THE NIGERIAN OIL & GAS INDUSTRY CONTENT DEVELOPMENT ACT

THE ROLE OF CONTRACTING & PROCUREMENT PROFESSIONALS

CIPS Nigeria Conference & Graduation/Award Ceremony

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Agenda

- Global Perspective
- Case for Local Content Development – Emerging Economies
- Impetus for Local Content Development in Nigeria
- Nigeria Oil & Gas Industry Facts
- Nigerian Oil & Gas Industry Content Development (NOGICD) Act
- NOGICD Implementation
- Shell’s Contracting and Procurement Process
- Recipe for Successful Implementation
Global Industry Perspective – Changing landscape

- Oil & Gas business is highly capital intensive & technologically driven
  - “The world will need to invest over one trillion dollars every year for the next 20 years in new energy projects ...” – IEA

- Emerging complex energy and environmental challenges
  - Soaring energy demand – Global consumption to double by 2050
  - End of the era of easy oil - harder to find, technically and politically more difficult and expensive to extract
  - Climate concerns and stricter environmental performance standards – CO₂ emissions
  - After effects of the global economic recession – financial crunch, huge public deficits of countries and slowing economic growth
  - Local Content legislation in developing/emerging economies is fast becoming a strategic factor in;
    - investment decision-making,
    - project delivery
    - Formulation of public policy for industrial development
Local Content has become a global force – Nigeria is not alone.

### Global Perspective - Local Content Legislation

#### United Kingdom 1973
- Enacted three measures to improve local content in the petroleum sector
  - Offshore Supplies Office
  - Auditing procedure for monitoring purchases made by oil companies
  - The provision of financial assistance to the U.K. supplies industry

#### Norway 1972
- Enacted local content law (article 54).
  - Law in effect till 1994 by which time Statoil and indigenous energy service sector had grown to a point where they could compete globally

#### Trinidad & Tobago 2003
- Local content on legislation focused on growing in-country fabrication capacity. First offshore platform completely built in-country by 2007

#### Brazil 2003
- 90% of concessions held by Petrobras
  - Established specific local content rules in ordinance 180
  - Fundamental principle - “Everything which can be done in Brazil should be done in Brazil”
Case for Local Content Development – Emerging Economies

Oil & Gas sector is the primary driver of economic activities

Local Content Development - part of government’s comprehensive agenda

- Stimulate industrial development and strengthen local industry
  - Create linkages between Oil & Gas industry and other sectors of the economy

- Build a globally competitive supplier base and energy sector
  - Highly skilled and innovative local workforce
  - Increasing local capability and capacity

- Develop vibrant local economy
  - Increase the pace of economic diversification
Impetus for Local Content Development in Nigeria

Disruption of other industrial sectors as country’s economy became more dependent on hydrocarbons over 3 decades

1960 - Post independence – 1980’s era
2000 - 21st Century - Aspiring to transform the Oil & Gas sector
Nigeria Oil & Gas Industry Facts

Over 40% contribution to GDP

Proven Oil & Gas reserves
- 37bbln blls
- 185 Tcf natural gas

Accounts for 95% of country export earnings and 80% of national income

Employs <10% of working population

Attracts high foreign direct investment and is the most developed amongst all economic sectors

Nigerian Ambition

After 4 decades of production, the sector is still very much dependent on foreign technologies.
The Nigerian Oil and Gas Industry Content Development (NOGICD) Act was signed into law on 22nd April 2010.

**Intent of the Act:**

- Grow GDP through the creation of opportunities for local businesses and individuals.
- Maximize the use of Nigerian goods & services in the oil and gas industry.
- Promote local manufacture and entrepreneurial development.

*The law focuses on enforcement and capacity building with minimal reference to waivers recognising the steep capacity growth curve*
The NC Act provides impetus to add enforcement to collaboration required to build local Capacity in the Oil & Gas Sector
Enactment of the Act into law is laudable and a step in the right direction

Shell remains fully committed to supporting the government’s reform of the industry towards realising the country’s energy potential.

However, we note that:

- Provisions of the Act are stringent
- Target in key categories are very ambitious
- Available in-country capacity is grossly inadequate to meet set expectations
- Some provisions of the Act are ambiguous and thus require practical regulations to aid effective compliance
- Impact on Contracting & Procurement Processes and Cycle Time
NOGICD Act - Capacity Gaps in Offshore Categories

The gaps are significant and will take considerable efforts to bridge.

Source: SEPCiN Category Gap Analysis, 2009

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NOGICD Act Implementation - Challenges

- Technological know how, capacity and capability gaps in key categories
  - Targets are higher than the capability of the domestic supplier market to provide services on an internationally competitive basis

- State of supporting infrastructure and industries (e.g. power, transport)

- Dearth of R&D and falling educational standards

- Import duty regimes, financial services and interest rates

- Contracting and procurement processes/strategies that do not guarantee contracts to support investments

- Provisions of the policies/law that are too stringent
  - Onerous and ambiguous sections may stifle aspirations and allow for misinterpretation
NOGICD Act Implementation - Consequence of Non Compliance

- Penalty of 5% of project sum
- Project Cancellation
- Project Cancellation Unrecoverable Sunk cost
- Project Delays
- Denial of 1st & Exclusive Consideration
- Reputation Issues

Non-compliance?
NOGICD Act Implementation - Post Enactment Status

- NCDMB developed draft regulations in consultations with key industry stakeholders

  - Regulations yet to be released

  - Some guidelines issued;

- NCDMB Fully Established in Yenagoa Bayelsa State

- Industry concerns yet to be effectively addressed

- Major IOCs expected to develop in-country capacity via projects
NOGICD Implementation – Governments’ Role

Effective leadership
- Demonstrable commitment
- Significant investment in critical areas – education, R&D, infrastructure etc

Enabling environment
- Fiscal and equitable incentives – increase opportunity to share benefits
- Open doors approach in NOC and IOC relationships

Transparent implementation and predictable
- Encourage and maintain competitiveness

Collaboration with all stakeholders
- Recognize shared responsibility
Delivering local content is a strong commercial imperative for IOCs to drive down cost and achieve competitive edge (corporate reputation and long term cost efficiency).

**Develop policies and implement programs/initiatives that stimulate:**
- The development and sustainable growth of in-country capability
- Human Capital Development – training, scholarships, internships, R&D

**Prioritise Local Content within contracting & procurement strategies**
- Balance business priorities (right price, quality & schedule) with local content requirements
- Maximise proportion of local content within expenditure where capacity is proven
- Develop local skills and supplier competitiveness as part of contract execution

**Encourage foreign/local partnerships and sub-contracts to develop:**
- Local suppliers’ skills
- Technical capability
- Competitiveness
NOGICD Act Implementation - Role of CIPS

- Educate CIPS members/associates on the provisions of the Act and join the advocacy for transparent implementation
- Promote good contracting and procurement practices that puts the Nigerian Content issues in the right perspective
- Incorporate a module on the Local Content in training curriculum as part of membership certification process
- Develop and utilise research programmes to shape appropriate response(s)/strategies to address challenges posed by the Act
- Support Nigerian Companies in developing their capability in purchasing and supply management
- Enforcement of compliance with the Act as part of the code of professional practice
NOGICD Act Implementation - Role of CP Professionals

- Active participation in the advocacy for business friendly regulations and practical implementation of the Act

- Adopt contracting and procurement strategies that give due consideration to, Nigerian Content requirements, existing capabilities, competitiveness and risks in local supplier market
  - Packaging of tender – bundling vs unbundling
  - Effective compensation mechanism
  - Conduct market analysis to classify categories of expenditure against capacities of the local suppliers

- Start early in the project life to consider the most appropriate intervention mechanism and take a long term perspective
  - Developing local capacities requires long lead time to be successful and sustainable
  - can be costly and time-consuming in the short-term but delivers substantial benefits when evaluated over the long-term
Strategies should focus on capacity development (supplier development driven) to ensure sustainability of supplier base.

- Recognise that the need to achieve right price, quality, schedule quantity and Nigerian Content targets are not mutually exclusive.

Source: Role of Procurement Strategy in Effective Local Content Management
Michael Warner, June 2010
## NOGICD Act Implementation – Possible Outcomes

**Two possible outcomes depending on implementation path:**

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<tr>
<th>Scenario</th>
<th>Path</th>
<th>Possible Outcome</th>
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| **Successful Implementation** | • Government’s responsiveness  
• Business friendly regulations  
• Government investment in infrastructure and capacity building  
• **Industry collaboration and commitment**  
• Increased investment | • Growth of in-country capability/capacity  
• Improved project execution,  
• Reduced cost of operations & projects  
• Increased profitability  
• National economic growth  
• GDP growth  
• Investors/IOCs and Governments business and National objectives achieved  
• Emergence of globally competitive energy service sector |
| **Failed Implementation**  | • Government implements law as passed with regulations that do not address industry concerns  
• Reduced investment  
• Infrastructure issues not addressed  
• Lack of commitment from industry players | • No new projects/investment  
• Stagnation of the Oil & Gas industry  
• Reduced revenue  
• Strain on National economy  
• Reduced profitability for industry players  
• Unfavourable business environment  
• ** Collapse of the Oil & Gas Industry Investors/IOCs and Governments business and National objectives not achieved ** |

Multiplier effect of success will stimulate growth of SMEs and jump-start other sectors of the economy that have greater socio-economic impact.
Supplier selection criteria:
- HSSE standards
- Record on environment, waste, disposal
- Resource efficiency

Contractual requirements for:
- HSSE compliance

Local content is an integral part of Shell’s Sustainable Development principle
Recipe for Successful Implementation

- Transparent implementation and monitoring systems
- Effective Contracting and Procurement strategies that engender growth of in-country capacity
- Viable National Infrastructure to complement capability development initiatives
- Adequate funding of educational institutions and R&D
- Collaboration of stakeholders to develop local competent workforce and suppliers
- An “Open Door” approach to attract the right level of specialist skills and foreign direct investment to bridge critical gaps
- Local and foreign companies must see the Act as a positive challenge rather than an undue advantage or as a threat to their competitive position respectively

Shell remains committed to supporting the National aspirations to unlock Nigeria’s potential.