



KEYNOTE ADDRESS BY THE
HONOURABLE MINISTER OF
PETROLEUM RESOURCES ON THE
PROPOSED PETROLEUM INDUSTRY
BILL (PIB)

BY

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**ADDRESS BY THE HONOURABLE MINISTER OF PETROLEUM
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(PIB)**

The Honourable Minister of State for Petroleum Resources,
The Special Adviser to the President on Petroleum Matters,
The Permanent Secretary Ministry of Petroleum Resources,
The Group Managing Director NNPC, Industry CEOs,
Distinguished Ladies and Gentlemen:

Good Morning:

I would like to welcome you all to this engagement session with the industry on the proposed reform of the petroleum industry. As you are aware, the Petroleum Industry Bill (PIB) is currently before the National Assembly. The government intends through this bill, to set out a new legal frame work for the organisation and operation of the entire oil industry in Nigeria.

The PIB is based on the Report of the Oil and Gas Reform Implementation Committee (OGIC) set up by the Federal Government in year 2000 to carry out a comprehensive reform of the oil industry. The PIB in essence is therefore a reform legislation which aims to put in place of the existing myriad of legislative and administrative instruments governing the petroleum industry one omnibus legislation that establishes clear rules, procedures and institutions for the administration of the petroleum industry in Nigeria.

The PIB establishes the legal and regulatory framework, institutions and regulatory authorities for the Nigerian petroleum industry. It also stipulates guidelines for operations in the upstream, midstream and downstream sectors and for purposes connected with same.

The purpose of our engagement today is to update the Industry about the proposed bill preparatory to the public hearing to be conducted by the National Assembly towards the passing of the bill into law.

Oil and gas production in Nigeria commenced in 1958 after the first discovery two years earlier was made in Oloibiri, which is now in Bayelsa State. Over the years, the laws regulating this very important industry have not been comprehensively reviewed. The main laws are the Petroleum Act 1969 (as amended) and the Petroleum Profits Tax Act 1959 (as amended), and the Nigerian National Petroleum Corporation Act of 1977(as amended). These, and practically every other law regulating the industry, needed to be holistically updated to reflect the changing dynamics of the oil and gas industry worldwide.

The Nigeria Petroleum Industry Bill is a remarkable document which contains most of the legal requirements that will apply to the entire petroleum industry in Nigeria.

The PIB combines 16 different Nigerian petroleum laws in a single transparent and coherent document. This is the first time that such a large scale consolidation has happened anywhere in the world.

Good governance is promoted through the removal of much of the confidentiality as well as creating transparency.

Confidentiality encourages corruption. The best way to fight corruption is to remove confidentiality for all procedures, contracts and payments. Every Nigerian including all stakeholders should have the right to know what is going on. The bill removes confidentiality on a scale not seen in the world before. Nigeria will move in one step from one of the most opaque petroleum nations in Africa, to one of the most open and transparent in the world.

The texts of all licenses, leases and contracts and any of the changes to such documents will no longer be confidential. Payments to the government of Nigeria will be public information.

All petroleum geological, geophysical, technical and well data will be accessible for all interested persons in a national data base.

The proposed bill will result in a significant increase in transparency. From now on, petroleum prospecting licenses and petroleum mining leases can only be granted by the Minister through a truly competitive bid process. Such process will be open and accessible to all qualified companies.

Every company involved in the upstream petroleum industry will be subject to the same system of rents, royalties and taxes, depending on whether they operate in the onshore, shallow or deep offshore or inland areas. This means it will not be possible under the bill to treat certain companies more favourably than others.

Nigerians can only fully benefit from their petroleum resources, if there is a sound petroleum administration. This administration needs to be streamlined and strengthened. This is being achieved through the creation of three separate and clearly defined entities:

- The Nigerian Petroleum Inspectorate - responsible for all matters related to the "upstream", which includes oil and gas petroleum exploration and production
- The National Midstream Regulatory Agency – responsible for all matters related to the "midstream", which includes pipeline transportation, storage, refining and liquefied natural gas, and
- The Petroleum Products Regulatory Authority – responsible for all matters related to the

“downstream”, which includes petroleum product and natural gas distribution to final consumers.

The approval process of each project consists of a one - stop shop. All that is required for a new project is to get a single approval from the respective entity. These requirements are that each project:

- Has to comply with all modern technical standards,
- Is a sound commercial proposition,
- Does not involve excessive costs,
- Meets all health and safety standards,
- Includes a Nigerian content plan that ensures maximization of Nigerian employment and business opportunities,
- Ensures maximum local economic spin-offs and job opportunities, and
- Meets all environmental standards, including an approved environmental management plan.

In order to facilitate the collection of government revenues all companies are required to establish an electronic information system, with security key access for all persons that are authorized by government to inspect and audit.

The PIB represents the largest overhaul of the government petroleum revenue system in the last four decades.

This overhaul has four central objectives:

- To simplify the collection of government revenues,
- To cream off windfall profits in case of high oil prices
- To collect more revenues from large profitable fields in the deep offshore waters, and
- To create Nigerian employment and business opportunities, by encouraging investment in small oil and gas fields.

The simplest government revenues to collect are royalties. Everyone can calculate and verify on the back of an envelope how much royalties should be collected from each oil and gas field each month. Therefore, the main emphasis of the new government petroleum revenue system is on royalties.

The royalty percentages are designed in such a way that they automatically adjust to the economic circumstances. This is done with two sliding scales. One scale relates to the daily production of the oil or gas field. Another scale relates to the oil or gas price. Also royalties vary in four different geographical areas: onshore, shallow offshore, deep offshore and inland basins.

If oil prices go up unexpectedly as happened in 2008, Nigeria will reap an instant benefit from such high oil prices, because royalties are levied every month.

Another important simplification is the tax reform. Every company is required to pay corporate income tax. No exceptions.

The Petroleum Profits Tax is therefore split in two: the Corporate Income Tax and the Nigerian Hydrocarbon Tax. The Nigerian Hydrocarbon Tax is not deductible for the Corporate Income Tax purposes, and is therefore a true extra tax. Under the Nigerian Hydrocarbon Tax to be simplified, many costs that is difficult to audit, such as interest on loans will no longer be deductible.

In 1993 Nigeria decided to opt for production sharing contracts for the deep water blocks. Unfortunately, the production sharing contracts that were concluded in 1993 were rather bad deals for Nigeria from an international perspective. The royalties were 0%. The taxes included a generous tax credit that wiped out much of the tax to be collected. The profit oil shares to government were low compared to most other nations. Therefore, Nigeria collects much less for government under these contracts than other petroleum exporting nations.

Therefore, for deep water operations, the bill includes now the much higher royalties, already discussed above, as well as the new tax framework. This will create a strong basis for renegotiations of the existing unfavourable

contracts. The goal is to ensure a fair share to Nigeria. The share should be comparable to other important oil exporting nations.

The best way to encourage a significant increase in Nigerian petroleum industry employment and business opportunities is to strongly promote the development of small oil and gas fields.

This is also the best way to encourage Nigerian owned companies to become investors in the petroleum industry. Small and medium sized companies from many nations from all continents now participate in the international petroleum industry. Nigerian owned private companies should be given the best opportunity to join them. This is being done by creating attractive investment opportunities in small Nigerian oil fields, through low royalties and low taxes for such fields.

However, favourable fiscal conditions are not enough. Nigerian and new foreign investors must also have access to new contract areas.

One of the main bottlenecks to increased activity in Nigeria is lack of access to new contract areas. The petroleum prospective part of Nigeria is covered with existing contracts. These contracts were granted without

implementing a modern acreage management which typically include strong relinquishment practices. As a result, in Nigeria petroleum companies are “sitting on” acreage. There is no access to acreage for new investors. This harms petroleum investment activity.

The bill provides for the fact that petroleum companies will have to give acreage back from existing oil prospecting licenses and oil mining leases. Existing companies can keep all areas that are in production or will be developed in the near future. However, the acreage that companies are not using will have to be returned to Nigeria. This may free up probably as much as 30% of the prospective petroleum area of Nigeria for new investors.

Petroleum companies also will have to give up areas that are currently being operated by marginal field operators. These areas will be given directly to these operators. This will allow them to get their own acreage and become masters over their own fields under favourable royalty and tax provisions.

The bill will change the role of NNPC. Today NNPC is a company that still has very much the character of a government department. All its revenues flow to the government of Nigeria and its funding is then provided by the government. This is not an efficient way to run an oil

company. The bill gives NNPC the opportunity to create a viable and self-financing oil company.

NNPC is currently 100% owned by the government of Nigeria. The new National Oil Company will still be owned 100% by the government of Nigeria.

The National Oil Company will pay to government the same royalties and taxes, as any other oil company. In addition, the National Oil Company will pay dividends.

It will be a great challenge to the National Oil Company to restructure itself in this manner. There is an enormous shortage of funds to contribute effectively to the new oil and gas field developments in shallow and deep water. This is now bottlenecking the development of these fields.

In order to assist the National Oil Company in the financing of new projects, the bill creates a new joint venture structure, called incorporated joint ventures. The National Oil Company and the foreign companies will now join into a single company of which they will be shareholders. The number of shares will reflect the current interest in the joint ventures.

The new incorporated joint ventures will pay for new projects from their cash flow and through borrowing. This will solve the current financial bottleneck and promote a faster development and expansion of oil and gas fields.

The bill contains among the strongest and most far reaching provisions in the world with respect to the promotion of Nigerian content.

As discussed above, no project can be approved without a comprehensive Nigerian Content Plan. The Nigerian Content Plan includes obligations on the part of the investor with respect to:

- The purchase of local goods and services
- Procurement guidelines in order to assist local companies
- Employment of Nigerian citizens
- Training and Education,
- Research and Development, and
- Regular reporting and verification of the Nigerian Content Plan.

The purchase of local goods and services will receive significant support under the PIB, because only 80% of foreign costs will be deductible for Nigerian Hydrocarbon Tax purposes. There will be high minimum employment and training requirements for Nigerian citizens.

The PIB requires that any licensee and lessee provides for an extensive economic spin-off program for host communities near the petroleum activities. These spin-off requirements relate to construction of roads, hospitals and community centres and special emphasis on local job opportunities and training programs.

No project can start without a detailed environmental management program. Decommissioning, abandonment and disposal of assets are now subject to strict legal requirements to protect the environment and local communities.

One of the very important resources for Nigeria's future is natural gas. The size of our gas resources is enormous. Yet, local consumption is minimal compared to the possibilities. Large volumes of gas are still being flared.

Many new power plants have no access to natural gas. Few local gas based industries have been created. This situation is unacceptable and must be changed.

The bill therefore incorporates in a forceful manner the earlier measures that the government already took with respect to the domestic supply obligation in order to underpin the gas master plan. The bill also provides for a

strong regulatory framework through the new powers of the “midstream” Agency.

In order to provide maximum support for new gas production aimed at the domestic markets, royalties and the Hydrocarbon Tax are low. The creation of new gas processing plants and gas pipelines is supported through favourable tax holidays under the Corporate Income Tax.

All these provisions form a coherent and attractive framework for new and additional investment to create the midstream infrastructure required.

The Deregulation of Downstream Sector

There is no gain saying the fact that the Nigerian downstream petroleum sector faces enormous challenges. These challenges have discouraged third party investments in new refineries and contributed to making existing refineries cost centres. With the expansion of the regulatory functions of the ‘Authority’ and Government decision to fully deregulate the downstream sector, a level playing field is being established for this vital sector of the petroleum industry.

In 2008, the level of subsidy for petroleum products rose to about 630 Billion Naira equivalent to about 50% of the capital budget of the Federal Government. This diversion

of scarce resources cannot be sustained over the long term.

Nigeria's long term energy security depends on our ability to deliver petroleum products in the domestic market at cost reflective prices. This can only be attained in an environment where clear ground rules are set and oligopolistic market distortions are removed. For effective and competitive domestic petroleum products market to be developed in Nigeria, the downstream petroleum sector must be deregulated. This will encourage investment in refining and marketing infrastructure.

Some may wish to wonder why reform at all and why now? especially, in the midst of the global economic meltdown and continuing oil price volatility. The answer to this question is that there is no better time. The Jreform cut across every facet of the industry and in particular frees the sector from the constraints of government funding whilst removing barriers to the participation of new small and big players through a flexible fiscal system and clear rules of engagement by all with impartial umpires. Its benefits are clear to see. The government is also determined to pursue this to its logical conclusion.

I hope that the detailed presentations that will follow my address would capture the important highlights.

CONCLUSION

Finally, let me conclude by reiterating that this bill which would further enhance the important underlying premise of the OGIC report achieves the following objectives:

- Alignment of the Oil and Gas industry to international best practice
- Enhancement of good governance practices and processes
- Reinforces linkages between the oil and gas industry and other sectors of the Nigerian economy
- Establishes a fiscal framework that is strongly in the interest of Nigeria, and
- Supports the energy objectives of Government enshrined in the seven point agenda.

Thank you.