

The Local Content Law in Nigeria: Strategies for Greater Impact on the Economy

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Abstract

This paper examines the local content law as passed by the National Assembly and the impact on Nigerians and its economy. The paper discusses the issues in the law and operational strategies to achieve results. The aim of the law is to allow more Nigerians participate in the crucial oil and gas industry; however, there are challenges in achieving maximum participation and benefits by Nigerians, such as lack of funds, infrastructure, policy issues etc. The paper articulates measure that the government should take to achieve better result, in terms of indigenous participation in the oil and gas industry in Nigeria. This includes; articulation of policies that will allow for indigenous participation in the oil and gas industry, embark on market oriented reforms that will integrate the economy towards achieving competitive economic growth and globalization. Small and medium scale enterprises are an integral part of the successful implementation of the local content laws. Finally, the local investors need institutions, infrastructure and policy support from the government in order to develop and contribute effectively to the growth of the economy, through local content improvement in the oil and gas sector in Nigeria.

Keywords: Oil and gas sector, Local content law, Government policy

1. Introduction

Since the 1960's the Nigerian Oil and Gas Industry has continued to play a key role in the country's economic growth. The sector generates about 95 per cent of total revenue and 80 percent of national income for the country. To service the operations in the oil and gas industry Nigeria makes huge investments, spending over \$86b annually. Despite these investments in the sector, some important macro variables have not fared well, e.g. employment, inflation, housing, the energy sector, manpower/capacity development etc. The reasons are obvious, over 80 percent of the government investment in the sector, get their services from abroad and the sector was designed to be capital intensive.

Prior to the local content law a significant proportion of government revenue in the oil and gas industry were paid to foreign contractors for services like fabrication, engineering and procurement resulting in capital flight and leaving very little for the country's industrial base and general economic development. The import is the dearth in jobs, skill development, capacity building/utilization and lack of sustained national economic development.

It was noted that in the hydrocarbon industry, certain basic engineering services such as fabrication, engineering, procurement, construction, front end engineering design, are often carried abroad where most of the equipment are manufactured; thereby providing employment to citizens of other countries at the expense of Nigerians.

It is for this reason that the government introduced the local content policy, which was later signed into law by the president of the Federal Republic Nigeria. This law aims at championing the course of higher participation of indigenous operators in the sector and of course, add value to the Nation's economy, other objectives of the local content law include, the stimulating of growth of indigenous capacities, encourage small and medium scale businesses in the oil and gas industry to take active part in the operations in the sector.

After the passage of the law on local content, investigation reveals that a lot of contracts are still being awarded to foreign companies, even those that bear the name of local contractors, end-up in the hands of foreign engineers. The fact, which to large extent true, is that the local engineers most times lack the requisite skills, technical expertise, production capacity and funding to compete favourably with their foreign counterpart.

Akindele and Basse (2001), collaborate this point, when they posited that the Nigerian local content law will run into troubled waters, because of observed lapses; deficiency in capitalization arising from the tendency of Nigerian entrepreneurs to operate as a single business, capital and structural deficiencies associated with poor training and low managerial ability, and inability to attract funds due to lack of suitable collateral and positive corporate image.

The practical gap created by this law, has necessitated needful contributions, especially from the academia, on what government at all levels, individuals and local corporate bodies should do to maximize the benefits of the law as individuals, corporate bodies, and consequently as a nation.

This paper is divided into four sections, first the introduction, the literature review which is the second section, the third section, is the role of government to enhance participation, then the conclusion.

2. Review of Literature

The quintessence of this section tries to focus on the Local content Policies/laws in Nigeria, the 1969 Petroleum and Drilling Act, The Gas Master Plan (GMP), the local content Act, 2003, and the challenges of the local content law in Nigeria which gives analysis relevant to this paper. Also the review is to provide the basis for and chart the direction to follow in this study.

2.1: Local Content Policies/Laws in Nigeria

Local content is the added value brought to a host nation (and regional and local areas in that country) through the activities of the oil and gas industry. This may be measured (by project, affiliate, and/or country aggregate) and undertaken through:

Workforce development:

- Employment of local work force
- Training of local work force

Investments in supplier Development:

- Developing supplies and services locally
- Producing supplies and services locally

Local content development is not a new concept in Nigeria. At the international level, the concept have been applied by oil and non-oil producing countries. The local content bill in the Nigerian oil and gas industry, as passed and signed into law by the national assembly and the presidency, is not the first attempt to indigenize economic activities in Nigeria.

It will be recalled that in 1976, the indigenization policy was passed, the nationalization policy and even the attainment of independence as a sovereign nation itself, were all aimed at giving total or greater opportunity to Nigerians to manage their own affairs and take their destinies in their hands.

We postulate that entrepreneurial activities may be influenced by external factors. Such external influence is often seen in the form of government intervention in an economic sector, such as encouraging local entrepreneurship. This has been identified in previous studies (Abdulkabir et al., 2015 and Radosevic and Yoruk, 2013).

In the oil and gas industry, various attempts have been made at ensuring a greater participation of the indigenes in the operations in the industry, such attempts include the Petroleum Act of 1969, and the Nigerian Content Directive by the NNPC in 1976.

The Nigerian Oil and Gas Development Law 2010 defines local content as the quantum of composite value added to or created in Nigeria through utilization of Nigerian resources and services in the petroleum industry resulting in the development of indigenous capability without compromising quality, health, safety and environmental standards.

Local Content Strategy Information-Graph



Local Content Strategy info-graph (Sourced from the [site](#))

2.2: The 1969 Petroleum and Drilling Act

The regulation 26 of the 1969 Petroleum and Drilling Act, represent one of the government's early efforts to increase Nigerian National workers participation in the oil sector. The Act stipulations;

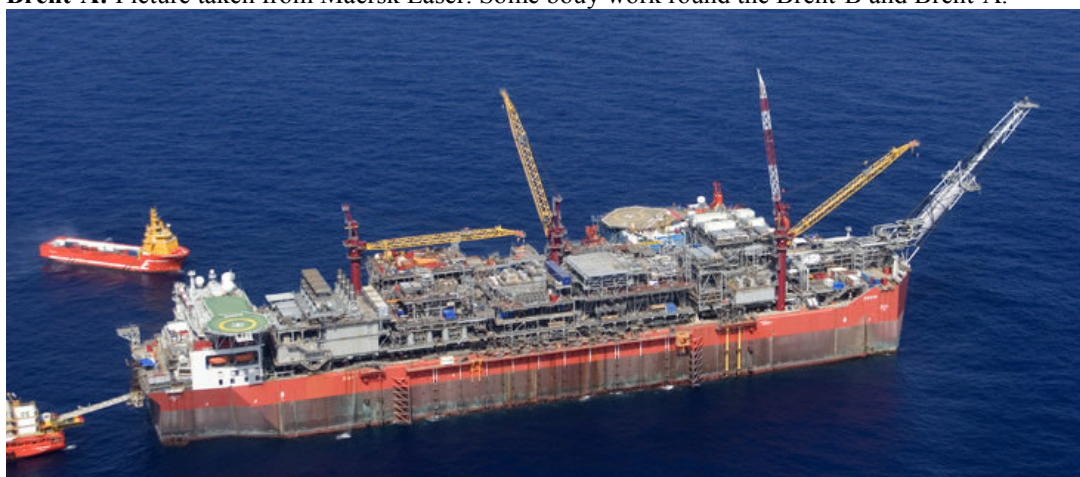
“That license of an oil prospecting company shall twelve months of grant of his license and/or grant of oil mining lease, submit for ministerial approval, a detailed programme for the recruitment and training of Nigerians”.

Oil Drilling Pictures in Nigeria



Oil Rig Photos. No: 3109 Contributor: Phillip Roncone Year: 30th January 2017

Brent-A: Picture taken from Maersk Laser. Some bouy work round the Brent-B and Brent-A.



Oil Rig Photos

No: 185 Contributor: [Garve Scott-Lodge](#) Companies: [Shell](#) Year: [2005](#) Country: [Nigeria](#): Bonga – Floating Production Storage and Offloading vessel. FPSO. Bonga Field offshore, Nigeria. Photo Courtesy of Shell Photographic Services, Shell International Ltd.

The amended Act represents one of the government's continuous efforts to increase Nigerian National workers participation in the oil sector. The 1969 Petroleum and drilling Act were amended as stated below;

PETROLEUM ACT
(Cap. 350 LFN)

2.3: PETROLEUM (DRILLING AND PRODUCTION) (AMENDMENT) REGULATIONS 1996 S. 1. 3 OF 1996

Commencement: 1st January, 1995

In exercise of the powers conferred upon the Minister of Petroleum by section 9 of the Petroleum Act, and of all other powers enabling him in that behalf, the Minister of Petroleum Resources, made the following Regulations:-
Amendment of LN. 69 of 1969.

1. The Petroleum (Drilling and Production) Regulations 1969 is hereby amended -

(a) In regulation 4 thereof by inserting a new paragraph 4(b) as follows, that is -
"Applications for assignment or takeover.

(b) Application for the assignment or takeover of an oil prospecting license or Oil Mining lease (or of an interest in the same) shall be made to the Minister in writing and accompanied by the prescribed fees at the discretion of the Minister; and the applicant shall furnish in respect of the assignment, or takeover all such information as is required to be furnished in the case of an applicant for a new license or lease;

(b) In regulation 30 thereof by inserting a new regulation 30 (A) as follows, that is -
'Permit to conduct Seismic data survey.

30A.-(1) No person shall carry out seismic data survey in any concession area unless the person has been issued a permit by the Director of Petroleum Resources.

(2) The permit shall be obtained in respect of each concession.

(3) An application for a permit shall be made in writing to the Director of Petroleum Resources at least one, month prior to the commencement of the survey and accompanied by a fee of N5,000.00,

(4) An application under paragraph (3) of this regulation shall state among other things –

(a) The objectives of the proposed data acquisition and the location of the oil prospecting license or oil mining lease area;

(b) The density and quality of previous vintages if any, on the, said areas of the concession;

(c) The justification for the magnitude of subsurface coverage being applied for;

(d) The terrain and duration of the survey;

(e) The name of the geophysical party and location;

(f) The base map of the area;

(g) The equipment type and specification;

(h) The copy of a similar letter of intent issued by the Hydrographer of the Nigerian Navy, in the case of Marine operation;

(i) The estimated cost per kilometre;

(ii) Any other relevant information.";

(c) In regulation 32 thereof -

(i) By substituting for paragraph (1) the following new paragraph, that is -

"(1) No borehole or well shall be commenced, or re- entered after work has been stopped for six months, without the written approval of the Director of Petroleum Resources and the payment of a fee of N 5,000:

Provided however that any approval granted under this regulation shall be revalidated if work does not commence within six months of the grant of the approval on the payment of a fee of N2, 500."

(ii) By substituting for paragraph (3) the following new paragraph, that is

“(3) Where the Director of Petroleum Resources is satisfied with the program, he shall upon a fee of N50,000 being paid by the licensee or lessee, give his written approval to the drilling of the well together with such observation and comments as he may wish to make.

2.4: The Gas Master Plan (GMP)

The launch of the Gas Master Plan (GMP) is another step to harness the Nation's resources to the full benefit of the people. The GMP comprises of three main sections; The Gas price policy; The Gas supply obligation regulation; the infrastructure blue print.

The aim of government is to create structures and a transplant framework for gas pricing that supports government aspiration for accelerated domestic economic growth through rapid gas based industrialization and maximize value from NLNG and pipeline exports. The government also introduced a policy for Domestic Supply Obligation Regulation (DSOR), which aimed at ensuring gas availability for critical gas utilization projects such as, power, fertilizer, petrochemical, etc. In addition, a Gas Infrastructure Blue Print was approved by government in all future gas infrastructural developments especially as it relates to partnership with the private sector. These arrangements are to create opportunities for local investors in the oil and gas industry. The programme shall provide for the training of Nigerians in all phases that are handled directly by the lessee or

through its agents and contractors. Section 29 of the Act, further stipulates that a report on the execution of the programme mentioned in regulation 26 and the progress on Nigerianisation shall be submitted by the licensee or directly by the lessee or through an agent and or contractors. Paragraph 37, of the first schedule of the act mandates the holder of an oil mining license to ensure that; within ten years from the grant of his lease, the license must achieve;

- i. The number of citizens of Nigeria employed by him in connection with the lease in managerial, professional and supervisory grades (or any corresponding grades designed by him in a manner approved by the minister) shall reach at least 75 percent of total number of persons employed by him in those grades.
- ii. The total number of citizens of Nigeria in any one such grade shall not be less than 60 percent.
- iii. All skilled, semi-skilled and unskilled workers are citizens of Nigeria.

2.5: The Local Content Act, 2003

The call for content policy was re-awakened in 2001, by the Obasanjo administration. It was however submitted to the National Assembly in 2003.

- In the bill which later became law, twenty three categories of jobs/operations of the oil and gas industry must be performed locally as part of the realization of the local content dreams; these include; project management team and procurement centers for all projects in the Nigerian Oil and Gas Industry must be located in Nigeria.
- All fabrication and integration of all fixed platforms weighing up to 10,000 tons, pressure vessels and integration of topside modules are to be carried out in Nigeria.
- That fabrication of all piles, decks, anchors, buoys, jacks, pipe racks, bridges, flare booms and storage tanks, including all galvanizing works for LNG and process plants are to be done in Nigeria, that assuming, testing, and commissioning of all sub-seas vessels, well heads and system integration tests are to be carried out in Nigeria.

That henceforth, all waste management, onshore and swamp integrated competitions, onshore and swamp well simulations, onshore fluid and solids control onshore measurement while drilling (MWD), logging while drilling (LWD) and directional drilling (DD) activities are to be performed by indigenous companies having genuine anticancer with multinational companies.

It was also contained in the Local Content Act, that all projects and operations in the oil and gas industry must demonstrate strict compliance with provisions in the insurance Act 2003 and submit a certificate of compliance issue by NAICON to NCD as part of technical evaluation requirements for insurance or reinsurance contracts, that NAICOM should verify gross underwriting capacity of Nigerian registered insurance companies must be fully utilized to maximize Nigerian content before ceding risk offshore. The effective implementation of the local content Act, will result to job creation, build indigenous technical capacities, stimulate other sectors of the economy and ultimately increase Nigerian Gross Domestic Product.

The local content policy objective and the overall obligation imposed in respect of transactions within the Oil and Gas industry are set out in Section 3 of the Act. Section 3

States as follows:

- a) Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licenses, oil lifting licenses and all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfilment of such conditions as may be specified by the Minister.
- b) There shall be exclusive consideration to Nigerian Indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute such work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the schedule to this Act.
- c) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licenses, permits and any other interest in bidding for oil exploration, production, transportation and development or any other operations in Nigerian oil and gas industry.

2.6: Challenges of the Local Content Law

As stated earlier, local content development is not a new concept in Nigeria; the indigenization, nationalization and even the attainment of independence are efforts to empower the indigenes in the production and services sectors of the economy. But the challenges of the indigenization efforts, including that of the local Content Development Act, are as follows;

- i. The inability of the government to put appropriate structures and frameworks on ground to monitor the implementation of policies and laws that relate to local content.
- ii. Lack of will power by leaders to implement policies and laws that relate to local content; especially when it concerns the multinational companies that are influential at home and foreign governments.

- iii. There is also the challenge of implementation; some of the policies/laws are not implemented consistently. This is more so during the military government, where the government is determined from outside the constitution and the people.
- iv. There are cases of government inability to monitor and evaluate projects, with particular reference to local content policies and laws.
- v. There is also the question of indiscipline and corruption in the system. This do not allow for effective implementation of policies and laws.

3.1: Strategies for Implementing the Local Content Act for Greater Impact on the Economy:

As part of the strategy from the Local Content Strategy info-graph above the Nigeria content development and monitoring board (NCDMB) should ensure that multinational oil and gas companies operating in Nigeria engages the services of local sub-contractor/suppliers and maintain a secondary service provision strategy, which is engage these local subcontractors for such jobs as security coverage at company's site office and for other short term contracts.

The NCDMB should ensure that all the multinational's local staff constantly acquire necessary skills and know-how through understudy, workshop and seminars Ensure its partners support the Nigerian Local Content policy through training of local staff, transfer of technology and skills development

The local Content Development Act, is been seen increasingly as an important tool that could support the federal government to upgrade her manpower capacity with results that benefit the government, the private sector and the economy.

For the government to achieve the local content target, it must adopt initiatives to create enabling environment for increased involvement of Nigerians in the oil and gas industry. Such reforms as the Petroleum Industry Bill (PIB), and other relevant legislations, will go a long way in increasing the opportunities and environment that will integrate the indigenes in the oil and gas sector.

There is also need to adopt transparent measures for granting permission to set up industrial units that adopt liberal sector policies in consonance with overall national economic policy as well as the establishment of institutions which support the private initiatives.

To achieve full implementation of the local content law, the government will need to embark on series of market oriented policy reforms to integrate the economy towards achieving competitive economic growth and globalization. The Economic Empowerment and Development Strategy (NEEDS) as a socio-economic initiative can be used as a guide/direction for private sector initiative to drive the growth in the economy.

To achieve the intent of the local content law, government must embark upon encouraging industrial development through the operation of market forces, adopt, substantive reduction in licensing others, government interventions and administrative hurdles, granting liberal tax incentives and strengthening support institutions.

Finally, the role of the small and medium scale enterprises, in realizing the effective implementation of the law cannot be ignored. The small and medium industries need to be encouraged and strengthened in terms of finance and operational regulations, because they play a key role in the development of the economy.

Nevertheless, the local investors need institutions, infrastructure and policy support from the government in order to develop and contribute effectively to the growth of the economy, through local content improvement in the oil and gas sector in Nigeria.

4.1: Conclusion and Recommendation

The local content law, have come in different versions even before it was formally passed by the National Assembly. There are many areas for improvement in terms of transparency and reform in the way Nigerian content is being implemented.

The aim is to allow the indigenes partake effectively and consistently in the economy, especially the oil and gas sector. There are challenges however, that have made this initiative difficult, and these challenges are identified and possible solutions (steps if taken by government will expedite the inclusion of the indigenes in the oil and gas industry). It is therefore the belief of this paper that;

- Local-content policies need to look beyond simple generation of economic rents to focus on the development of linkages that will endear more growth and economic development of the oil producing regions and the nation.
- That the various yard sticks developed to measure the agreed local-content benchmarks by government must be clearly defined and accepted by all industry players.
- Enforcing local content depends on the availability of an industrial-supply base that can act as growth levers. if some of the strategies and recommendations made above are well implemented, the local content law will have greater positive impact on the indigenes and the economy at large.

A strategic approach to local content has realistic targets that contribute to lasting benefits in the long term.

Targets that are beyond the existing capacity of local industry or the absorptive capacity of particular assets may create inefficiencies.

These results in higher costs, lower government revenues and less competition. All of these leading to economic growth.

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