

An Appraisal of Oil and Gas Industry Reform and Institutional Restructuring in Nigeria

By Wumi Iledare *

Prologue

A nation or province endowed with petroleum resources such as Nigeria must endeavor to produce its recoverable petroleum reserves optimally. Such a nation must choose whether to allow the current generation to use the entire petroleum wealth derived from current petroleum production for their benefits or give future generations a share of the derived wealth from petroleum resource development. This means that petroleum produced today must be used to develop durable infrastructure and human capital that benefit and advance society for generations to come. The question the oil and gas reformers in Nigeria seek to address is easy to conceptualize: How can the society's economic welfare be maximized over time using the wealth derived from produced and remaining petroleum reserves in Nigeria? Supposedly, the answer to this question lies within a pragmatic petroleum development policy framework with serious emphasis on managing revenue flows and expectations, creating linkages with non-petroleum sectors, expanding local capacity and infrastructure development, human capacity building and development, and advancing technical progress and entrepreneurship and managerial skills.¹

The immediate past federal administration in Nigeria under President Olusegun Obasanjo had the above pragmatic policy objectives and instruments in mind when they inaugurated the first Oil and Gas Sector Reform Implementation Committee (OGIC) on April 24, 2000. The essence of the National Oil and Gas Policy (NOGP) that emerged from the OGIC efforts is anchored on the need to separate the commercial institutions in the oil and gas sector in Nigeria from the regulatory and policy-making institutions. Unfortunately, Obasanjo's administration did not completely put into operation the recommended OGIC policy instruments to facilitate oil and gas sector institutional restructuring. On September 7, 2007, the federal government administration under President Umaru Musa Yar'Adua appointed Dr. Rilwanu Lukman² to chair a reconstituted OGIC with a mandate to transform the broad provisions in the NOGP into functional institutional structures that are legal and practical for the effective management of the oil and gas sector in Nigeria. The mandate basically calls for a restructuring of the petroleum industry in Nigeria that can facilitate the propelling of the national economy to a GDP level comparable to the top 20 largest worldwide economies by 2020.

A Synopsis of the OGIC Report

The Lukman committee submitted its OGIC report on August 3, 2008. The report provides a pragmatic regulatory framework and institutional arrangements that could bring Nigeria oil and gas industry into global prominence.³ The report addresses the ineffectiveness of the oil and gas sector in Nigeria over the years, which borders on the use of outdated or very archaic regulatory and institutional arrangements to govern the petroleum industry. The Lukman OGIC establishes that such regulatory and institutional structures are incongruous with contemporary global oil business. The report provides insight into the current national petroleum policy framework, objectives and goals and the innovative institutional structures and policy functions to proffer solutions to the problems affecting the oil and gas industry in Nigeria. Further, it highlights operational strategy and action items necessary to drive the national oil company to a global status and suggests solutions to fiscal policy problems and community issues affecting all segments of the petroleum industry in Nigeria. Without mincing words, the Lukman OGIC advocates the need for consultation with energy experts on various regulatory frameworks and institutional structures for clarity and research. The aspects under consideration for further research include funding sources and sustainability, capitalization of the commercial institutions, incorporation of joint venture operations as autonomous commercial entities, and finding progressive policy instruments and terms for existing and new contractual and concessionary fiscal arrangements.

The aspect of the OGIC reform efforts that has inundated public attention is the unbundling of the current National Petroleum Corporation (NNPC). However, the recommended overall institutional framework in the OGIC report is intended to facilitate managing and overseeing all the phases of the oil and gas sector in Nigeria more effectively than before by assigning functional

* Omowumi O. Iledare is professor of petroleum economics and policy research, director of energy information division at the Center for Energy Studies, Louisiana State University. Dr. Iledare is also a visiting professor of petroleum economics to the Institute of Petroleum Studies (IPS) of the University of Port Harcourt, Nigeria, the University of Ibadan's Petroleum Engineering Department, and the African University of Science and Technology, Abuja.

See footnotes at end of text.

responsibilities to separate institutional structures. The institutional framework is based on the policy mandate to separate the commercial/operations (private sector culture) of the oil and gas sector from the policy-making and regulatory aspects (public sector administration) in Nigeria. Accordingly, the institutions are revenue generating and some are non-revenue generating or revenue “enhancing” institutions. In any case, for many oil industry observers in Nigeria, the main feature for the entire oil and gas sector reforms is the restructuring of the Nigerian National Petroleum Corporation and its subsidiaries. The success of the restructuring, therefore, will depend on the implementation of these institutions’ policy functions. An appraisal of the new institutional structures proposed by the OGIC for effective governance and management of the oil and gas industry in Nigeria follows.

National Petroleum Directorate (NPD)

The National Petroleum Directorate (NPD) is designated as the primary institution to initiate, create, and implement the petroleum policy governing the oil and gas sector in Nigeria. The predecessor, the Ministry of Petroleum Resources (MPR), has not been up to these tasks of oil and gas policy initiation, formulation, and implementation. It is my opinion, that the ineffectiveness of MPR in its functions as a policy-making institution, however, has never been because of its location in the ministry environment or a lack of competent and highly skilled manpower, but is due to a lack of institutional empowerment and the putting of a “round peg in a square hole” by the central government. Thus, the oil and gas industry policy initiation and implementation functions ended up being assumed by NNPC to the detriment of its commercial and operational responsibilities over the years.

Accomplishing the thirteen stated objectives for NPD by OGIC would depend significantly on institutional empowerment, funding, and finding and putting highly skilled personnel in the key management positions as envisioned by the OGIC. Surprisingly either by error of commission or omission or because we have had several versions of the final report, the OGIC is silent on the terms of employment for the Director General (DG) of NPD. Neither were there any guidelines on whether NPD management positions shall be political appointees or be hired through open resource recruitment. The government, as a matter of obligation, must avoid invoking or applying the spirit of federal character or “geopolitical zoning” to justify “putting a square peg in a round hole” during recruitment or selection exercise for the filing top management positions in NPD. These principles must be used in a pragmatic manner without sacrificing efficiency and effectiveness for equity. Regarding funding for NPD, a surcharge or fees on per fiscal barrel of oil equivalent basis paid to NPD is a constitutionally taxing. A constitutional amendment may be required to do this. A line-item budgeting approach should be evaluated for consideration.

Nigerian Petroleum Inspectorate (NPI)

The National Petroleum Inspectorate (NPI) is the regulatory institution for the upstream segment of the oil and gas industry in Nigeria. NPI will assume the functions of the Department of Petroleum Resources (DPR) and it will be the upstream industry operation and technical regulator. It will have operational autonomy from the NPD unlike its predecessor the DPR, which traditionally derives its operational directives from the Minister of Petroleum Resources. The extent of NPI’s strategic autonomy from the NPD, which serves as the secretariat of the Minister of Petroleum Resources is not clear. The terms of employment for the management positions in the NPI and the optimal approach to filling these positions either as political appointees or professionally recruited management staff are very important if the ongoing restructuring efforts are to be successful. Over the years, we have had as many former DPR Directors and GMDs as the number of Presidents or Heads of State. The undeveloped nature of the oil and gas industry regulatory framework in Nigeria is, therefore, not surprising to many industry observers. Thus, a confirmation process by the National Assembly for a fixed term appointment for the Director General of the upstream regulatory institution will enhance its service deliveries; but I would recommend against making Deputy Director General’s (DDG) position a political appointee.

Petroleum Products Regulatory Authority (PPRA)

The Petroleum Product Regulatory Authority (PPRA), which has been designated to regulate the downstream sector of the oil and gas, is a stand-alone institution with no functional relationship with NPI. Alternatively, it could have been a division of the NPI. PPRA should be directed by a technically competent Deputy Director General (DDG) and not a political appointee. This arrangement would optimize the distribution of the limited skilled labor force available at this time both locally and in the Diaspora. This revised arrangement is also not expected to affect the already defined functions and funding of PPRA. The terms of employment for the management positions in the PPRA and the optimal

approach to filling these positions either as political appointees or professionally recruited management staff are very important if the ongoing restructuring efforts are to be successful. Thus, a confirmation process by the National Assembly for a fixed term appointment for the DG would enhance the institutional performance of PPRA.

Nigerian National Petroleum Company (NNPC Ltd.)

There is no doubt that restructuring the Nigerian National Petroleum Corporation (NNPC) is the focal point of the ongoing oil and gas sector reforms in Nigeria. The general observation by the public that NNPC has failed woefully to fulfill its charge is perhaps justifiable. It must be recognized, however, that its failure to attain the prospect to drive the national economy has not entirely been the corporation's error of judgment.⁴ For example, there has been as many NNPC CEOs as were Heads of State or Presidents in Nigeria from 1976 to 2007. Thus, the degree of operational and strategic autonomy of the old NNPC from the national government in comparison to successful global NOCs is appalling. Ironically, most of these successful NOCs companies are as old as NNPC, which was created in 1976.

Therefore, the new goal is to reposition the new Nigerian National Petroleum Company, NNPC Ltd., on a level comparable to the status of successful National Oil Corporations (NOCs) worldwide, such as the Malaysia NOC (Petronas), Venezuela NOC (PdVSA), Norway Statoil, Algeria NOC (Sonatraco), Mexico NOC (PEMEX), Brazilian (NOC) and Saudi Aramco. The desired goal is to get the new corporation to a level in which the degree of operational and strategic autonomy from the government is similar to the Norway Statoil. The separation of commercial and business operations from regulatory and policy-making functions in the oil and gas sector in Nigeria will help NNPC Ltd. to be more focused, more so because the regulatory and operational functions of the oil and gas sector will henceforth be undertaken by separate and autonomous institutions, *ceteris paribus*.

The identity and corporate culture, NNPC Ltd., is expected to operate along the entire petroleum supply chain. This will make NNPC Ltd. a fully integrated oil and gas company. The envisioned ownership structure will enhance its ability to function as a purely commercial and capitalized business. The exclusion of NNPC current profitable assets from the take-off assets for the new National Petroleum Company, NNPC Ltd., however, may perhaps make the capitalization process of the national company difficult. The functionality of the board of directors in the governance structure of NNPC Ltd. is vague. There is also uncertainty as to the extent of the operational and strategic autonomy of the NNPC Ltd. from the influence and dictate of the Minister of Petroleum Resources.

National Petroleum Assets Management Agency (NAPAMA)

The National Petroleum Assets Management Agency (NAPAMA), like NNPC Ltd., is a commercial and operational institution empowered to undertake cost/commercial regulation of the oil and gas industry. It is conceived to manage all national assets and investments in exploration and production ventures to ensure maximum government returns and take statistics. It is paradoxical, however, for NAPAMA to regulate and control costs within the Incorporated Joint Venture (IJV) framework. The IJV concepts seek to convert all of the existing JV arrangements into autonomous commercial entities. Thus, how can NAPAMA regulate and control costs for the IJV companies who have autonomous boards of directors? An outright rejection of the IJV idea as currently proposed seems more likely than not in the national Assembly. Further, the idea is most likely dead on arrival at the door steps of the International Oil Companies operating in Nigeria, not because of its illegality, but the expediency of the concept. The biggest concern of all, of course, borders on international business ethics. The IJV concepts will be thwarted if the international community perceives the process as a form of petroleum assets nationalization.

National Petroleum Research Center (NPRC)

The National Petroleum Research Center (NPRC) is to be responsible for research and development in the petroleum industry in Nigeria. It is expected to pay a great deal of attention to upstream exploration and development issues and problems. As with NAPAMA, NPI, and PPRA, the nucleus of NPRC will be formed by the old NNPC R&D assets. This is going to be another drain on the NNPC Ltd. human resource capacity. The idea of a separate national oil and gas research center is redundant. All the NPRC policy functions could easily be handled by existing federal institutions. This is the rationale for the establishment of the existing Petroleum Technology Development Fund (PTDF) and the many departments of petroleum engineering and geosciences in Federal Universities and the Center for Petroleum Studies in Nigeria?

Concluding Remarks

The rationale for restructuring the oil and gas sector in a petroleum dependent economy like Nigeria should be to enhance the sustainability of petroleum wealth and its impact on all stakeholders. Undergoing such reforms presupposes that the current state of the industry is inefficient in service deliveries and ineffective at promoting society's welfare objectives. This notwithstanding, such reforms or restructuring must not only focus on enhancing industry effectiveness and efficiency, it must be mindful of equity issues with respect to wealth distribution among all stakeholders—governments, communities, and operators.

For an average citizen of Nigeria, the final question on OGIC reform is simple: Can the recommended oil and gas institutional structures and regulatory framework maximize the economic benefits of produced and remaining petroleum reserves in Nigeria for current and future generations? Yes it can! The regulatory framework and institutional structures espoused in the OGIC report could facilitate economic prosperity for an average citizen in Nigeria. However, the caveat or critical issue to keep in mind is recognition of the fact that petroleum is an exhaustible resource and a barrel of oil and gas produced

and consumed in one generation is no longer available for the next generation. Yet, there is an opportunity loss if a barrel of oil equivalent of hydrocarbons being produced in this generation is not produced efficiently, effectively and equitably. Thus, hydrocarbons produced today must be used to develop durable infrastructures and human capital that benefit and advance society for generations to come. This is the way to render ineffective the "Dutch Disease," that has traditionally infected most natural resource dominated economies.

Developing & Delivering Affordable Energy in the 21st Century

27th USAEE/IAEE North American Conference, Houston, TX, September 16-19,2007

Single Volume \$130 - members; \$180 - non-members

This CD-ROM includes articles on the following topics:

- . Crude Oil and Petroleum Product Price Dynamics
- . Economics of the LNG Industry
- . Energy Efficiency and the Economy
- . Large-Scale, Low Carbon Energy Technologies
- . Unconventional Fossil Fuel Resources: Challenges and Opportunities
- . Political Economy of Energy
- . Energy Policy and Price Effects on Economic Growth
- . Impact of International Environmental Agreements on Reducing Carbon Emissions
- . Global Perspectives on Electric Power Transmission Infrastructure
- . Distributed Energy Resources & Renewables
- . Price Impact on Upstream Petroleum Industry Investments

Payment must be made in U.S. dollars with checks drawn on U.S. banks. Complete the form below and mail together with your check to:

Order Department
IAEE
28790 Chagrin Blvd., Suite 350
Cleveland, OH 44122, USA

Name _____

Address _____

City, State _____

Mail Code and Country _____

Please send me _____ copies @ \$130 each (member rate) \$180 each (nonmember rate).

Total Enclosed \$ _____ Check must be in U.S. dollars and drawn on a U.S. bank, payable to IAEE.

Footnotes

¹ Iledare O.O. (2008): Petroleum and the Future of Nigeria: Challenges, Constraints and Strategies for Growth and Development. IPS Monograph Series No.5, pp30. University of Port Harcourt's Institute of Petroleum Studies. Nigeria.

² Dr. Lukman, former OPEC administrator for many years, chaired the original OGIC inaugurated by President Obasanj in April 2000. Let me also add that Dr. Lukman has also been a major player in the Nigeria oil and gas policy development and implementation since the 1980s. Perhaps, public perceptions on the OGIC as a sort of "new wine in an old wine cloth" are legitimate.

³ Oil and Gas Sector Reforms Implementation Committee Draft Final Report, pp79, May 2008.

⁴ Nwokeji, G. U. (200): The Nigerian National Petroleum Corporation and the Development of Oil and Gas Industry: History, Strategies and Current Directions. Report Prepared in Conjunction with the energy Study Sponsored by Japan Petroleum Energy Center and the James A. Baker III Institute for Public Policy at Rice University.