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CHAPTER 4

: THE GOOSE THAT LAYS THE GOLDEN EGGS IS IN PERIL:
: REFORMING NIGERIA'S PETROLEUM INDUSTRY



globally relevant, fair and equitable to all. In the end, four Bills were proposed to dimension the reforms along critical components of the petroleum industry:

- The Petroleum Industry Governance Bill
- The Petroleum Industry Fiscal Framework
- The Petroleum Host Community Bill
- The Petroleum Administration Bill

bundle of four was borne out of the need to ensure that the process is managed politically in such a way that the outcome is guaranteed and incremental. This was considered important because of the lessons of the past that points to a system that collapses on all fours upon the failure of one. With this arrangement, the less sensitive is dealt with first and the others in batches. An added advantage is that the implementation is also staggered and moderated to fit into new and emerging realities.

PETROLEUM INDUSTRY GOVERNANCE BILL 2017

The Petroleum Industry Governance Bill (PIGB) provides for the governance and institutional framework for the Nigeria Petroleum Industry and creates clear separation of responsibilities between the policy, regulatory and commercial institutions.

The Bill checks the governance lapses in the Oil and Gas sector which had been plagued with lack of clarity of roles, self-regulation, conflicts and unnecessary overlaps. PIGB creates efficient and effective governing institutions with clear and separate roles for the Petroleum Industry and is intended to promote transparency in the administration of the petroleum resources of Nigeria.

One of its key highlights is the creation of a Commission that would essentially take over the regulatory powers of the Petroleum Industry. Members are appointed by the President keeping in mind a stringent chain

Nigeria's Petroleum industry is plagued by a myriad of challenges. Aside the high and growing level of leakages and lack of accountability in the industry, it is uncontroverted that the existing legal regulatory and institutional structures are antiquated and need to be updated, especially as they are severely skewed to oil without much considering for the new frontiers in gas. The fiscal frameworks have become problematic, ambiguous and no longer relevant to the essentials of today.

Also, the market structure for the downstream petroleum remains over-regulated and not fit for market competition, which is the bulwark for innovation and growth. Even more importantly, due to the weakness in these structures, the industry has become the main feeder of corruption politics in Nigeria. It became highly imperative to restructure the sector to inject transparency and accountability as well as recreate a model that affords Nigerians the opportunity to take a viable stake in the industry than is presently obtainable.

The National Assembly curated a cocktail of solutions with the entire raft of stakeholders within the industry, including the Executive to engineer the state reforms. The process was designed to produce outcomes that will make the petroleum industry competitive, efficient,



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of competencies that cannot be overlooked. PIGB generated a lot of positive excitement and industry stakeholders came to a conclusion that Nigeria would have one of the most modern and forward looking petroleum laws in the world that incorporates the best international practice from a large number of countries.

Restructuring NNPC

The Nigerian National Petroleum Corporation (NNPC) is the state-owned enterprise that operates as the behemoth of the industry. A key provision of the Petroleum Industry Governance B is to restructure NNPC into a self-financing and self-governing National Oil Company of Nigeria Limited (NOC), incorporated under the Companies and Allied Matters Act and will no longer be dependent on tax payers' contributions leading to a drastic reduction in the impact of political influence on the Corporation. It is envisaged that this new Corporation can compete globally and adapt easily in a manner that ensures the rise of public value and government revenues.

THE PETROLEUM INDUSTRY FISCAL FRAMEWORK BILL 2017

It is generally known that Nigeria has not fundamentally changed its petroleum legislative framework in the last 45 years. Consequently, the country is yet to effect a meaningful change in the fiscal framework so our government is unable to derive greater value from this resource. As a result, the

current Nigerian petroleum legislation is in dire need of a replacement and many other countries have done so much earlier and more frequently than Nigeria.

For too long the fiscal superstructure of the industry has remained an ambivalent channel with very dark alleys. The Petroleum Industry Fiscal Framework Bill (PIFFB) therefore sought to establish a progressive fiscal framework that encourages substantial and progressive investment in the petroleum industry, balancing rewards with risk and enhancing



revenues to the Federal Government of Nigeria.

The core intentions of the Bill are to institute a forward-looking fiscal framework that is based on core principles of clarity, dynamism, neutrality, open access and fiscal rules of general applications; provide clear distinction between legislative aspects of the fiscal regime and negotiable aspects of contractual obligation; establish a fiscal framework that expands the revenue base for the government while ensuring a fair return for investors;

(A) Simplify The Administration Of Petroleum Tax; And

(B) Promote Equity And Transparency In The Fiscal System.

The bill sets out to advance the safe and efficient operation of the transportation and distribution infrastructure for the industry as well as provide the framework for developing third party access arrangements to petroleum infrastructure.

More importantly, the proposed PIFFB creates a fair, stable and predictable fiscal terms that caters to the concerns of the entire industry. It seeks to establish an efficient and progressive royalty, taxes and fees regime with performance incentives that would boost production, investment and participation. In simple terms, when enacted and operational, it would deliver a system that is alive to our growing need for transparency and accountability.



By the provisions of the proposed Bill, the administration and collection of government revenue in the petroleum industry becomes the responsibility of the Federal Inland Revenue Service and Nigerian Petroleum Regulatory Commission as follows:

The FIRS is made responsible for the assessment and collection of Petroleum Income Tax including the responsibility for the assessment and collection of the Companies Income tax. It is also proposed to determine and collect rents and royalties.

The PIFFB also clarifies allowing deductibles and unallowable deductibles and creates clarity on tax assessment and the framework for assessment of tax.

These are just a few highlights of the bill.

1) THE PETROLEUM HOST COMMUNITY BILL 2017

Aside the incorporated provisions under the Petroleum Industry Bill 2009, this is the first bill designed solely to provide a comprehensive institutional framework for incorporating Host Communities as stakeholders in the petroleum industry. The Petroleum Host Community Bill creates a framework for the governance of host communities' development, with emphasis on participation and stakeholder-ship.

The essence is to provide direct economic benefits from petroleum operations to host communities and to enhance peaceful and harmonious co-existence between settlers and host communities as well as evolve a culture of co-ownership. The timeframe for incorporation of the Petroleum Host Communities Development Trust is provided:

- A. For existing oil mining leases, the petroleum host communities development trust shall be incorporated within twelve months of the commencement of this act; and
- B. For existing designated midstream and downstream, assets, the petroleum host.

2) THE PETROLEUM ADMINISTRATION BILL

The Petroleum Industry Administration Bill (PAIB) is designed to promote the exploration and exploitation of petroleum resources in Nigeria in order to expand the benefit derivable by the Nigerian people. It seeks to promote the efficient and sustainable development of the operation of the Petroleum Industry.

PIAB sets out to advance the safe and efficient operation of the transportation and distribution infrastructure for the industry as well as provide the framework for developing third party access arrangements to petroleum infrastructure. The provisions would encourage and facilitate both local and foreign investment in the Petroleum Industry and promote good governance through greater transparency and accountability in the administration of petroleum resources in the country. The Bill brings clarity to the process of bidding and processing of bid rounds which is an essential process of entry and exit of the market. It clearly sets out the process of licensing assignment, transfers and relinquishing of revoking the license.

The framework is also designed to develop, where appropriate, competitive markets for the sale and distribution of Petroleum and Petroleum Products. It would promote safe and affordable access to Petroleum and Petroleum Products in Nigeria and create a conducive business environment for operations in the Petroleum Industry.

More than the other bills in the bouquet, the Petroleum Industry Administration Bill will

promote the liberalization of the downstream Petroleum Industry; establish an orderly, fair and competitive system; and ensure that Petroleum Operations are conducted in a manner that protects the health and safety of persons and the environment. The issues of right of way, right of participation, environmental regulations, gas flaring regulations etc. are fully determined by this Bill, which creates a best practices structure for the administration of the petroleum industry.

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