily be exercised by the county government. To this end, the county will not only work closely with NEMA, it is also committed to developing and implementing:

- o A sound but simple county framework for oversight over hazardous waste;

- o A robust disclosure framework that informs the public (consistent with constitutional requirements) about the quantity, nature and toxicity of oil and gas wastes and

- o Transport protocols and standards for the management, transport and disposal protocols for extractive waste.

✓ **Effective oversight and transparency requires effective oversight capabilities in the County Assembly:** The county assembly has the mandate to enact county oversight mechanisms over many of the aspects of natural resource extraction in Turkana County. To do so effectively, the County Executive is committed to working closely with the County Assembly to improve the assembly's capacities, individual and institutional, to master the complexities of oversight and transparency in extractive industries.

Policy Aims and Directions: On this question, County's Extractives Policy goals are to:

✓ Improve ability of county assembly to provide effective oversight over such things as water abstraction and use; waste management; local contracts transparency requirements.

- ✓ Enhance public access to information in the mineral and hydrocarbon sector through mandatory, proactive release of all non-proprietary information;

- ✓ Work with national integrity institutions - the Auditor General; the Commission on Revenue Allocation, CRA; the office of Controller of Budget; the Ethics and Anti-Corruption Commission and the Office of DPP- to sanction egregious wrong-doing in the extractive sector.

c) Sustainability Goals

Policy Thrust: In addition to pursuing environmental goals that are sustainable, the county will also articulate stand-alone sustainability goals. The policy thrust is recognition that extractives are finite which means that minerals and hydrocarbons must be extracted in a sustainable manner. The County government is mandated by the constitution of Kenya to budget and allocate resources in a manner that respects inter-generational equity.

Policy aim: The goal of Turkana County's extractive policy is its mineral and hydro-carbon wealth should be extracted consistently with sustainable development, that is to say, protection of the country's biodiversity; the precautionary principle in environmental management; inter-generational equity and compatibility between multiple use of land.

Policy directions: Consistent with these policy aims, this extractives policy commits the government and other players involved in the extractives sector - to:

- ✓ Avoid or limit activities in any areas earmarked for conservation or areas in which there is a significant concentration of biodiversity. Not companies will be allowed to operate in such areas without a clear and approved plan showing how their activities will avoid destruction of the biodiversity.

- ✓ Have a clear plan for operating and sustainably closing operations including especially clear plans for reclaiming the mines, restoring disturbed environments as well as a decommissioning plan for extractive plants and facilities.

- ✓ Ensure that mining and extractive operations are consistent with sound environmental management based on clear goals to mitigate adverse impacts especially with regard to water and air pollution, waste storage and disposal, greenhouse gas emissions, physical hazards and management and use of hazardous materials and waste.

- ✓ Have a community involvement plan and actively refrain from activities that significantly and negatively affect the livelihood as well as cultural and social lives- of local communities.

- ✓ Ensure that the security they deploy is properly trained and sensitive to the community in the areas of operations, in particular, the companies must have a clear statement of policy on protecting human rights and the community within their security.

d) Artisanal Mining

Policy Goal: Non-oil and gas natural resources are inadequately mapped and insufficiently exploited for the benefit of the people of the county. Much of the extractive activity in non-oil and gas is artisanal and is likely to remain thus over the medium-term. The County government's policy thrust is the creation of a competitive, small-scale mining and artisanal sub-sector that provides good jobs to the semi-skilled and supports well managed artisanal co-operatives and associations.

The Policy Aims: That policy orientation hopes to achieve a number of goals. These are that:

- ✓ Artisanal miners will undertake mining activities in areas in which large operators cannot operate profitably and that would, as a result, be under-developed.

- ✓ The artisanal sub-sector can develop entrepreneurial and management skills so that they the seed medium-sized local companies but also become as prospectors.

- ✓ The artisanal sub-industry can function as an apprenticeship sub-sector in which state agencies and artisanal associations co-operate on programmes to develop intermediate technical skills that can be leveraged to give more local people access to the larger mining industry in the county and beyond.

- ✓ The government will work with associations of artisanal miners to develop policies and take actions that reduce the environmental, health and safety problems associated with artisanal mining.

- ✓ As larger mining operations are licensed to operate in the county, they will find an artisanal sub-sector that primed and able to co-exist with them and competing side by side whilst simultaneously extracting low capital mineral resources.

- ✓ The county will provide an enabling, even-handed even-handed regulatory policy that subjects all operators to the same safety, health and the environment standards, taking account of the reality of their operations.

- ✓ For the artisanal miners, the government will provide support to ensure that mining regulations; environmental standards; access to research materials and bureaucratic procedures for governing the mining sector are simplified and made accessible to them.

- ✓ A financial and technical support programme will be put in place to strengthen the institutional framework for artisanal governance and ensure that some of the earnings from extractives activities go into both funds for credit schemes for artisanal miners and for market development.

- ✓ The government will provide both geological information and training so as to strengthen competitive but non-rival exploitation of mineral resources between artisanal miners and large operators.

e) Local Content Policies[12]

Policy Thrust: The County Government's macro-commitment is that extractive industries in Turkana must not have an enclave character. The policy thrust is that county policies, agreements and regulations will integrate both the local economy and local communities into projects and activities to the widest extent possible. Projects and project contractors must employ local citizens, buy locally, build local capacity and support and implement the soon to be developed County Industries' Local Participation Plan. Given specific contexts, which will be spelt out in memoranda of understanding with contractors to provide or contribute to training schemes and schooling for the local community.

Policy Aims: The policy approach will not prescribe specific methods for contractors but will instead provide a general framework and leave the detail of each extractive operator to discrete community level agreements. To ensure that these policies are implemented, the County government will collect and regularly publish disaggregated data on employment, goods, works and services on local content spending by the operators. At a minimum, the policy goals are that Local Content Policies must include the following:

- ✓ **Information Sharing**: As already noted, the county government is committed to a transparent and accountable extractives industry. To this end, firms are expected to use accessible and user-friendly databases on all aspects of extractive activities in the County.

- ✓ **Reporting on Local Content**: Mining and Petroleum operations must report accountably on their local content obligations: This means reporting, at least once a year on such matters as

    - o Expenditures on local service providers and labour as a

[12] See Guide to Extractive Industries Documents – Mining World Bank Institute Governance for Extractive Industries Programme, January 2013, from which this section draws at http://www.eisourcebook.org/cms/Jan%202014/Guide%20to%20Mining%20Documents.pdf

percentage of total expenditure;

- o Details of local providers of goods and services to projects;
- o Proof of community-level consultation with suppliers on commercial opportunities for local suppliers, and
- o Reasons for sourcing labour, goods and services from outside the county and the opportunities given for local suppliers to bid for such services.

✓ **Local Procurement**: The county policy is that contractors may buy non-technical goods, services and materials outside the county if they have exhausted all local possibilities or if they can show that there are no adequate local equivalents.

✓ **Local Employment**: Contractors must make every effort to employ local personnel, including taking specific steps to attract qualified people from the county working outside the county back to employment in the county. Local contents agreements will include specific targets for county residents as well as restrictions on expat workers in unskilled positions.

✓ **Training and Capacity Building**: Training and capacity building are not optional and the county government's sees such programmes as part of the extractive industries' social licence. As appropriate, the county government will partner industry actors in joint training and capacity building for local employees.

✓ **Community Development Agreements**: When extractive companies enter into Community Development Agreements with mine-affected communities such agreements must also contain the contractors' obligations to respect the customs and traditions of the local community; the protection of the environment as well as other local content commitments as spelt out in this policy. CDAs should also include specific obligations on partnerships and joint ventures with the community.

✓ **Innovation**: The County Government sees Research and Development and associated capacity building as an essential part of sector governance. To ensure that the benefits of R&D cascade down to communities, the government will provide incentives for mining and extractive companies to invest in Research and Development. Such incentives will include aligning technical training programmes to the needs of the mining and extractive industries. To this end, the County Government will promote an inclusive Extractive Industry Growth Programme committed to training for mining extractives industries.

✓ **The Local Supplier Access Initiative**: Under this Local Content Policy the government will support local suppliers gain access to major extractive projects through the establishment of Public Private Fund to support local firms develop links with the supply chains of mining and petroleum projects. Small and medium enterprises (SMEs) – including artisanal co-operatives and associations- will be a particular policy focus.

- ✓ **Obligation on firms to announce standards and create awareness on them**: The county government requires the extractive industry to announce its standards for the procurement of goods and services that it needs so that local firms are clear about the operators' expectations on quality, technical standards and quantities required. To this end, the operators must conduct awareness campaigns on products and services required as well as to publicize the procurement and employment opportunities for the local companies. Such efforts should include training programmes for employees of local suppliers.

Policy Directions: The design of local content policies for Turkana County will be built around a number of themes. These will include:

- ✓ Formulating linkages between LCPs and other economic and social development policies set out in the Turkana County Integrated Development Plan. Interventions to increase local employment and local procurement may be hampered by lack of quality or relevant training in the county so the policy must provide a diagnosis of county specific realities- based on CIDP- that LCP must address.

- ✓ Measures to address market inefficiencies and distortions: Given the tendency of the oil and gas industry to externalize the sourcing of its inputs and to marginalize local suppliers- including some who may have the capability- the policy will provide options to support local suppliers, encourage co-operation among suppliers and to improve market transparency so as to eliminated or reduce information asymmetry between local and foreign contractors.

- ✓ The policy will encourage technology and skills transfer: Long-term skills transfer and knowledge management are essential to value addition in extractives. The policy will make targeted interventions and will link county processes to national policy processes. Interventions such as those in Brazil where the regulator requires oil and gas companies to invest at least 1 per cent of their gross revenue in oil- and gas-related research and development (R&D) will be identified and encouraged.