

# Strengthening Transparency and Accountability in the Oil and Gas Sector in Nigeria: Are the Provisions in the Petroleum Industry Bill Pragmatic?

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# PRESENTATION OUTLINE

- **The Oil & Gas Sector Reform Overview**
- **Contemporary O&G Sector Transparency Dilemma**
- **Reform Provisions Addressing Transparency Issues**
- **Perspectives on Adequacy of Transparency Provisions**
- **Concluding Remarks**

# **OIL & GAS SECTOR REFORM OVERVIEW**

## **➤ The OGIC Report 2008**

- Forms the basis for the ongoing Oil and Gas policy**

## **➤ The HB 159--Petroleum Industry Bill 2008 emerged from the OGIC report as an Executive Bill**

- Several Government memoranda on the original Bill have evolved and debated in public domain**

## **➤ The final IAT memorandum in the public domain was published in 2010**

- Intended as final amendment to the original bill that was to have been passed**

## **➤ Senate Committee PIB (SB 236)**

# OIL & GAS SECTOR REFORM OVERVIEW

- **Broad objectives:**
  - Describe the legislative, tax, contractual and fiscal terms underline petroleum operations in Nigeria
  - Define the relationship between mineral owners (host government) and the oil and gas companies (IOC, NOC, & LOC).
  - Determine equitably how cost are recovered and profits are shared between firms, the host governments, and mineral owners.
  
- **One fundamental objective of the reform bill is transparency and good governance in the oil and gas sector.**

# WHY DOES TRANSPARENCY AND GOOD GOVERNANCE MATTER IN O&G SECTOR?

- **Transparency encourages competition and competition enhances industry performance**
- **Transparency discourages fraudulent behavior and promotes effectiveness, equity and efficiency**
- **Good governance promotes institutional accountability**
- **Accountability empowers institutions to grant rewards and sanctions without interference**
- **Accountability makes national laws effective, increase enforceability of contracts, and strengthens regulatory regimes.**
- **Accountability creates an efficient business environment.**

# **CONTEMPORARY O&G SECTOR TRANSPARENCY AND ACCOUNTABILITY DILEMMA IN NIGERIA**

- **Upstream leasing process, contractual agreements, & contracting**
- **Midstream and downstream licensing, marketing petroleum and its products, and regulations**
- **NNPC governance structure and joint venture oversights**
- **Petroleum revenue inflow and outflow management**
- **Accessibility to oil and gas and economic data & information**
- **Niger Delta community development and the environment**

# **UPSTREAM LEASING PROCESS, CONTRACTUAL AGREEMENTS, & CONTRACTING**

- **Reform bill discontinues discretionary lease award process**
  - **Lease award system to become more transparent, open and competitive, no concessions can be awarded without bidding**
  - **Removal of the discretionary power of the Minister to award licenses and stipulate fiscal terms**
- **Regulator mandated to set up clearly understood procedures and guidelines with bid parameters well stated and publicized**
- **Technical and financial pre-qualification before award based on legislative criteria**
- **Open ended renewal of leases to end**
  - **Mandatory relinquishment of unused acreage for future sales by government**

# **MIDSTREAM AND DOWNSTREAM LICENSING AND REGULATIONS**

- **Disclosure requirements of the ownership and beneficiary of technical licenses across all petroleum business sectors**
- **Registration of all technical licenses and access in the public domain to the texts**
- **Project approval to follow due process and for incorporated companies only**
- **Regulatory institutions empowered to sanction if there are infringements**
- **Emphasis of deregulation of petroleum products—subsidies removal further strengthens institutions to sanction violators of rules and regulations**



# **NNPC GOVERNANCE, AUTONOMY, & FUNDING**

- **Reform bill to stop NNPC from functioning as a government department, hence making budget approval process more open**
- **Partial or full privatization for self financing and self governing objective are key provisions for transparency and IJV**
- **Limits political influence in the management and governing of NNPC and limit role as “revenue collector” for federation account**
- **Emphasize commercial focus to facilitate growth in the gas sector and downstream petroleum**
- **Process of the sales of NNPC shares must be fully developed transparently;**
- **Audit of financial report should be mandatory and disclosed**

# MANAGING REVENUE INFLOW AND OUTFLOW

- **According to FOSTER report, collecting and assessing the economic rent due to Nigeria government have significant weaknesses**
- **Reform bill named the agency to collect taxes, institutions to collect rent, royalty, but which agency assesses the value?**
  - **Process of how collected revenues get to the federation account not too clear.**
- **No clarity on the implications of O&G sector CITA with respect to derivation allocation in comparison to NHT**
- **Constitutionally, can revenues be kept outside the federation account?**
  - **For example, institutional levy of 2% at the discretion of the Minister**

# **EASY ACCESS TO OIL AND GAS ECONOMIC, GEOLOGICAL, & TECHNICAL INFORMATION**

- **Data and Information confidentiality are not allowed anymore in the reform bill**
  - **Exemption to protect intellectual property rights**
  - **Undue confidentiality can lead to illegal sales of such data**
- **NEITI Act 2007 to be binding in accordance to the objectives of the ACT**
- **Public disclosures of PSC and JV funding**
- **Public disclosure of owners and beneficiary of blocks and licenses**
- **Public access to the texts of contracts and owners**

# **NIGER DELTA COMMUNITY DEVELOPMENT & THE ENVIRONMENT**

- **Legality of Petroleum Producing Communities Fund, which surrenders 10% royalty to the community**
- **Host Community dividends provision , no direct offset from royalty**
  - **Payable directly to community cooperatives for distribution as deem fit by operators**
  - **Production allowance to compensate for the additional cost**
  - **Community Impact determination criteria covers more community than the PPCF**
- **Abandonment fund and environmental remediation fund**
  - **Auditable by licensee or lessee.**

# CONCLUDING REMARKS

- **Creating transparent and accountable environment requires easy access to information and minimization of the use of discretionary power by the host government.**
  - **Reform must provide simple text information on all contracts and ensure publicizing the owners and beneficiaries**
  - **Reform must make discretion award of leases and fiscal incentives to cronies unattractive and subject to sanctions**
- **NNPC's reform is imperative for the survival of the oil gas sector in the Nigeria and NNPC's survival depends on transparency and accountability as the steam engine that drives its commercial focus**
- **The final reform must make the Niger Delta communities principal stakeholders with direct rewards from operators extracting oil in the NDB**

# REFERENCES

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