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The Nigerian Oil And Gas Industry-Current
Issues And Existing Opportunities

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Outline of Presentation

- n Introduction – background, brief history
- n Current issues – Gas flaring, Security, Local Content
- n Regional/International Aspirations
- n Opportunities for International lawyers
- n Regulatory framework of the Nigerian Legal Industry
- n Foreign law firms in Nigeria
- n Conclusion

Introduction

- n Oil discovered in commercial quantities in Oloibiri in Rivers state in 1956.
- n Large deposits of crude oil both on land and offshore mostly located in the swamps of the Niger – Delta.
- n 11th largest producer of crude oil in the world with current production output about 2.1mb/d.
- n Oil represents Nigeria's economic backbone and accounts for over 90% of export revenue.
- n Traditional players - IOC's in JVs and PSC arrangements with FG, recently indigenous players.
- n Effect of E&P activities in Nigeria.

CURRENT ISSUES

n Gas Flaring

n Security-Niger Delta

n Local Content

GAS FLARING

- n Associated Gas produced during crude oil extraction - about 24.5 bcf of gas flared annually.
- n Loss of revenue.
- n Global emissions of CO₂ and CH₄, which contribute significantly to global warming/climate change.
- n Extremely poisonous/threat to life - breach of fundamental human rights.
- n Legislation - Associated Gas Re - Injection Act makes it illegal to flare gas except with the permission of the Minister.
- n Deadline extended from January to December 2008.
- n Penalty – increase from N10 (about 11.9cents) to \$3.50 for every 1000 std cubic feet (SCF) of gas flared from 1st April 2008.No enabling legislation, implementation is doubtful.

SECURITY – NIGER DELTA

- n Unrest in the Niger – Delta.
- n Exclusion of host communities from the oil and gas activities in their regions.
- n Abject poverty, lack of basic infrastructure and amenities despite huge wealth generated from the region.
- n Reprisal attacks on IOCs for failure/neglect to address these issues through CSR policies.

LOCAL CONTENT POLICY

- n Definition, objectives, necessity for local content.
- n Policy – NNPC Guidelines issued in October 2006.
- n Draft Bill – Nigerian Oil and Gas Industry Content Development Bill 2005 - Salient Provisions
- n Minimum Nigerian content – S.13
- n Approvals required from the Nigerian Content Division for award of contracts –S.19 – 26
- n Definition of Nigerian Company – S. 78 Interpretation Section.
- n Shareholding Ratio of Nigerian Directors – S.37 (2)

Regional Aspirations

- n Gas Flaring
- n Security
- n Local Content

Gas Flaring

- n Ibegwura, a 76-year-old resident of Egi Community in the Niger – Delta summarises the aspirations of the people thus:

“Late last year, I was looking forward to January 2008 with great expectation, hoping that the government will compel the oil companies to stop gas flaring. It is already 2008, but the gas flares have not stopped they are still burning with fury....Before gas flaring started here... our environment was in its natural state. The leaves were green, the air was clean, rain water was free of pollutants and it was safe to drink. I look forward to when gas flaring will stop. Everything that has a beginning must have an end”

Egi Community has 3 gas flare out and is surrounded by a lot more.

Quoted from Sam Olukoya's article – “Inefficient Gas Flaring Remains Unchecked” posted on the IPS website.

- n Existing gas projects e.g WAGPP, NLNG, OKLNG, EGTL, BLNG.

Security – Niger Delta

- n Inclusion of host communities in oil and gas activities in their communities.
- n Provision of infrastructure – water, electricity, health and employment.
- n Location of corporate offices of IOCs in host communities.
- n Poverty Alleviation Schemes – principle of derivation 13% to oil states, NDDC etc.

Local Content

- n Transform the oil and gas industry into an economic engine for job creation and national growth.
- n Target of 45% by the end of 2006 and 70% by the end of 2010.
- n MOU between FG and INSTOCK of Norway to help develop the Nigerian content using Norwegian model.

International Aspirations

n Gas Flaring

- CDM Projects
- GGFR Projects

n Security

n Local Content

Gas Flaring

Kyoto Protocol

- n Agreement made under the United Nations Framework Convention on Climate Change (UNFCCC)
- n Member states commit to reduce their emissions of CO₂ and 5 other Green House Gases (GHG) or engage in emissions trading.
- n As of Nov. 2007 ratified by 174 states, Nigeria inclusive.
- n Developed countries required to reduce their GHG through establishing:
 - Clean Development Mechanism (CDM) Project in a developing country;
 - Joint Implementation (JI) Project in a developed country; or
 - Purchase of carbon credits.

CDM Projects

- n Relevant to Nigeria – process being developed.
- n Criteria - Additionality and Sustainable development.
 - Additionality – Emission Reductions (ER) of CDM project must be “additional”.
 - Sustainable Development – must contribute to economic development of host country.
- n Project Participants – Executive Board, Operational Entities, Designated National Authority (DNA) and Project Developer
- n DNA approves projects in host country - Presidential Implementation Committee (PIC – CDM) in Nigeria.
- n CDM Project in Nigeria - Geometric Power Limited (GPL) Co - generation Power Project in Aba.
- n Opportunities for more CDM projects.

CDM Potential in Various Sectors

n Petroleum Sector

- GGFR Projects with PIC CDM - examples include AFAM Project, Geometric Power Limited – Cogeneration Power Project in Aba.
- Leakage from Petroleum Infrastructure
- Efficiency and environment improvements in refineries

n Industry Sector

- Fuels switching to natural gas
- Power & Cement Industries
- Food Processing
- Palm oil effluents

n Waste Management

- Municipal solid waste

n Renewable Energy

- Solar
- Wind energy
- Biomass generation
- Small-scale hydro

n Re-forestation

- Shelterbelt

Global Gas Flaring Reduction (GGFR)

- n World bank initiative to reduce or eliminate gas flaring.
- n Partnership between world bank, private companies and institutions.
- n Conversion of gas flare outs to CDM Projects.
- n GGFR Projects in Nigeria – Shell's Afam project, Eni's Kwale and ObOb projects.
- n Huge opportunities for GGFR Projects.

Security – Niger Delta

- n Peace in the Niger – Delta to stop disruption to oil production
- n Stabilisation of world oil prices; and
- n Scrutiny of CSR of oil companies

Local Content

- n Development of a vibrant Nigerian indigenous oil and gas industry/work.
- n Healthy competition with International oil service companies both locally and internationally.
- n Successful models of Local Content - UK, Norway, Brazil etc.

Opportunities for International lawyers

- n Cross – border transactions - CDM and E&P Projects
 - GPL - Community Development Carbon Fund – Fund provided by the world bank, 9 European governments and 16 companies.
 - WAGPP – spans 4 countries – Nigeria, Ghana, Benin Republic and Togo
- n Potential foreign investors – gas infrastructure and GGFR Projects
- n PPPs - FG/State government's involvement

Regulatory Framework of the Nigerian Legal Profession

- n Local Legislation

- n International Treaties

Local Legislation

Legal Practitioners Act (LPA) Cap L11
Laws of the Federation of Nigeria 2004
Sections 2, 4 and 7

Legal Education (Consolidation, etc) Act
(LECA) Cap L10 Laws of the Federation of
Nigeria 2004.- Section 5

LPA

n Entitlement to practice

n Eligibility to be enrolled

n Eligibility to be called to the
Nigerian Bar

Entitlement to Practice

- n Name must be on the roll.

OR

- n Application is made to the Chief Justice (CJ) by or on behalf of a person practising as an advocate in a country with similar legal system and CJ convinced of the expediency to grant permit in respect of a particular proceeding

Eligibility to be enrolled

- n Call to the bar by the Body Of Benchers (BOB)
- n Provide a certificate of call to the registrar
- n AG may after consultation with the Bar council enrol names of foreign lawyers under special circumstances

Eligibility to be called to the Nigerian Bar

- n Citizen of Nigeria or non- citizen;
- n produce qualifying certificate to BOB;
and
- n BOB must be satisfied of the person's good character.

LECA

- n Qualifying certificate issued to both citizens and non-citizens provided eligible to be called to the Nigerian Bar.
- n Foreigner eligible if he has successfully completed a course of practical training at the Nigerian Law School.

International Treaties

- n WTO Trade Agreement - General Agreement on Trade in Services (GATS) an annexure.
- n GATS relates to the liberalisation of professional services including legal.
- n Nigeria member of WTO (January 1st 1995) and signatory to the WTO and GATS.
- n Member states intending to liberalise legal services to include in the Schedule of Specific Commitment (SSC).
- n Legal Services not listed in Nigeria's most recent SSC dated 25/2/08
- n NBA Working Group on Foreign Legal Practice.

Foreign law firms in Nigeria

- n Alliance between foreign and local Firms.
- n Informal Partnerships/Associated Offices.
- n Correspondent Relationship – case by case basis depending on specialisation and expertise.
- n Billing

Examples – TRP Projects

- n WAGP – Project spanning four West – African countries. Collaboration with law firms in Paris, Ghana, Benin Republic and Lome.
- n Development of Offshore block - Addax/Sinopec – Drilling contract worth \$410million – Singaporean client – London law firm TRP local solicitors in Nigeria.
- n Money Laundering – Client based in New Zealand, contracts involved different jurisdictions including the UK worth \$160million. TRP as instructing solicitors to London law firm – obtention of world wide mareva injunction in London on defaulter's account.

Conclusion

- n E&P activities results in issues, which attract both local and global attention.
- n Myriad of opportunities exist for international lawyers.
- n Foreign firms willing to fully explore opportunities should be ready to collaborate with local firms.
- n Ongoing discussions for liberalisation of legal services in Nigeria.

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