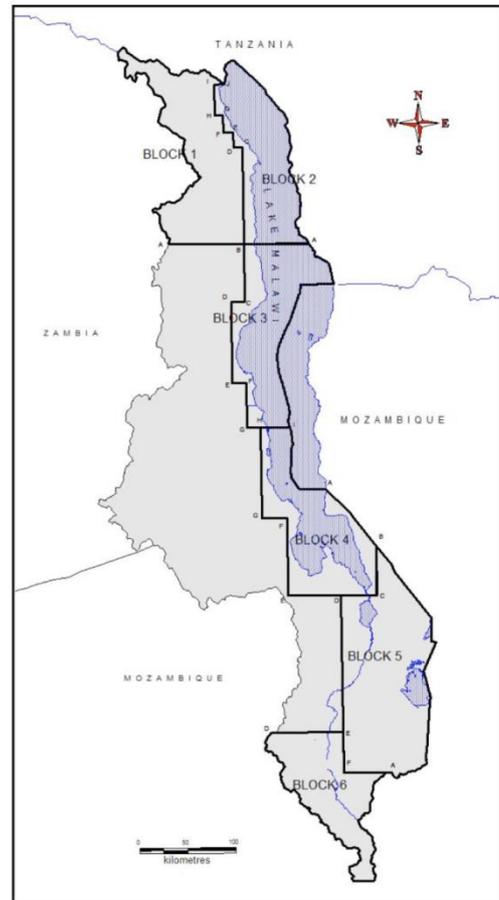


18 February 2016

## Five Unanswered Questions on Exploration of Oil & Gas in Malawi's Lake and Land

All of Lake Malawi and part of Malawi's land including the Shire River Basin have been divided into six blocks for exploration of oil and gas. Between 2012 and 2014, the Government of Malawi issued six petroleum exploration licences.

- In September 2011, the Government awarded petroleum exploration licences to private British company Surestream Petroleum for Blocks 2 and 3. In December 2012, South African company SacOil Holdings acquired Block 1.
- Pacific Oil was awarded Block 6 and RakGas was awarded Blocks 4 and 5 in October 2013 by the Government. In addition, the same administration permitted Hamra Oil to enter into a joint operating agreement with Surestream Petroleum and Hamra Oil now has a 51% stake in the two blocks.
- Less than two weeks before the last elections, held on 20 May 2014, the Government entered into Production Sharing Agreements with RakGas MB 45 (registered in the Cayman Islands, subsidiary of company from the emirate Ras al-Khaimah) and Pacific Oil. These agreements were signed before any proven discoveries have been made which goes against international best practice.
- According to the Attorney General of Malawi, it is believed that Blocks 2, 3, 4, 5 and 6 all belong to the same company which is operating under three entities in Malawi (RAKGas, Hamra Oil and Pacific Oil). It is illegal to hold more than two blocks.



There is no public evidence that this process of awarding licences was done transparently and openly to attract the best and highest bidder.

In November 2014, the Government of Malawi suspended all licences and agreements to “ensure that the Licences that were granted or the Agreements that were signed are for the benefit of the people of Malawi and were done in accordance with all the relevant laws of the country” (Press Release, 18 November 2014). Last week, the Minister of Foreign Affairs, George Chabonda, disclosed that the President has lifted the ban. It is unclear why this announcement did not come from the Ministry of Natural Resources, Energy and Mining itself.

In light of this ban being lifted, Publish What You Pay (PWYP) Malawi believes that there are a number of unanswered questions relating to oil and gas exploration in Malawi. Malawians deserve to know the answers.

**1. Has the Government of Malawi cancelled some of the licences and renegotiated the Production Sharing Agreements in line with the Attorney General’s legal opinion?**

In 2015, the Attorney General Kalekeni Kaphale produced a legal opinion for this administration’s review of the licences and agreements. *The Nation* [reported](#) on this opinion and revealed that the Attorney General:

- Suggested that some licences be revoked or cancelled because three companies RakGas, Pacific Oil and Hamra Oil were connected by a thin “corporate veil” used to acquire more than two blocks, which is illegal in Malawi. He indicated that the corporate relationship needs to be further investigated; and
- Believed that the Production Sharing Agreements signed by the Ministry of Mining were entered against the advice of the Solicitor General’s Office that they should only be entered on confirmed discovery of petroleum.

We need to know if the Attorney General’s recommendations have been followed and if not, why not.

**2. Are the Production Sharing Agreements signed between the oil companies and Government of Malawi available to the public?**

The former Principal Secretary of Natural Resources, Energy and Mining, Ben Botolo, announced during a speech given on 15 December 2015 that:

*“I want to underscore here that the Government and this administration are committed to enhancing transparency in the sector. So I would like to take this opportunity to go on record and state that all contracts in the mining and oil and gas sectors are already open to the public and on record at the Department of Mines.”*

In light of this, we would like to know if any Malawian can now go to the Department of Mines or look online to access the Production Sharing Agreements. If not, why not? Botolo made these remarks during a stakeholder meeting in Lilongwe at the Malawi Extractive Industries Transparency Initiative. Malawi – through the Ministry of Finance, Economic Planning and Development – joined the Extractive Industries Transparency Initiative in October 2015. For further information, see [www.eiti.org/malawi](http://www.eiti.org/malawi).

**3. Why did RakGas transfer USD 235,700 to the Government and how has this money been used?**

The Reserve Bank of Malawi’s accounts for the Department of Mines received USD 235,700 in April 2014. What was this money for and how has this been used?

This figure and similar queries have been published alongside other payments made by oil companies to government in the Malawi Extractive Industries Transparency Initiative Scoping Study (February 2016, page 40). This is report available from the MWEITI Secretariat in the Revenue Policy Division in the Ministry of Finance, Economic Planning and Development.

**4. When will the Government of Malawi review the 33-year old Petroleum (Exploration and Production) Act (1983)?**

Our legislation governing the oil and gas sector is outdated. For example, it still vests the resources in the “Life” president among many other shortfalls.

We would like to remind the Government that in 2009 we adopted the African Mining Vision at African Union meetings. The African Mining Vision clearly spells out how resources can be extracted and used: “Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable

growth and socio-economic development". Do the Petroleum Act and other significant laws such as the 1996 Environmental Management Act ensure Malawi lives up to the African Mining Vision? Will Malawians benefit and how will the environment be protected?

##### **5. What is the Government of Malawi's position on the World Heritage Site "Lake Malawi National Park"?**

Lake Malawi National Park is one of Malawi's two World Heritage Sites, recorded for its Outstanding Universal Value and role in biodiversity conservation. In response to the awarding of licences, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) initiated a reactive monitoring visit in March and April 2014, conducted by the World Heritage Centre and the International Union for Conservation of Nature. The Government was then requested to ensure that no exploration rights are given that cover the park, to create a buffer zone and to extend the park. The companies in question were called upon to commit to not exploring in a World Heritage Site. By December 2015, our Government had not responded to UNESCO about the World Heritage Site and instead wrote to request an extension on its decision.

The Monitoring Report can be read here <http://whc.unesco.org/document/129870> (April 2014) and the Government response here <http://whc.unesco.org/document/139704> (December 2015).

We support the Government's intention to use our resources to develop Malawi in a sustainable in a way. However, we are deeply concerned that if we proceed as we are without transparency and the due process of law all Malawians will lose out. We hope Malawians can keep asking these questions until they are answered.

\*\*\*

PWYP Malawi is a campaign being run by 16 organisations under the country's only CSO network for the extractive industries, the Natural Resources Justice Network, which is made up of 33 organisations and founded in 2007.

The following organisations make up the PWYP Malawi Campaign:

- ActionAid Malawi
- Catholic Commission for Justice and Peace (CCJP)
- Centre for Environmental Policy and Advocacy (CEPA)
- Centre for Human Rights and Rehabilitation (CHRR)
- Church & Society of Livingstonia Synod
- Civil Society Education Coalition (CSEC)
- Citizens for Justice (CFJ)
- Economics Association of Malawi (ECAMA)
- Foundation for Community Support Services (FOCUS)
- Institute for Policy Interaction (IPI)
- Institute for Policy Research and Social Empowerment
- Mabilabo Area Development Committee
- Malawi Economic and Justice Network (MEJN)
- Malawi Watch
- Media Institute of Southern Africa (MISA) - Malawi
- Norwegian Church Aid
- Oxfam Malawi
- Ufulu Wathu