

5th November 2024

Reference CEO / 05112024

Ambassador Dr Moses Kusikuka
Chief Permanent Secretary of the President
President's Office, State House
1 Julius Nyerere Road, Chamwino
Dodoma, Tanzania

Subject: Request for fair outcome.

Your Excellency,

I write to express our grave concern regarding the recent arbitration case between Oryx Energies Tanzania Limited, Oryx Energies SA, and Oilcom Tanzania Limited, which highlights critical issues affecting Tanzania's investment climate. The award of US\$ 174 million to Oilcom, based on an independently contested calculation methodology, has raised very serious concerns about the integrity of the arbitral proceedings and the perception of procedural fairness for foreign investors in Tanzania. Oryx Energies now faces the imminent threat of asset seizure by a competitor, targeting assets that are the fruit of many years of work and material investment in Tanzania.

For over three decades, Oryx Energies has proudly invested US\$ 200 million in Tanzania, including US\$ 130 million on the gas business alone, supporting over 700 Tanzanians directly and investing in crucial energy infrastructure. Despite this, the fraudulent arbitration process has left us facing asset seizures that threaten both our operations and longstanding contributions to Tanzania's economy, including the Clean Cooking Energy initiative. Procedural irregularities — such as disregarded challenges, dismissed expert evidence and conflicted arbitrator — have marred these proceedings, creating severe financial implications that jeopardize not only Oryx Energies' viability but also the livelihood of thousands who depend on our continued presence and investment in Tanzania.

As of today, we seriously believe that:

- The awarded claim amount of USD 174 million creates a very negative climate for private investors in Tanzania. Oryx Energies had been considering expanding its operations with a new cylinder manufacturing plant and larger LPG storage facilities; however, if this situation remains unresolved, these projects will no longer be feasible.
- An unfair decision in this case will deter future foreign investment in Tanzania, as it raises concerns about the arbitral system and the stability of the investment environment.
- Given the close relationship between the banking system and private investors, an unfair decision impacting a single investor will have wider repercussions. The entire banking system could be affected, as all players in sectors such as imports, commodities, and industry are financed by the same banking partners.

This case has also drawn international concern, as highlighted by embassies which have advocated for a fair and transparent resolution.



Your Excellency, as Tanzania seeks to strengthen its economic growth, enhance foreign direct investment, and maintain its reputation as a reliable partner for international businesses, we humbly request your attention to this matter. Ensuring an equitable legal framework for all investors will be vital in preserving Tanzania's reputation as a premier investment destination and in fostering a stable environment for economic development.

We would like to humbly request a fair outcome and impartiality as this context harms the sustainability of Oryx Energies' current assets and therefore slows down the ability of the Group to invest further in Tanzania in the future. Indeed, our financial partners are closely monitoring the outcome of this litigation before deciding on financing future investment plans.

We sincerely appreciate your leadership and commitment to creating a just and prosperous future for Tanzania and remain hopeful for a resolution that upholds transparency and fairness.

Yours respectfully,

Moussa Diao
CEO, Oryx Energies



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Summary of the Litigation

Partnership Details: In 2016, Oryx Energies SA entered a partnership with Oilcom Tanzania Limited, involving:

- Leasing 19 petrol stations.
- Allocating 40% of transit volume of Oryx's international customers referenced in the contract.

Start of the litigation: By 2019, Oilcom claimed that Oryx breached the agreement, leading to a legal dispute. Oilcom initially filed a claim for US\$ 5 million, later increasing the claim to US\$ 173 million due to alleged unmet volume allocations and a disputed turnover calculation.

Arbitration: In 2020, Oilcom took the dispute to arbitration in Dar es Salaam. Their US\$ 173 million claim was based on total transit volumes handled by Oryx (instead of 40% of a few listed customers as per the contract), using a revenue model rather than the agreed-upon profit model, inflating the damages. Arbitration Tribunal did not take into account the catch-up clause of the contract offering the opportunity to compensate volumes during the remaining years of the contract.

Final Award: On November 30, 2023, the arbitration tribunal awarded Oilcom US\$ 174 million in damages, covering opportunity costs and interest. Part of this amount include US\$ 20 million as general damages awarded without any justification in contradiction with Arbitration Rules. The tribunal also dismissed Oryx's counterclaims and excluded critical expert evidence from Oryx in contradiction with Arbitration Rules.

Concerns of Bias: Oryx raised concerns about the fairness and impartiality of the tribunal, especially regarding the appointment of arbitrator Prof. Mussa Juma Assad, who is conflicted as he used to work for Oilcom in the past. Oryx's request to replace him was denied in contradiction with Arbitration Rules.

Defensive Challenges: The tribunal denied Oryx's request for additional time to prepare its defense and refused to accept an independent expert report that could have contested the inaccuracies in Oilcom's claims.

Ongoing Legal Efforts: Oryx pursued multiple court appeals but faced delays and procedural challenges.

Enforcement of the Award: Despite Oryx's ongoing appeals in the Tanzanian High Court, the arbitration award is being enforced, including garnishee orders that could destabilize Oryx's financial standing in Tanzania and forced Oryx to consequently stop operations.

About Oryx Energies Group in Tanzania

Oryx Energies has been present since 1999 in Tanzania's energy sector by delivering a comprehensive range of fuel, LPG, and lubricant products and services through an integrated supply, storage, and distribution network. Oryx Energies has invested US\$ 200 million as of today in the country, supporting local infrastructure, employment, and economic growth. We operate one of East Africa's largest storage facilities, TIPER, in partnership with the Tanzanian government, with a capacity of 313,000 m³. Oryx Gas Tanzania is the nation's top LPG provider, with an extensive retail network reaching over 15,000 points of sale. It has earned a place in the Tanzania Gender Equality Programme. Today, this subsidiary plays a significant role in the Tanzanian National Action Plan for Cooking Energy, particularly by encouraging the adoption of safer and more environmentally friendly energy sources. Our entities employ over 700 people directly, creating an additional 25,000 indirect jobs. Our economic contribution includes an average annual tax payment of TZS 262 billion from 2021 to 2023, reflecting our commitment to Tanzania's development. With state-of-the-art facilities and a dedication to sustainability and community initiatives, we remain an energy partner of choice across Tanzania and beyond.