

Petroleum Industry Act and the Oil and Gas Sector of the Nigerian Economy

Duruji, Moses Metumara (Associate Professor)

moses.duruji@covenantuniversity.edu.ng, mosesduruji@gmail.com

Covenant University, Ota, Nigeria

1. Introduction

The signing of the Petroleum Industry Bill on the 16th of August 2021 by the President Muhammadu Buhari, brings to a close over 20 years' effort at reforming the Oil and Gas sector in Nigeria (Marc-Antoine, 2014). The touchy and polarizing contents made previous attempts unsuccessful (Marc-Antoine, 2014). One of such issue that delayed the passage is how much should accrue to the oil host-communities (Marc-Antoine, 2014; Nwuke, 2021). How to unbundle the Nigerian National Petroleum Corporation (NNPC) and role of international oil companies operating the upstream sector of the industry made it difficult for the politicians to arrive at a consensus on the content of the bill. However, the 9th National Assembly succeeded in passing the bill on July 1, 2021 after reaching consensus on those thorny issues (Izuka, 2021). President Buhari had declined assent in 2018 when the 8th National Assembly separated the bill into three and passed what it called Petroleum Industry Governance Bill (Adefulu, 2018). The 2021 PIB Bill passed by the National Assembly was assented to by President Buhari even when a section of the country rejected aspect of the bill. The president himself who was not satisfied with the entire Act, quickly proposed amendment on areas that did not sit with him (Amodu, 2021). But what are the implications for the oil industry and Nigeria's economy?



Figure 1: Picture of President Muhammadu Buhari signing PIB

2. The Making of the PIA

The journey towards PIA started in 2000 when former President Olusegun Obasanjo inaugurated an oil and gas sector reform implementation committee (Iledare, 2021). The Committee's report, formed the basis of the first Petroleum Industry Bill submitted as an Executive Bill to the National Assembly in 2008. The attempt to pass the bill suffered setbacks at the National

Assembly due to the controversial nature of some of its provision (Marc-Antoine,2004). The 8th National Assembly attempted to play down on the controversies by splitting the bill into three but the one it succeeded to pass the Petroleum Industry Governance bill in 2018 was vetoed by President Buhari who said that the interest of host communities were compromised in the bill by insertion of self-serving sections (Channels Television,2019). The situation changed when the 9th the National Assembly passed the bill taking into cognizance some of the concerns of the president.

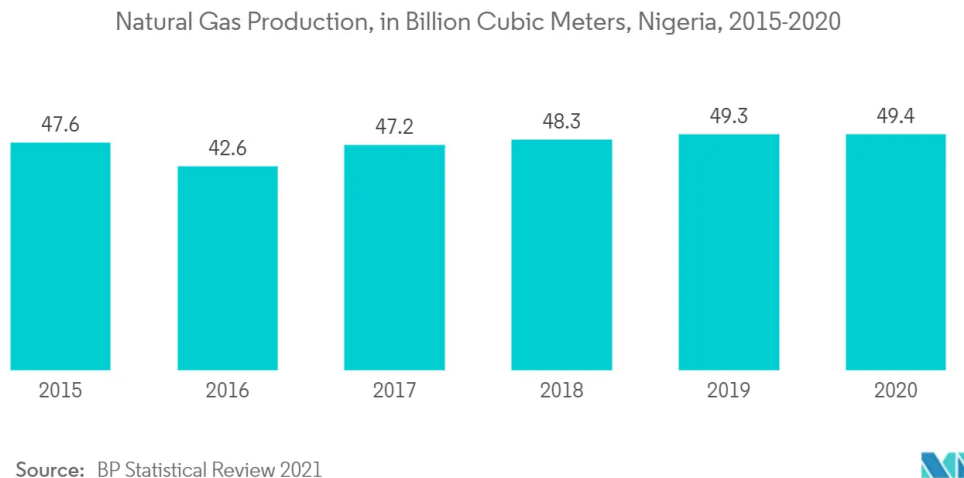


Figure 2: Nigeria; Natural Gas Production in Billions Cubic Meters 2015-2022

3. Major Provisions in the PIA

Part of the unbundling of NNPC through PIA was the creation of two regulatory agencies; Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA). They will be responsible for the technical and commercial regulation of petroleum operations in their respective sectors, and have the power to acquire, hold, and dispose of property, as well as sue and be sued in their own name (Nwuke,2021).

The law also provides for the commercialization of NNPC Limited to improve transparency and accountability and reduce losses. The new company's shares shall be vested with the government, and the ministries of Finance and Petroleum shall hold the shares on behalf of the government. The president of Nigeria will appoint the Chief Executive officer of NNPC Limited as well as heads and members of the regulatory agencies. By this provision, it's doubtful how autonomy can be achieved. The intention is to have the new company begin to make profit unlike the NNPC that have been posting losses (Jeremiah, 2019). Nigeria's Governors Forum has challenged this aspect of the Act arguing that NNPC was collectively owned so ceding its management to the Federal government is wrong (Channels Television,2021)

The Act also provides for the minister of petroleum, to head the industry of petroleum with a wide range of powers to formulate, monitor, and administer government policy. This is in fulfilment of the objective to create a conducive environment that enhances operations of the oil and gas sector for mutual benefit of investors and the government (Iledare,2014).

But provision that 30 percent of the profits of the NNPC Limited be designated as Frontier Exploration Fund to finance exploration in other basins outside the oil bearing Niger Delta region is contentious. 10 percent of rents on petroleum prospecting licenses and 10 percent of rents on

petroleum mining leases are also assigned to frontier exploration. Many see this provision as a ploy by the northern dominated National Assembly to channel funds to their region in search of oil reserves (Akinkoutu & Bayewu, 2021).

4: New Deal for Host-Communities

The PIA attempts to integrate oil host communities into direct sharing of Nigeria's oil wealth through the Host Community Development Trust Fund (HCDTF). The purpose of creating this Fund, is to foster sustainable prosperity, provide direct social and economic benefits from petroleum to host communities, and enhance peaceful and harmonious coexistence between licensees or lessees and host communities (Nwuke, 2021). The PIA states that existing host community projects must be transferred to the HCDTF, and each settlor (or oil license holder) must make an annual contribution of an amount equal to 3 percent of its operating expenditure for the relevant operations from the previous year (Nwuke, 2021). The Act stipulates a penalty for failure to comply with host community obligations, including revocation of license. The 3 percent approval was the most contentious issue in the bill. The initial 10 percent demand was reduced to 5 percent by the House of Representatives but the Senate version of 3 percent in the bill was eventually adopted by the Harmonization Committee of the two Chambers of the National Assembly (Odiegwu et al, 2021). Previous interventions by the government has not been able meet the expectations of the host communities (Thisdaylive, 2020). The HCDTF, comes with responsibility on the part of oil producing communities to protect oil and gas assets in their communities. Failure of any host community to protect oil and gas assets in their community from vandalism will be held accountable for the repairs (Nwuke, 2021).

The concern of the host communities over degradation of their environment and habitat from gas flaring associated with oil drilling was addressed in the PIA which penalizes companies for gas flaring and provides that the revenues from the penalties will be used for environmental remediation and relief of the impacted host communities (Resolution Law Firm, 2021). Even though this kind of provision is not new, several laws in the past prohibiting gas flaring, have not stopped the oil companies from flaring gas and despoil the environment (Ojewale, 2021). As such, the penalty this time must be steep to achieve its intended purpose, otherwise the situation will remain the same if flaring gas minimizes operation cost more than the penalty (Nwuke, 2021).

With the PIA, the petroleum profits tax will be abolished and replaced with a hydrocarbon tax. With the new tax regime, hydrocarbons such as crude oil, condensates, and natural gas liquids produced from associated gas will be subject to taxation. But crude oil from deep offshore is excluded from the tax. This exclusion, is worrisome as it seems the provision was deliberate to exclude international oil companies most of whom has divested from onshore operations to focus on deep offshore (Jeremiah, 2021).

Another worrisome provision, is the stipulation that, in the event of supply shortfalls, only companies with active refining licenses or proven track record of international crude oil and petroleum products trading will be allowed to import such product (Resolution Law Firm, 2021). This is seen as a ploy to ensure that the oligarchy in control of downstream fuel supply in the country remain dominant (Nwuke, 2021).



Figure 3 Nigeria's Oil and Gas bearing region

5. Implication of PIA

One of the significant provision of the PIA was the unbundling of NNPC into companies and regulatory agencies. The NNPC Limited is expected to be a pure commercial outfit with the goal to make return on investment (Nwuke,2021). The agency has been running at losses, enmeshed in corruption and lack of transparency (Shaibu,2018). The new Act anticipate more openness and transparency for Nigeria to attract investment in the sector. A report by KPMG indicates that Nigeria attracted 4 percent of the \$70 billion investment inflows into Africa's oil and gas industry between 2015 and 2019 even though the country is Africa's biggest producer and has the largest reserve of the natural resource in the continent (Nwuke,2021).

Beside the lack of corporate governance and transparency, restiveness and militancy in the oil bearing region has been a major concern of investors, most of whom are divesting from onshore operations where the challenge of vandalism is rife (Nanbuife,2021). To create peaceful environment for oil and gas exploration the Act established Community Development Fund to address the alienation and neglect of oil host communities (Guardian,2021).

The most challenging implication of this Act is sustenance of subsidy regime on premium motor spirit. Huge amount is spent by NNPC to make the product available and affordable across the country. With the new Act government is in dilemma on the removal of the subsidy. An attempt to do this in January 2022 attracted the attention of Nigerian Labour Congress who threatened to go shut down the country, forcing the government to suspend planned removal of subsidy (Olisah,2022).

But for how long can Nigeria sustain this subsidy regime as the price is lower than the rest of the sub-region. In Ghana, the price is \$1.09 per litre compared to Nigeria's \$0.41. This is the sixth cheapest in the world higher than Saudi Arabia, where it sells for \$0.62 per litre even with functioning refineries (Nwuke,2021).

In the last 10 years, the Nigerian government has spent N10.7 trillion (US\$26 billion) on fuel subsidies. It spent N750 billion (US\$1.82 billion) in 2019 and in 2022 a supplementary budget of N2.557trillion has been proposed to finance subsidy for six months following the suspension of the full implementation of the Act (Olayinka et al,2022).

4. Conclusion

The PIA was enacted to reform the oil and gas industry in Nigeria, to create efficient and effective governing institution, framework for emergence of commercially oriented and profit driven petroleum entities, promote transparency and accountability as well as foster a conducive environment for petroleum industry operations in Nigeria. Though the passing and signing of the bill into law was long and tedious, the law offers great hope for a new dawn for the oil and gas sector in Nigeria. However, the challenge lies in the implementation of the act. Nigeria has poor record on faithful execution of laws in the past. The law against flaring of gas is a case in point. Even the failed attempt at subsidy removal which is a consequence of the implementation of PIA have shown very early the unreliability of the Nigeria government to implement their own laws. . Beside this, the PIA has potential to transform the Nigerian economy by making the oil and gas sector competitive and sustainable to attract investment if well implemented.

,

References

- Adefulu, Adeoye (2018) Buhari rejects the PIGB, Petroleum Industrybill.Com, August 28 <http://www.petroleumindustrybill.com/2018/08/28/buhari-rejects-the-pigb/>
- Akinkuotu, Eniola and Leke Baiyewu(2021) PIB: North, Ogun's quests for oil get boost, exploration receives 30%, Punchng.Com 5 July, <https://punchng.com/pib-north-oguns-quests-for-oil-get-boost-exploration-receives-30/>
- Amodu, Taiwo (2021) Buhari Seeks Amendment to Petroleum Industry Act, Tribune Online 22 September <https://tribuneonline.ng/buhari-seeks-amendment-to-petroleum-industry-act/>
- ChannelTV (2019) Why President Buhari Rejected The PIGB – Malami <https://www.channelstv.com/2019/07/26/why-president-buhari-rejected-the-pig-bill-malami/>
- ChannelTV (2019) Why President Buhari Rejected The PIGB – Malami <https://www.channelstv.com/2019/07/26/why-president-buhari-rejected-the-pig-bill-malami/>
- Channels Television (2021) PIB: Nigerian Governors Fault Proposed Ownership Structure for NNPC Channels Television July 15, 2021 <https://www.channelstv.com/2021/07/15/pib-nigerian-governors-fault-proposed-ownership-structure-for-nnpc/>
- Guardian (2021) PIA will bring development to host communities, says NEITI S'South Rep. Guardian.ng, 22 November <https://guardian.ng/appointments/pia-will-bring-development-to-host-communities-says-neiti-ssouth-rep/>
- Iledare, Omowumi. (2021) New law will make Nigeria's petroleum industry attractive to investors, The Conversation.Com September 3, <https://theconversation.com/new-law-will-make-nigerias-petroleum-industry-attractive-to-investors-166860>
- Izuka.Mary (2021) Buhari signs PIB, ignores concerns over 3% host communities fund, Premium Times, August 16 <https://www.premiumtimesng.com/news/headlines/479516-buhari-signs-pib-ignores-concerns-over-3-host-communities-fund.html>
- Jeremiah, Kingsley (2019) Losses at NNPC hit N551.46b in four years. Guardian Online 24 March <https://guardian.ng/news/losses-at-nnpc-hit-n551-46b-in-four-years/>
- Jeremiah, Kingsley (2021) 'Government officials collaborating with IOCs to under-declare production', The Guardian 13 October <https://guardian.ng/energy/government-officials-collaborating-with-iocs-to-under-declare-production/>

- Marc-Antoine Pérouse de Montclos (2014). The politics and crisis of the Petroleum Industry Bill in Nigeria. *The Journal of Modern African Studies*, 52, pp 403-424
doi:10.1017/S0022278X1400024X
- Nwuke, Kasirim (2021) Nigeria's Petroleum Industry Act: Addressing old problems, creating new ones <https://www.brookings.edu/blog/africa-in-focus/2021/11/24/nigerias-petroleum-industry-act-addressing-old-problems-creating-new-ones/>
- Nanbuife, Collins (2021) FG Laments Over Vandalization of Oil Facilities in Niger Delta, Tribune Online 5 July <https://tribuneonline.ng.com/fg-laments-over-vandalization-of-oil-facilities-in-niger-delta/>
- Odiegwu, Mike; Bassey Anthony, Simon Utebor,; Gill Nsa, & Okungbowa Aiwerie (2021) PIB: Niger Delta groups reject 3% fund for host communities. *The Nation Online* 3 July <https://thenationonline.ng.net/pib-niger-delta-groups-reject-3-fund-for-host-communities/>
- Ojewale, Oluwole (2021) Are Nigeria's promise to end gas flaring merely hot air? *Institute for Security Studies*, 23 November <https://issafrica.org/iss-today/are-nigerias-promises-to-end-gas-flaring-merely-hot-air>
- Olayinka, Collins, Kingsley Jeremiah, John Akubo, Adamu Abuh, John Chimezie & Rotimi Agboluaje (2022) FG sets aside PIA, to pay N4.6tr on fuel subsidy, *Guardian* 25 January <https://guardian.ng/news/fg-sets-aside-pia-to-pay-n4-6tr-on-fuel-subsidy/>
- Olisah, Chike (2022) NLC suspends planned nationwide protest over fuel subsidy removal, 25 January <https://nairametrics.com/2022/01/25/nlc-suspends-planned-nationwide-protest-over-fuel-subsidy-removal/>
- Resolution Law Firm (2021) Nigeria: Overview of the New Petroleum Industry Act 2021, *Mondaq*. Com 21 September <https://www.mondaq.com/nigeria/oil-gas-electricity/1113104/overview-of-the-new-petroleum-industry-act-2021>
- Shaibu, Phrank (2018) Subsidy: Buhari's NNPC as cesspool of corruption, *The Guardian* 11 November <https://guardian.ng/opinion/subsidy-buharis-nnpc-as-cesspool-of-corruption/>
- Thisdaylive (2020) NDDC: A Disturbing Cesspool of Corruption. *Thisdaylive* 19 July <https://www.thisdaylive.com/index.php/2020/07/19/nddc-a-disturbing-cesspool-of-corruption/>