



SHAKWA NYAMBE & CO INC

LAWYERS AND BUSINESS ADVISORS



LEGAL & REGULATORY CONSIDERATIONS: CREATING AN ENABLING ENVIRONMENT

**Namibia's 3rd International Oil &
Gas Conference, Swakopmund,
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Shakwa Nyambe

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Nyambe & Co Inc**



Introduction

- Effective Legal and Regulatory frameworks needed in order to create an enabling environment for investment in Africa – WHY?
- Five key legal and regulatory principles which have a significant bearing on perceptions of the overall enabling environment are:



1. Introduction of acceptable legal & fiscal framework

- Petroleum Law
- Enabling Regulations
- Model Contract
- Tax Regime
 - A reasonable royalty
 - Corporate tax
 - Additional Profit Tax



2. Independent Regulator to administer supporting regulations

- Regulations vital for every petroleum legislation
- Government & legislature to establish policy, while role of regulator is to administer the regulations arising from those policies
- Regulator should therefore ideally be independent of the policy making process



3. Honour International Accepted Standards

- Accounting Standards
- Honouring provisions of International Treaties/conventions
- Allowing recourse to international arbitration
 - Arbitration clauses to be reflected in model contracts
 - Abide and respect arbitration decisions



4. Abide by Contractual undertakings

- Very important to respect contractual terms
- Preclude the use of bureaucracy to constrain investor activities
- Investors are attracted by jurisdictions which honour and protect negotiated terms of signed contracts



5. Transparency and Accountability

- Transparency limits opportunity for corruption
- Accountability ensures the entrusted are held accountable for their actions or inactions
- This is a critical factor for investors. Presence of following factors critical for investors:
 - Anti-bribery & corruption legislations & institutions to enforce them
 - Allowing anti-bribery and corruption provisions in model contracts
 - Honouring national & international anti-bribery laws and treaties
 - Transparency in issuing of petroleum licenses



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THANK YOU