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a provision found in the PSA or any agreement for that matter providing to the effect that the terms of the agreement or findings should not be disclosed by the parties. The clause can be incorporated in the PSA, or may be included in a separate confidentiality agreement signed between the host government and the investor. The confidentiality clause may go further and deem the very existence of the confidentiality agreement or clause itself as confidential.

Confidentiality agreements are meant to protect the parties' valuable information and trade secrets. Human rights activists and others are opposed to these agreements on the basis that the same encourage mismanagement of natural resources, opaque practices, and unfair distribution of revenues between the investor and host state. The secrecy also increases perceptions of unfairness or misappropriation of proceeds in the eyes of the public. This may be detrimental to the smooth development of the sector and may trigger resource nationalism. These perceptions may or may not be justified.

In the model PSAs, I note that there exists a provision on confidentiality, but it does not state that the PSAs are confidential. Rather it is the technical data and information derived from the implementation of the PSAs that is confidential. All model PSAs list the confidential information as including the geological and geophysical reports, logs and well surveys, information and interpretations of such data and information obtained by the contractor in the course of carrying out petroleum operations. The PSAs further provide that all such data, information and interpretations, as well as cores and cuttings taken from drilling wells shall be the property of government and the same may not be published, reproduced or otherwise dealt with by the contractor without the prior written consent of government or TPDC, whose consent shall not be unreasonably withheld.

The government is also bound not to disclose this technical information, but the minister for Energy and Minerals may provide just a summary of it -- summaries of data, information and reports from geophysical surveys and exploration wells, including lithological groups, classification boundaries and hydrocarbon zones -- for public consumption on terms stated therein. It is interesting to note that if the model PSAs are anything to go by, then it is the government (for good reasons) which prohibits investors from disclosing the interpretation to the public. This is because all PSAs models have a provision which says: Any public disclosure regarding the interpretation of information acquired in petroleum operations shall not be made without the government's consent.

However, one game changing position to note is that the protected technical information is not in the PSAs, but is obtained from their implementation. So the stance by the minister that the PSAs are confidential is not correct, unless the government admits that what they signed with the investors were radically different from the model PSAs published on TPDC website. As I noted earlier, the model PSAs may be changed in the course of real negotiations or even by way of addenda or amendments. For example, there is now in circulation online "an addendum between Tanzania and Statoil", and it is said to have amended the original PSA between the two parties, and has enhanced the investor's take, that is, profit from the investment in far greater than the original signed PSA or model PSAs. This and like undisclosed incidences calls for a greater need of scrapping confidentiality clauses. I think the public needs to know how its resources are exploited and managed, and how beneficial provisions are structured and translate in real life. The people cannot know this if the very PSAs are kept secret. As the old saying goes, the devil is in the details. We must get rid of non disclosure agreements which restrict the government in disclosing the crucial terms of the PSA.

There is a growing trend and best practice in the world to make PSAs open documents. This openness has been triggered by many reasons: a) the common sense realization that the people are the sovereign, and natural resources belong to the people, with the state only acting as a trustee of the resources, hence the people have the right to know the manner and terms of exploitation of their resources. b) openness is also mandated by the constitution and statute laws in the relevant jurisdictions, our statutes are silent on this issue, c) the growing trend by modern

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