

OIL AND GAS SECTOR LAW REFORM AND ITS IMPLICATIONS FOR ECONOMIC DEVELOPMENT IN NIGERIA

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ABSTRACT: *This study focused primarily on oil and gas sector law reform and its implications for economic development in Nigeria. The objective is to review the reform in the oil and gas sector law since the adoption of democracy in 1999 and what implications it portends for economic development. The study adopted the political economy method to x-ray the issues that are germane to the study. Findings revealed that a consensus has not been reached on the proposed Petroleum Industry Bill as there are points and counterpoints for the passage of the Bill into law. Also, the enactment of the Nigerian Content Act is impacting positively on economic development. It is therefore recommended that political will be geared towards seeing the bill through and that the Nigerian Content Development and Monitoring Board be strengthened to carry out her oversight functions.*

KEYWORDS: Oil and gas sector, Reform, Economic Development, Political Economy and Nigeria.

INTRODUCTION

Reform in the Nigerian oil and gas sector is in consonance with the aggressive reforms embarked upon by the sub-Saharan African countries since the 1980s. Magbagbeola (2004) surmised that this strategy is premised on the neo-classical theory, which asserts that a liberalized (free market) economy is more efficient than a centrally controlled economy. The strategy of free market economic paradigm is anchored on the principles of macroeconomic stability, trade openness, a reduced government role and implementation of poverty reducing strategies, Oliva and Suarez (2003). In order for free market mechanism to achieve its economic development objectives, macroeconomic reforms should be all encompassing and traverse all the sectors of the economy including oil and gas sector.

In recent years, the Nigerian economy has become tertiarized however it has not been structurally transformed, Akpan (2015). The service sector contributes about 53% to GDP in 2014 about 55% to GDP in 2015. The service sector now contributes more to GDP than any other sector of the economy. This is not to downplay the importance and earning powers of the oil and gas sector in spite of price volatility, resource curse issues, the dutch disease syndrome and corruption. All these maladies are fully woven into the fabric of the Nigerian economy. Oil and gas sector still remains the mainstay of the Nigerian economy. Revenue from this industry amount to 70% to 90% of the total foreign earnings from export activities annually (NNPC 2014). Patrick Smith opined that successive central government in Nigeria may have realized at least \$400 billion within the four decades of commercial exploitation of oil (The Guardian 2010 as cited in Egbon 2011). Yet there is massive underdevelopment issue in the Nigerian economy that borders on life expectancy, poverty, low per capita income, inequalities, environmental degradation, unemployment and low school enrolment.

In the same, with further corroborative evidence by (Orubu 2003; Central Bank of Nigeria, 2011 and Orubu 2013), Nigeria's cumulative oil export earnings went up as high as \$550 billion between 1958–2011. At the centre of this colossal revenue base is the issue of economic development. It is expected that the incidence of the vast revenue available from the oil and gas sector is enough to prosecute a sustainable development agenda. The paradox of poverty in the midst of plenty is a stark reality in Nigeria. It is against this background that the Nigerian government under the presidency of Chief Olusegun Obasanjo embarked on comprehensive reform of the oil and gas sector having relied heavily on the Petroleum Act of 1969 and some extant regulations pursuant to the Petroleum Act of 1969. In light of the, Iledare (2008) asked some pertinent questions which include; how can the society's economic welfare be maximized over time using the wealth derived from produced and remaining petroleum resources in Nigeria? Perhaps the answer is embedded within a functional legal and regulatory framework with emphasis on economic development agenda. The objective of this study is to examine the reform in the oil and gas sector from 1999 to the present time in Nigeria. In order to realize the above objective we ask the following questions: What has been achieved in the implementation of oil and gas reforms so far? What factors are constraining the achievement of targets? How can economic development be enhanced through the mechanism of oil and gas sector reform? The thesis of this study is that a vibrant and functional legal and regulatory framework is germane for economic development in Nigeria. Following this introductory section is section 2, which presents conceptual clarification; a brief economic history of oil, and gas sector reform in Nigeria is presented in section 3. In section 4, implications of oil and gas sector reform for economic development are presented. Section 5 concludes the paper with recommendations.

Conceptual Clarification

An attempt is made in this section to provide some conceptual clarifications. Highlighted here, are meaning of reform and the concept of economic development. Reforms refer to changes made to a social system in order to improve or correct it. It is a stimulus that is injected into a socio-economic system to ensure growth and development, Kumuyi et al (2008). (Todaro, 1989; Meier 1995:7) conceived development during the 1950s, and for a reasonable part of the 1960s as purely an economic phenomenon, characterized by the capacity of a national economy to generate and sustain increases in its per capita national product over a long period of time. It must be noted that genuine development goes beyond economic growth. Development is appropriately conceived as a multi-dimensional concept that involves fundamental transformation of the basic structures of production in the economy; changes in the social and physical structures, popular attitudes, national institutions; progressive improvement in the quality of life, and eradication of poverty in all its ramifications and much more, Orubu (2013). To this end, Amatya Sen cited in Todaro (2011) averred that development has to be more concerned with enhancing the lives we lead and the freedoms we enjoy, freedom of choice or control of one's life, is itself a central aspect of most understandings of well being. It must be noted that development does not just happen by chance but it occurs by policy interventions at correcting all kinds of failures be it market, government, institutional or environmental failures. In order to set this treatise on existing historical context, it is therefore germane to take an excursion into the evolution of reform in the oil and gas sector right from pre-independence era in Nigeria.

Economic history of oil and gas sector law reform in Nigeria

Prospecting for oil in the upstream sector began in 1908 by a German company, the Nigerian Bitumen Corporation (NBC), who explored for oil in the South Western area of Nigeria. The company was urged on by the seepages of oil in the so-called Tar sand deposits around Agbabu present day Ondo State, NNPC (2014). The World War outbreak in 1914 halted the exploration activities began in 1908. In 1937, Shell D'Arcy, a consortium of Shell and Royal

sector are difficult to either interpret or difficult to locate see for instance, (Egboga 2011; Nwokeji 2007). The issue of corruption and unethical business practices are also denting the image of the oil and gas sector in Nigeria. The successive military governments that ruled Nigeria from the 1970s to late 1990s failed to address the deep-seated feeling of neglect and marginalization felt by the oil producing communities. These frustrations were expressed in renewed glamour for resource control and amendment and abrogation of laws that vested all oil and gas resources in the Nigerian state. To this end, militants embarked upon war on oil and gas infrastructure, kidnappings hostage taking, widespread of small arms and ammunition and other criminal activities were order of the day and almost crippled the economy. At the heart of this crisis is the issue of economic development in the context of social justice, equity, inclusive growth, accountability, transparency, and balanced fiscal federalism.

The Obasanjo government inherited the parlous state of the oil and gas sector of the economy and resolved to address the nagging issues. In 2000, President Obasanjo created the Oil and Gas Sector Reforms Implementation Committee (OGSRCC) and further created the Oil and Gas implementation Committee (OGIC) under the leadership of Dr. Rilwanu Lukman. The OGIC in compliance with its term of reference (TOR) produced the National Oil and Gas Policy within four years. The kernel of the OGIC recommendations centered on the need to separate and carve a niche for different institutions operating in the sector. Efficiency in terms of profitability and viability were expected from proposed emerging institutions. President Yar'Adua took office in 2007 and inaugurated a new OGIC which presented a report proposing a new and invigorated institutional structure for the oil and gas industry as enunciated in the National Oil and Gas Policy. The recommendations of OGIC were approved and formed the basis of the Petroleum Industry Bill. The PIB was introduced to the National Assembly in September 2008. The PIB was unable to sail through the national assembly partly because of the death of President Yar'Adua, frontal attacks by vested interests and legislative distractions. The administration of Goodluck Jonathan dusted the PIB, tinkered with it and produced a new draft and took it to the National Assembly for passage in 2012. Up till 2015 when the Goodluck Jonathan came to an end, the PIB was never passed into law.

A brief discussion of the PIB is germane at this point. KPMG (2014) perceives the PIB as an omnibus legislation, which seeks to regulate all activities in the Nigerian oil and gas industry. Whenever it scales through the National Assembly and passed into law, it will repeal the existing laws which govern the industry, particularly the Petroleum Act of 1969, as amended, the Petroleum Profit Tax Act of 1990, as amended and the Nigerian National Petroleum Corporation Act of 1977. The potential benefits to all stakeholders are embedded in the PIB. To the Nigerian state, it has the potential of increasing the country's share of the revenue from crude oil production, increase in the number of Nigerians participating in the sector through keen enforcement of global best practices in the Nigerian oil and gas sector. The international oil producing companies stand to gain from the removal of the restriction on capital allowances claimable against profit tax in any particular tax year. A reduction in PPT rate from 85% to 80% for joint venture operations, which also includes 30% CIT and 50% Hydrocarbon Tax. General provision allowance is also proposed to be given to operators in small fields depending on the level of their production.

The PIB as proposed involves a total overhaul of the existing petroleum laws including the fiscal system in Nigeria. Lukman (2009) opines that the PIB is focused at encouraging local

participation in the petroleum industry and maximize the gains of government. A pep into the objectives of the PIB reveal that they are truly altruistic, egalitarian and inclusive to the extent that when passed and conscientiously followed through it may help in putting Nigeria on the path of sustainable development. Some scholars have their doubts about the bill bringing into reality the intended purpose see for instance Baghebo & Atima (2013). The PIB has not been passed into law however the Nigerian Content Development Act came into being in 2010 and has been playing her intended role in spite of inclement national environment.

Implications of oil and gas sector reform for economic development

Beside the provision of security in the context of protecting lives and properties, the primary responsibility of any government anywhere in the world Nigeria inclusive is to develop her economy and its people. Pep into the Nigerian economy performance profile revealed a mixed grill of successes and failures and major chronic macroeconomic challenges. For instance, the table 1 below depicts such a situation. The industrial production outcomes have not produced a situation of Pareto optimality in the context of the unemployment rate recorded by the economy from 2011-2015, this boils down to the nagging problems experienced in the Nigerian economy. In the same vein, economic growth rate has been on a steady decline. It is in view of afore-stated issues that people living in oil producing communities in the Niger Delta are mostly poor despite the huge revenue that comes from oil.

TABLE 1: NIGERIA ECONOMIC PERFORMANCE

	2011	2012	2013	2014	2015
Population (million)	160	165	169	174	179
GDP per capita (USD)	2,606	2,708	2,944	3,182	2,677
GDP (USD bn)	418	446	498	553	479
Economic Growth (GDP, annual variation in %)	4.9	4.3	5.4	6.3	2.7
Consumption (annual variation in %)	-3.1	0.0	21.1	1.9	-
Investment (annual variation in %)	-7.6	2.8	4.2	13.4	-
Industrial Production (annual variation in %)	8.3	1.5	0.0	5.5	-
Unemployment Rate	-	-	-	-	-
Fiscal Balance (% of GDP)	-1.8	-1.3	-1.4	-1.1	-
Public Debt (% of GDP)	10.2	10.4	10.5	10.5	-
Money (annual Variation in %)	15.4	16.4	1.3	20.6	5.8
Inflation Rate (CPI, annual variation in %, eop)	10.3	12.0	8.0	8.0	9.6
Inflation Rate (CPI, annual variation in %)	10.8	12.2	8.5	8.0	9.0
Policy Interest Rate (%)	12.00	12.00	12.00	13.00	11.00
Exchange Rate (vs USD)	162.3	156.2	160.0	183.0	199.1
Exchange Rate (vs USD, aop)	156.0	158.8	159.2	165.2	197.9
Current Account (% of GDP)	3.0	4.2	4.0	0.2	-
Current Account Balance (USD bn)	12.7	18.9	20.1	1.3	-
Trade Balance (USD billion)	35.0	40.9	43.8	21.0	-
Exports (USD billion)	97.2	94.3	95.1	82.6	-
Imports (USD billion)	62.2	53.4	51.4	61.6	-
Exports (annual variation in %)	23.7	-2.9	0.8	-13.2	-
Imports (annual variation in %)	32.9	-14.1	-3.8	19.9	-

International Reserves (USD)	32.9	44.2	43.6	34.5	29.1
External Debt (% of GDP)	1.4	1.5	1.8	1.8	2.2

Source: CBN Statistical Bulletin.

This is particularly germane in respect of oil producing communities in the Niger Delta where most of the thirty million people living in the Niger Delta remain poor despite the huge revenue that comes from oil. The government having this awareness and judging from the experience of contemporary Niger Delta and North Eastern insurgency issues realized the need to integrate the oil producing communities with the rest of the Nigerian economy through infrastructure investment and businesses. To this end, the following are the implications of oil and gas sector reform. Firstly, the reform in the oil and gas sector has brought into being the Nigerian Content Development Act. Given the drive for more inclusive participation in the energy sector this objective is being realized. A report by the Nigerian Content Development and Monitoring Board, an enforcement and implementation body for the local content law states that engineering in the oil and gas industry is now done 90% in the country, fabrication of all the field development facilities now have 50 percent of the tonnage done in Nigeria, PWC (2014). In the same vein, the NCDMB is embarking on the facilitating the construction of industrial parks in the oil-bearing region. The focus of the afore-stated is to bring about inclusive economic development in the area of employment generation, equitable wealth distribution and poverty reduction.

Too, in addition, the West Africa Gas Pipeline project is another major breakthrough that stemmed from the reform in the oil and gas sector. This project when fully realized will impact positively on economic development in Nigeria and the adjoining nations that are in partnership with Nigeria on the project.

Furthermore, the NNPC is to be transformed into a fully capitalized, accountable and profitable entity that has the potential to increase government collectable revenue. In the event that the PIB is passed, the NNPC will cease being a cost centre and will emerge as a profit centre. In addition to the foregoing, the perennial problems of project funding will be largely addressed when the PIB is passed. This is hinged on the fact that more projects in exploration and production activities will come on board and it will enhance economic development in Nigeria. It is also expected that when the reform in the oil and gas sector is fully crystallized, it will go a long way to address the issue of security, oil theft and vandalization. Addressing the forestated issues is addressing core issues of economic development in Nigeria. Thus far, there is improvement in the award oil blocks; it has become more transparent and friendly to indigenous investors. These and more are the intent of oil and gas sector reform in Nigeria.

CONCLUSION

This paper navigates the economic history of oil and gas sector reform in Nigeria right from the pre-independence era to the present time. There were pockets of reform that were conceived, planned and implemented, for instance, the Nigerian Content Development and Monitoring Board, which has been posting excellent performance on deliverables. The arrowhead of the reform is yet to see the light of the day, that is, the PIB. Until the PIB is passed into law, the oil and gas sector will continue to struggle, remain uncompetitive and unable to fulfill the mandate of impacting positively on economic development. The

aforementioned portends danger to the Nigerian economy especially if the oil and gas sector remains visionless, without strategic sharpness and focus. Since the overall indicator of economic and political indicator is the well being of the society, stakeholders especially the political leadership must demonstrate the political will to see the reform through thereby placing the Nigerian economy on the path of sustainable development.

RECOMMENDATIONS

From the foregoing analysis presented thus far on oil and gas sector reform and its implications for economic development in Nigeria. We recommend the following to help in achieving the desired ends.

- The government should remain focused in seeing through the passage of the PIB into law. No meaningful change is ever obtained without arduous resistance especially in situations where perceived interests and exploitation of loopholes are rampant. The implementation of the content of the PIB will surely enhance economic development.
- The success that has been recorded in the Nigerian Content Development and Monitoring Board should be strengthened and deepened. Following from the foregoing, the seed of industrial park being planted should be watered and the scope widened for improvement because the import of the knowledge, skills and technology embedded therein are enormous to the economy.
- Transparency, accountability and ethical conduct of business in the oil and gas sector should be deepened. The floodgate opened to indigenous companies should be maintained so as to enhance inclusiveness.

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