



## Meeting Report

# Third Workshop of the Extractive Sector Forum

Local Content in Kenya's  
Extractive Sector

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Meeting Report  
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# Executive Summary

This report summarizes key points from the Third Extractive Sector Forum (ESF) which was convened in Nairobi, Kenya on 15 September 2016 under the theme Local Content. The ESF was organised into four sessions. The first session – Contextualising Local Content – focused on conceptual discussions and clarifications on the meaning of local content. The second session – Trends in Local Content Policies – discussed trends and emerging lessons that could be learned from other countries. The third session - Review of the Local Content Bill, 2016 – examined key provisions of the recently published Local Content Bill, and gave participants a chance to debate how they could be improved. In the final session – Partnerships for Local Content Realisation – participants shared experience and information regarding industry, government, academia and community level initiatives to support local content realisation.

The ESF concluded that there may be no universal definition of “local content” but it generally speaks to promoting local ownership; maximizing use of local goods and services; value addition; local employment; and research and development. Nevertheless, local content is very important for resource-rich developing countries as it can ensure that these countries benefit from their resources beyond the royalties and taxes. To realise this, all stakeholders have important roles to play, and partnerships among stakeholders can accelerate faster and more effective delivery on these various roles.

Resource-rich countries are increasingly embracing local content policies with increasing focus on value-addition over and above promoting local procurement and employment. With regard to the Local Content Bill, 2016, participants observed that the Bill had very noble intentions but will require better drafting to provide clarity on some critical issues. As a way forward, the action points include sharing the ESF report and presentations; developing and sharing policy briefs on key discussion points during the ESF; conducting an expert review of the Local Content Bill, 2016 and submitting a report to the senate Committee on Energy and/or Senate and National Assembly; planning the 4th ESF before the end of the year; and taking the local content conversations down to host communities.

## 1. Introduction

This is a report of the Third Extractive Sector Forum, bringing together companies, government, civil society organisations and academia to discuss key concerns and emerging issues in the extractive sector in Kenya. It focused on the theme ‘Local Content Development in Kenya’s Extractive Sector’. It was attended by 49 participants and organized by the Institute for Law and Environmental Governance (ILEG), Aga Khan University’s East African Institute (AKU-EAI) and the Institute for Human Rights and Business (IHRB). The forum had the following objectives:

- Explore current understanding of the concepts of “Local Content” from different stakeholder perspectives, and how these can drive policy outcomes.
- Examine trends in local content policies and emerging lessons learned from other countries with a longer history of oil & gas and mining.

- Review and debate participants' views on the recently published Local Content Bill, 2016.
- Identify linkages, potential synergies and partnerships among different actors to support local content realization in Kenya's extractive sector.

This report summarizes key points from each of the four workshop sessions. It also identifies some potential areas of collaboration between the various stakeholders working in the extractive sector in Kenya, and summarizes the key action points from the forum.

## 2. Opening Remarks

The forum kicked off with a round of introductions from participants. The forum attracted a good mix of participants not only in terms of regions but also with regard to gender. Although there was a substantial number of national civil society organisations working from Nairobi, the forum also attracted grassroots organisations from as far as Turkana, Narok, Kilifi, Kwale, Siaya, and Kisumu. Of the 49 participants, 33 were male and 16 were female, indicating increasing interest and participation of women in extractive sector activities. There was also an impressive representation of all stakeholder groups with at least 10 industry players, 24 from civil society, 7 from academia and 2 from government. Participants had varied expectations ranging from learning how local technologies can be facilitated, what local content means for host communities, deciphering the concept of 'local', interacting with the Local Content Bill, 2016, and networking.

The ESF was kicked off by the moderator, Dr. Collins Odote who gave an overview of the ESF, and the third ESF in particular. He noted that unlike the past two ESF's that have been hosted by ILEG and IHRB, this time the two institutions were joined by Aga Khan University's East African Institute (AKU-EAI). He pointed out that the core principle of Local Content is to ensure that as resources are being exploited they benefit everyone equally, thus it is important for everyone to engage in any process relevant to local content, including giving views and contributing to the Local Content Bill, 2016. He noted that the ESF builds on ongoing conversations on the Bill including a recent public debate organised by Strathmore Extractives Industry Centre.

In his opening remarks, ILEG Executive Director Benson Ochieng reiterated the importance of moving together as stakeholders in the extractive sector. It is thus important to hold meetings like this one, so as to tap stakeholders' perspectives and seek ways to address concerns that may hinder the country and communities from benefitting from resource extraction. ILEG will continue to hold these conversations, and strive to include a diverse group of participants to help shape the conversations. ILEG will continue working with all stakeholders, including grassroots communities especially from the host counties to mainstream community voices in policy issues. The ESF will hopefully help demystify the concept of local content, as well as interrogate the Bill and put it in context. Acknowledging good representation from civil society, industry, academia and community, Mr. Ochieng decried the low representation from government.

Waleria Schuele from IHRB noted that any country wants its extractives to benefit its people. Local Content is an effective tool to ensure this. Today's theme is therefore very important. For local content to succeed, good partnerships are essential and ESF is a good example of efforts to foster such relationships. In his opening remarks, Dr Alex Awiti of AKU-EAI noted that over the

past 10-15 years, many African countries have discovered different valuable extractive resources. The history of resources has largely been associated with the 'resource curse' – the paradox that countries with an abundance of natural resources specifically non-renewable resources like minerals and fuels, tend to have less economic growth, less democracy, and worse development outcomes than countries with fewer natural resources. On this basis Aga Khan University is running projects in Turkana in partnership with Friends of Lake Turkana (FoLT) with a focus on how resources can benefit people and improve the livelihood of communities. It is important as a country to embrace research as the basis of policy interventions.

## 3. Session 1: Contextualising Local Content

The first session focused primarily on conceptual discussions and clarifications on what local content really means, and presenting different stakeholder views on the topic. It also examined how different perceptions about local content can drive policy outcomes. It comprised short remarks by Dr Alex Awiti, Lojomon Kipsang Biwott from the Kenya Chamber of Mines (KCM) and Faith Pesa from the Ministry of Mining. In the subsequent discussions there was general agreement that:

### Definition and Scope of Local Content

There seem to be no universal definition of what constitutes "local content". However, local content is generally understood as referring to development of indigenous capacities and capabilities through deliberate and planned skills and technology and even ownership transfer to host citizens, in this case Kenyans. In defining local content, there are at least five critical components: ownership, maximization of local procurement and preferences; value addition; local employment; and skills and technology transfer.

#### *Ownership*

Local content may involve requiring multinational oil gas and mining companies to enter into joint ventures with local firms or to open equity to local partners as a pre-requisite to obtaining mining or exploration licenses.

#### *Maximising Use of Local Goods and Services*

Local content also involves localising the extractive industry supply chains by sourcing from local companies. This however requires the locally procured goods and services to meet acceptable standards. Procuring locally also makes business sense since it is usually cheaper to produce and procure locally. Local procurement should therefore be made transparent and competitive according to acceptable standards.

#### *Value Addition*

Another important criterion for defining local content is "value addition" which primarily involves

putting in place policies to ensure the extracted resources are transformed locally before being exported as this would ensure the country or local regions reaps more from the resources unlike when raw materials are transported.

### *Local Employment*

Employment of locals in the extractive industry value chain emerged in the discussions as a very strong component of local content. It was also noted that employment should be accompanied with necessary training, skills development and technology transfer to local people. There should also be deliberate and well planned efforts to employ local staff up to the high levels of the multinational companies. Employment procedures should be transparent and inclusive of vulnerable groups such as women, youth and people with disability.

### *Research and Development*

Local content also requires investment by multinational companies in local research and development. This would ensure local companies are competitive as a result of using latest technology. Moreover, local companies are likely to benefit from such technology transfer. Involving local Kenyan universities in such research and development is one effective way of developing local capacities.

It was also noted that while it is important to define who 'local' people are, dwelling too much on definitions may lose focus on the important goal to be achieved through local content. For instance, putting in law that 'local' must be from the communities, or counties where the resources are being extracted may lead to unnecessary conflicts and even violence among citizens from different regions. Thus instead of putting such definition in law, focus should be on creating enabling environments for local people to benefit from resource extraction.

### *The Extractive Sector is Not Homogenous*

Conversations on local content, including the recently published Local Content Bill, 2016 often lump together oil and gas and mining sub-sectors as the 'extractive sector'. Yet, the way things work in the oil and gas industry is different from mining. This distinction needs to be made. In fact, the recently published Bill on local content is heavily tilted towards oil and gas, and covers very little on mining despite the possibility of many more mining licenses compared to oil and gas licenses. To ascertain Kenya's mineral potential relative to oil and gas, the Ministry of Mining officials at the ESF informed participants that the Ministry is planning to undertake a geophysical survey to help map all minerals available in the country. It is also important to note that the two sub-sectors – oil and gas and mining, operate under different regulations and ministries.

### *There is Need for Mutual Understanding*

All stakeholders should understand one another and more so their individual roles with regard to achieving local content in Kenya. Indeed, everyone has a role in realising local content. For instance, host communities should appreciate that the multinational companies are putting in their resources and expertise in developing the resources, and are driven by profits. There is need to balance expectations from oil & gas and mining companies with the need to attract the best investors for the local industry. Companies on their part should understand that they are investing in finite resources, and impacting communities in many ways, thus the need to develop local content.

### *Local Content Plans Should be Context-Specific*

Different areas, communities, counties, and countries have different needs with regard to procurement, employment, skills etc. In developing local content plans, it is important to avoid a one size fits all approach, and instead develop area-specific plans. It is also important when developing such plans to consult and ensure that all the local people's needs have been integrated to ensure inclusivity. It would also help to align local content plans with national and County development plans. All counties in Kenya have 5-year County Integrated Development Plans (CIDP) that inform the respective counties on development issues. They contain specific goals and objectives, a costed implementation plan, provisions for monitoring and evaluation. Each county will do well to consider the CIDPs and how it can help realise local content. Efforts should also be made to align local content plans to national development objectives such as Vision 2030.

## **4. Session II: Trends in Local Content Policies**

This session discussed trends in local content policies and emerging lessons learned. It also examined how countries with long history of resources exploitation have used local content policies to enhance the economic and social benefits of resource extraction. The session included presentations from Mwendia Nyaga from Oil and Energy Services Limited and Ms. Doris Okenwa, a PhD student at the London School of Economics. The following key issues were highlighted in the presentations and plenary.

### *Critical for Developing Countries*

Developing countries, particularly those in Africa, are emerging as critical players in global hydrocarbon production. According to the Baker Institute for Public Policy , about 90% of new hydrocarbon production in the next 20 years will come from developing countries. In order to ensure that these countries benefit from their resources beyond the royalties and taxes, local content policies are critical. In fact, case studies shared in the session revealed that deliberate well planned local content plans can pay dividends. For instance, when exploration and later production began in 1971 in Norway, the country lacked specific industrial capabilities and competence and almost all activities were run by international oil companies. Increased interest by companies and the government resulted in increased participation. This growth was aided by a combination of institutions, policies, timing in buildup, and industrial competence; focus on the value chain as opposed to the main sector; practical strategies for technology transfer; joint development programs for Norwegian companies; research and development partnerships etc.

### *Reflecting National Circumstances*

To be successful, local content plans and policies should reflect national circumstances as these differ across counties and regions. For instance, Brazil's local content as anchored in Local Content Legislation of 2003 focuses on concession by aiming to increase participation of national industry on a competitive basis. It also aims to improve national technological development; and job creation among other policies. The focus in both Norway and Ghana seem to be on

indigenous participation. Ghana's Petroleum (Local Content and Local Participation) Regulations of 2013 aims among other objectives to indigenise knowledge, expertise and technology in the oil and gas and related industries. In Norway, the Local Content Law 1972 (Article 54 of the Royal Decree of 1952), mandated the Norwegian government to pursue preference of Norwegian goods and services. It also aims to contribute to establishment of national control in resource exploitation and development. In Brunei, local content is anchored in Directive No.2 Local Business Development Framework for the Oil & Gas Industry, 2012. The directive promotes participation of local contractors/suppliers, and prioritises use of local goods and services. The directive aims to develop Bruneian businesses that are able to compete regionally.

### *Focusing on Value Addition*

Local content plans (LCP) originated in the North Sea in the early 1970s. These ranged from restrictions on imports to direct state intervention in the oil sector. Over time LCPs have evolved from supplying input from the local economy to processing the sector's output prior to export.

### *Laws and Policies on the Rise*

Resource-rich African countries are increasingly passing local content laws/policies. For example, Nigeria, Ghana, Angola, Morocco, South Africa, Uganda, Gabon and Guinea have passed local content laws in recent years. Uganda's National Oil and Gas Policy, 2008 focuses on training of Ugandans in all phases of operations. The Kenyan Petroleum (Exploration, Development & Production) Bill 2014 is awaiting presidential assent. It has considerable local content provisions including preference for Kenyan goods & services and local content plans. The Ministry of Energy and Petroleum has also developed Petroleum, Exploration Development and Production (Local Content) Regulations, 2014. The regulations require at least 5% indigenous equity participation in petroleum agreement/licenses. More recently, the Senate committee on energy published the Local Content Bill, 2016. In neighboring Tanzania, there is a local content policy for the oil and gas industry 2014 as well as a Petroleum law of 2013. The law gives preference to goods which are produced or available in Tanzania. It also has a clearly defined training programme for Tanzanians employed by oil and gas companies.

It is extremely important that Kenya develops a clear policy on local content that sets out clear objectives and action plans both for the short term and for the long term. But laws and policies can only be as good as their implementation. In fact, what is touted as a 'resource curse' is in many countries a 'leadership curse'.

### *Taking a Long-Term View*

It is important to keep in mind that progress on local content policies cannot be achieved over night. Such efforts take years and evolve over time. Even with good plans in place, it may still take several years before the fruits of local content are realised. Therefore, it is necessary and important that stakeholders take a long term view to avoid disappointments that may lead to unnecessary tensions and conflicts. For instance, oil exploration started in Turkana when the business environment was not well developed. This has been a cause of tension between the company and the local communities who have high expectations for positive results. It should be understood that it will take time to create the enabling business environment that can effectively drive local content realisation. Nevertheless, there has been considerable growth in Turkana and local people are hopefully beginning to appreciate the time lags involved in the sector.



It is important to be realistic about what is needed at different levels and how progress can be achieved.

### *Local Content Makes Business Sense*

While it may appear as a burden on international companies, putting in place and implementing local content policies in fact makes business sense. Industry representatives present at the ESF reiterated that they are in fact not in opposition to putting in place local content plans but rather are pushing for an agreeable way to implement such policies. For instance, it is generally cheaper to procure locally. Furthermore, apart from strengthening license to operate, local content also enhances sustainability and leads to lower costs in the long term.

## 5. Session III: Review of the Local Content Bill 2016

This session assessed to what extent the Local Content Bill, 2016 promotes economic and social benefits of resource extraction by debating its key provisions. Mr. Edgar Odari from Econews Africa kicked off the discussions by giving an overview of the Bill's key provisions. This was followed by plenary discussions.

### Key Provisions

#### *Object of the Bill*

The stated object of the Bill is to provide for a framework to facilitate the local ownership, control and financing of activities connected with the exploitation of gas, oil and other mineral resources; and to provide a framework to increase the local value capture along the value chain in the exploration of gas, oil and other mineral resources.

#### *Content Plans*

The Bill requires all operators to submit local content plans to the Local Content Committee when bidding for any license, permit or interest. [S.20]. The local content plan must contain provisions ensuring that first consideration is given to goods produced and services delivered locally and give priority to qualified local persons with respect to employment by the operator. [S.20(4)]. Further, operators are required to give preference to local companies (not defined) in award of contracts (and possibly grant of license) (subject to conditions specified in the Act) [S.40].

#### *Training and Employment*

Operators are required to submit a detailed Employment and Skills Development Plan which contains: a forecast of employment and training needs including specific skills needed, anticipated skill shortages, specific training requirements and anticipated expenditure to be incurred; a time frame within which the operator of a connected entity shall provide employment opportunity to the local workforce; and efforts made and procedures adopted for accelerated training of local

persons. Where Kenyans are not employed because of lack of training, the operator is expected to implement a capacity-building plan involving technical service contracts, joint ventures, technology transfer strategies and on-job trainings. [S.23]. Notably, the Bill does not set a ceiling for an expatriate quota for operators as is present in comprehensive laws on local content. It also falls short of setting out a "labour clause" for contracts of projects whose total budgets exceed certain thresholds (US\$ 100 million in Nigeria) mandating the use of minimum percentage of local labour in specific cadres (to be specified by Committee). It also lacks a "carve-out" clause setting out junior and intermediate positions to be only held by Kenyans.

### *Procuring Goods and Services*

Operators are required to maintain a bidding process for the acquisition of goods and services which provides a "fair opportunity for local persons to participate". Where a Kenyan company (undefined) has the capacity to undertake a project, such company will not be disqualified solely on the basis that it is not the lowest bidder so long as the value does not exceed the lowest bid price by 10 percent. The Bill makes no provision on approvals of advertisements of amounts exceeding US\$ 1,000,000 by the Committee (Nigeria).

### *Technology Transfer*

The Bill requires operators to submit an annual technology transfer plan under the local content plan [S. 30]. The technology transfer plans submitted must contain: a plan of activities aimed at promoting the effective transfer of technology from the operator to a local company or citizen; the specific requirement for the transfer of technology; the expected outputs; timeframe for the implementation of the activities set out in the plan; and the anticipated expenditure to be incurred by the operator. It outlines various strategies for transfer of technology as well as fiscal strategies to support the transfer of technology. S.29. it further provides for facilitation of transfer of technology by an operator requiring the preparation and adoption of technology transfer agreements, formation of joint ventures and partnering through local licensing agreements.

### *Research and Development*

An operator is required to prepare and submit an annually updated research and development plan with among other things: a three to five-year plan of the research initiatives to be undertaken by the operator in Kenya; a plan on the expenditure to be incurred in implementing the research and development plan; and request for proposals for research and development initiatives related to the activities of the operator. They are also required to set aside funds annually for the purpose of carrying out research and development which is a percentage of the gross revenue set by the Cabinet Secretary.

### *Monitoring and Enforcement*

Operators are required to submit an annual local content performance report measuring their performance in terms of Kenyan Content within 45 days of the start of the year after commencement of activities.

### *The Bill Requires Gentle Drafting*

Participants from across the stakeholder groups - community, civil society, academia, industry and government-acknowledged that the intent of the Bill is good as it seeks to increase economic benefits for the local people and businesses and sustainability in the industry. The Bill aims to

ensure equitable sharing of benefits accruing from the extractive sector. However, the Bill is unlikely to realise this objective in its present form. For instance, while its object covers both oil and gas and mining, the Bill is heavily skewed towards oil and gas.

Moreover, considering that oil and gas and mining sectors have different operational processes lumping the two sub-sectors together in the Bill may not be the best thing, and the danger is that one may not be adequately covered. Moreover, there are sections of the Bill that are viewed as too prescriptive. For instance, the Bill tries to regulate even the salaries that international oil & gas and mining companies can pay their employees. This is unlikely to be effective as salaries are usually determined by level of experience, skills, profitability etc. It is also not clear on how technology transfer, local investments etc. will be measured. It mentions that the Local Content Committee shall consult with county government without clearly stating the specific roles of county governments. The Bill needs to be revised through wide consultations with all relevant stakeholders, and should be clearer and easier to implement. The drafters should research and learn from good examples in countries that are using their extractives well to benefit their people and the economy. During such consultations, key provisions of the Bill should be translated in local languages so that everybody can understand and give their input.

### *A National Policy is Needed*

Kenya currently has no policy on local content that can provide the basis for the proposed law. This can leave the process without an anchoring mechanism as law is usually based on existing policy. A policy would help to concert actions towards achieving clear objectives. Such a policy would also help to inform and anchor other laws and regulations e.g. the petroleum and mining regulations that have been developed to address local content issues in these sectors.

### *Institutional Arrangements*

Even good laws without proper institutional arrangement for their implementation and monitoring will do very little to achieve their objectives. Therefore, it is good that the Bill proposes the establishment of a Local Content Monitoring Committee. However, composition of the committee is not inclusive enough, missing out even representation from the ministry of Mining. Moreover, the Cabinet Secretary for energy and petroleum has possibly too much discretion in terms of who should be in the committee. The Bill is also not very clear on the role of other critical actors such as the host county governments. With regard to functions of the committee, one key function lacking in the Bill is the role of the committee in conducting workshops, conferences, seminars, symposia and other public forums appropriate for the benefit of operators, contractors, the public and other stakeholders, as is the practice in Nigeria for example.

### *Penalties and Levies*

Some participants, especially those from industry felt that the Bill imposes considerable additional taxes on companies. They also felt that penalties in the Bill are punitive on the part of companies.

### *Local Content Versus International Obligations*

The Bill should recognise that Kenya is part of a global community, and is a member of certain international bodies and a signatory to a number of multilateral agreements. Certain provisions of the Bill, in an attempt to address the issues of local content, may be in conflict with some international agreements. For instance, World Trade Organization (WTO) rules require companies

from foreign member countries to be given national treatment in countries where they operate. If not carefully developed, the Bill may put Kenya in conflict with such international agreements.

### *Common Qualification System*

The Bill drafters should consider including a common qualification system which is used for: registration and pre-qualification of contractors; verification of contractors' capabilities; evaluation of the application of local content; and creating a database for a national skills development pool.

### *Periodic Listing of Contracts*

The Bill drafters should also consider including a requirement for periodic listing of all contracts, subcontracts and purchase orders as well as estimates for the next period for amounts in excess of US\$ 1,000,000 procurement or other acceptable amounts. Such listing must include estimates of the specific local content thresholds by the operator. Such listing would greatly enhance effective monitoring and enforce of local content.

## 6. Session IV: Partnerships to Realise Local Content

This session addressed sharing knowledge and information regarding industry level initiatives to support local content development. It focused on how industry policies and practices can promote local capacities; how local suppliers work together to increase access to contracts; and the role of local universities and training institutions and NGOs. It comprised four panelists: Mr. Robert Gerrits, Tullow Oil; Dr. Melba Wassunna, Strathmore Extractives Industry Centre; Regina Lokuna, Lokichar and; Mr. Martin Ayisi, a mining law consultant at the Ministry of Mining. The following key points summarise the presentations and subsequent plenary:

### *Partnerships are Key*

For local content to succeed, it is imperative that all stakeholders (government, private sector, civil society, academia, community members etc.) know and play their roles effectively. No one can achieve it on their own - not even government. Moreover, each of these stakeholders needs to partner with others to succeed. For instance, members of host communities or local companies can come together in order to benefit from economies of scale and to increase chances of accessing contracts. Government can also partner with academic institutions to deliver targeted trainings on requisite skills in the extractive sector. This is in fact the case between the University of Nairobi and Total Kenya. Total is partnering with the University of Nairobi by offering scholarships, facilitating student and staff exchange and offering internships as part of its programme to support education and research. The objective of the Total scholarship programme is to develop education through university-industry collaboration, student exchange, and development of educational facilities. Civil society can also partner with education institutions, industry or government to enhance awareness and conduct capacity building for communities on how to harness local content opportunities.

Such partnerships should be honest and inclusive. For instance, funds and other resource support extended to partners should be spent transparently and according to the agreement as any misappropriation may undermine such partnerships, deprive potential beneficiaries, and impede the realisation of local content. In addition, the roles, contributions, expectations etc. of each partner should be clearly designated, and all involved parties informed of progress. This will avoid situations where some stakeholders feel cheated and misused. For example, a community participant felt that sometimes, companies approach them well initially, but later may behave differently and exploit them when the company has achieved its own objectives. Partnerships should also be inclusive and free from any form of discrimination based on gender, ethnicity, age etc. Women's voices must not be neglected. Some participants expressed concerns that certain companies and even their own governments prejudice against them under assumption that the people there are uneducated which is not always the case.

### *Anchored in Research*

Local content activities and development plans should be based on proper research that speaks to the current status, gaps and thus needs with regard to local content opportunities. Academic institutions, government and civil society can play a critical role in conducting such research. Research will ensure that actions are targeted where they are needed and deliver benefits quickly. It will also ensure that local content plans and activities are area-specific, and not a one size fits all. Ghana has very good lessons on research-based local content. The country carried out a geospatial study that greatly guided the design of the country's local content policy.

### *Learning from Other Countries and Laws*

It is important to note that most international companies working in Kenya are also present in other African and other countries. These companies are already implementing local content plans in these countries, and lessons should be learned from those experiences so as to apply good practices and avoid pitfalls. There is also need to learn from other relevant laws concerning local content. For instance, the draft Kenya Mining regulations addressed many concerns raised in the ESF, yet very few participants had read them. However, it is important to realise that although laws help guide the implementation and enforcement of local content, they are not the panacea for all extractive sector ills. Stakeholders should work towards local content with honesty, understanding, transparency, accountability and mutual trust as matters of principle and good practice. The focus should be on supporting local content for mutual benefit and not just to comply with laws.

### *Involving Academia*

Despite glaring gaps with regard to capacities in Kenya's extractive sector, academic experts have not been adequately proactive with regard to policy research to inform national decision making and even institutional decision making. It is imperative that academia fills this gap and pursues rigorous research and other work aimed at promoting effective, sustainable and accountable resource extraction. In this regard they should be more connected and actively engage stakeholders. Indeed, there are some actions taking place in this respect. For example, Strathmore University in partnership with Aberdeen University is developing a Masters programme in oil and gas law. The course seeks to improve the capacity in the sector by training local young people interested in the subject.

Apart from training, academics can help in conducting gap assessments in an effort to establish what the extractive industry requires at different levels. They should also take the lead in driving national conversations on what Kenya as a country desires from its natural resources. Such conversations need to happen starting at the most basic level. But this should not be restricted to the host areas or to the country. Academia can drive a regional agenda on extractives as well. For instance, almost all East African countries (Kenya, Tanzania, Uganda, Ethiopia, Mozambique) have recently discovered either oil, gas or other minerals, and are entering into different stages of their exploration, extraction or development. A regional agenda can guide how to position the region, or what can be done to realise maximum benefits from the resources. It can also help in the exchange of information and good practice. Academia can also lead the way for innovation for progress in the extractive sector.

### *Building Local Communities' Capacity*

There is need for more capacity building especially for local community members in order to help them harness the opportunities created by the extractive sectors and to help achieve local content.

## 7. Conclusions and Way Forward

The discussions concluded that there may be no universal definition of "local content" but it generally speaks to promoting local ownership; maximising use of local goods and services; value addition; local employment; and research and development. Nevertheless, local content is very important for resource-rich developing countries as it can ensure that these countries benefit from their resources beyond royalties and taxes. To realise this, all stakeholders have important roles to play, and partnerships among stakeholders can accelerate faster and more effective delivery on these various roles. Resource-rich countries are increasingly embracing local content policies with increasing focus on value-addition over and above promoting local procurement and employment. With regard to the Local Content Bill, 2016, participants agreed the Bill had very noble intentions but needs improved drafting. In terms of the way forward, the following action points were suggested:

### *ESF Report and Presentations*

The organisers of the ESF - ILEG, AKU-EAI and IHRB - committed to prepare and share a report of the ESF with all participants. All submitted presentations, speeches or talking points will be shared alongside the report.

### *Policy Briefs*

In addition to the ESF report, ILEG committed to develop and share with all participants one or two policy briefs based on the discussions at the ESF. This will be done within 1-2 months of the ESF date. The briefs will be shared widely with stakeholders.

### *Technical Review*

ILEG committed to conduct an expert review of the Local Content Bill, 2016 and submit its report to the senate Committee on Energy and/or Senate and National Assembly. ILEG Executive director Benson Ochieng invited any interested organisations who would like to partner in the review to contact ILEG.

### *4th ESF Meeting*

A final 2016 ESF session is planned in the last quarter of the year. Participants will be contacted as the plans get underway. Partners are invited to leverage the ESF to host relevant conversations that can drive growth and sustainability in the extractive sector.

### *Take Conversations Down to Grassroots Level*

There was a strong need to take local content conversations to grassroots in order to reach the population who are the most affected, or are the potential biggest beneficiaries of local content policies. The ESF presents a good opportunity to do this and organisers were challenged to seriously consider hosting some future ESF in other host counties.

# Annex: Participants List

Kennedy M Wangui, Kipya Africa Ltd.	Edgar Odari, EcoNews
Hamisi Juma, KCNRN	Ruth Kinywajui, Institute of Economic Affairs
Dr. C. A. Mumma, TEPK	Joseph Hussein Khanyukhi, ITUC
Waweru Karanja, Kipya Africa Ltd.	Abubakar Said, URAIA
Moses Njiru Njeru, Kenya Chamber of Mines	Hazel Wangari, Extractives E.A. Magazine
Shalom Ndiku, Natural Justice	Kimani Wainaina, Kencoal Ltd.
Doris Okenwa, London School of Economics	Geoffrey Kerecha, ICES
Jackie Okanga, Aga Khan University	Alex Awiti, Aga Khan University
Kimaren Riamit, ILEPA	Muturi Kamau, Kenya Oil and GS Working Group
Kitasi Wanga, ActionAid	Dr. Collins Odote, ILEG
Pauline Skaper, Rift Valley Institute	Ellon Kamau, Total EP Kenya
Phillipa Hutchinson, ACACIA	Opanga Valentine, ILEG
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