THE PETROLUEM INDUSTRY BILL AND THE POLITICAL ECONOMY

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PRELUDE

- The PIB is a deliverable of the OGIC:
  - designed to replace 16 different laws and amendments.
  - proposes changes and reforms with far reaching political-economic effects.
- Source Rocks!
  - National Assembly Journal, No. 47, Vol. 5 of December 29, 2008 copy; and
  - the Inter-agency document: Agencies;
    - the NNPC,
    - OGIC,
    - FIRS,
    - NEITI.

PRELUDE

- the PIB seeks to:
  - Promote transparency;
  - abolish discretionary awards;
  - convert the current unincorporated joint ventures, to IJVs;
  - Re-jig the fiscal tool box;
  - Promote new level of local entrepreneurship play;
  - enhance the operation and management of downstream assets under a deregulated regime;
  - convert the NOC into a commercial CAC governable vehicle;
  - Separate the institutions into purely regulatory and commercial vessels.

UNDERPINNING

- It should be noted that the existing fiscal regime evolved in an era when:
  - crude oil prices were low (< $20/bbl) (e.g. DIBPSA makes provision for renegotiation when prices reach $us 20); and
  - gas was a “nuisance”;

KEY DRIVERS

- Key policy thrust and drivers of the PIB are the need to:
  - turn the NNPC into a fully-capitalized and profitable NOC and therefore reduce government funding and free up funds;
  - institute a new fiscal regime that significantly increases government take particularly as prices rise;
  - remove confidentiality in industry operations and;
  - fully deregulate the downstream sector; and
  - create employment and business opportunities for Nigerians.

THE NIGERIAN DREAM!

- Nigeria aims to:
  - become one of the top 20 economies by the year 2020;
  - achieve 4 million b/d of crude oil & increase proven reserves to 40 billion barrels in 2010;
  - drive the economy via domestic gas production and supply & improve electric power ;
  - increase the participation of Nigerians in exploration and production to 70% in the year 2010;
  - improve infrastructure & resolve resource agitation.

DREAM VS. REALITY

- Status as top 20 economy in 2020:
  - Nigeria was ranked amongst the Next 11 countries by Goldman Sachs (GS) in '05;
  - considering Nigeria's resource endowment, there's potential for growth (GS);
  - Next 11 publication, fillip for vision 2020
  - Very little growth in real terms;

DREAM TO REALITY

- To achieve 2020 dream:
  - Private sector investment, particularly FDI attraction must be sustained;
  - Transparency must be encouraged and corruption reduced;
  - Infrastructural development must follow;
  - There must be peace in the resource bearing areas.

DOES THE PIB ATTRACT FDI ATTRACTION? YES!

- Security of tenure of licences and leases:
  - PIB makes renewal mandatory and removes Minister's discretion, hence some measure of security of tenure;
    - this is unlike the Petroleum Act;
  - any extension in Brazil for example, is at the DNPM's discretion;
    - **DNPM (Department de Producao Mineral) is Brazil's oil industry regulatory authority**
- New significant inflows
- Open commercial regime is a sweet bait.

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DOES THE PIB REDUCE FDI ATTRACTION? MAYBE!

- technically, resource rich countries with best geology and ‘energy security’ have the strictest fiscal regimes;

- global feature of tax law to cream-off windfall profits;
  - States in the U.S;
  - Provinces in Canada

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DOES THE PIB REDUCE FDI ATTRACTION? MAYBE!

- fewer allowable deductions as interest on loans no longer allowable deductions for upstream projects.

- only 80% of foreign expenditure is deductible for tax purposes

- appears to reduce returns on investment;

- increased costs of compliance due to regulatory replications;

CAN PIB ACHIEVE TRANSPARENCY?

- the PIB encourages transparency by:
  - removing confidentiality in fiscal clauses including payments made in contracts;
  - removing discretionary awards;
  - empowering the NAPAMA to monitor costs to prevent gold plating;

WATCH THIS SPACE!

PIB ON POWER & INFRASTRUCTURE

- on power & infrastructure:
  - belief is that gas is much better fuel for electric power because of:
    - its thermal efficiency; and
    - clean combustion features;
  - makes provisions to support gas-downstream and transportation;
  - deals with 3rd party access issues relating to gas, together with licensing, tariffs and pricing;
  - promotes infrastructural development via pipeline licensing.

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WILL IT INCREASE RESERVES & PRODUCTION?

- The TJV MOU was negotiated to guarantee notional profit margin;
  - Reserves Addition Bonus qualified operators for a tax credit for new finds;
  - lesser incentives now and OPTS claims:
    - most new investments will not meet 15% minimum economic return threshold;
    - there will be a reduction of $39 billion of capital expenditures & $11 billion of Nigerian OPEX spent in Nigeria;

WILL IT INCREASE RESERVES & PRODUCTION?

- split title regime may focus upstream activities & increase reserves and production;

- additional incentives as a carrot for indigenous companies to invest in production;
  - query: 60% tax for indigenous and 50, 000 b/d limit,

GAS-DRIVEN ECONOMIC GROWTH

- National Domestic Gas Supply Obligation (DSO) was formulated to ensure gas driven economic growth;
- growth to hit 10% GDP per year if DSO kicks in;
- PIB to save the regulations made pursuant to the domestic gas supply and pricing regulations;
- additional downstream gas licensing provisions for 3rd party access to drive the subsector.

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GAS-DRIVEN ECONOMIC GROWTH

- PIB supports energy security through pipeline infrastructure licensing (technical and commercial);
- new production allowances for development of condensates;
- downsides:
  - no more consolidation (deduction of gas cost from oil revenue);
  - gas royalties to increase to 5%-25% depending on whether onshore and if offshore, depth;
- provisions particularly good for downstream and domestic gas:
- challenges:
  - Overlaps in downstream licensing;
  - Synching the domestic gas supply and pricing regulations with the PIB;
  - Gas already sold under long term off take agreements versus domestic supply obligations;

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INCREASED NIGERIAN PARTICIPATION

- FGN plans to:
  - increase local participation to 70% by 2010;
  - domesticate a significant portion of economic derivatives from the oil and gas industry;
  - Capture much of the $9 billion annual spend;
- the PIB seeks to:
  - restrict tender list to companies registered in Nigerian with capacity;
  - Grant licences only to the NOC or companies with at least 60% Nigerian beneficial ownership.

INCREASED NIGERIAN PARTICIPATION

- make non-compliance with Nigerian content laws ground for revocation of licence, lease, contract or permit;
- lower tax liability for indigenous companies with 50, 000 b/d production threshold;
- provide other incentives for marginal field operators;

- query: what happens when production exceeds 50, 000 b/d or fluctuates?

THERE ARE OVERLAPS!

- EIA to be submitted to both the MOE & NPI;
- Both the PPRA & Inspectorate have powers of downstream dispute resolution;
- Commercial/technical licensing by NPI & PPRA with regard to downstream operations.

CONCLUSION

We believe:

- more projects would become bankable;
- smaller producers and independents may join the party;
- more transparency in oil and gas business;
- if well implemented- good for Niger Delta environmentally
- lending business DD may be done with more certainty;