Hon. Barr. Victor O. Nwokolo
Member, Representing Ika North East / Ika South Federal Constituency
HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA
Chairman House Committee on Petroleum Upstream

ORDER 12, RULE 1 (3)

COMPENDIUM OF BACKGROUND INFORMATION ON:

HB.16.12.877: A Bill for an Act to Provide for the Establishment of the Legal and Regulatory Framework, Institutions and Regulatory Authorities as well as guidelines for the operation of the Upstream and Downstream Sectors of the Nigerian Petroleum Industry.

HB.16.12.878: A Bill for an Act to Establish a fiscal Framework that encourages further investment in the Petroleum Industry whilst increasing accruable revenues to the Federal Government of Nigeria.

HB.16.12.879: A Bill for an Act to Provide for a framework relating to Petroleum Producing Host Community's participation, cost and benefit sharing amongst the Government, Petroleum Exploration Companies and Petroleum Host Communities and for Related Matters

NATIONAL ASSEMBLY COMPLEX
Three Arms Zone, P.M.B 141 Garki - Abuja.
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A. SIGNIFICANCE OF THE PETROLEUM INDUSTRY TO NIGERIA ECONOMY

1. Nigeria is a Mono-cultural Economy

   Oil and Gas is the predominant product of our economy
   - Oil and Gas Accounts For:
     - Over 80% of Nigeria Government Revenue [Federal, States and Local Governments].
     - Over 95% of Nigeria foreign exchange earnings
     - 30% of Nigeria GDP

   Status and wellbeing of present Nigeria economy depends on petroleum

2. Nigeria Oil and Gas Reserves:-
   - Crude Oil ~ 37 billion barrels
   - Gas ~ 187 trillion cubic feet (33 bln boe)

3. Crude Oil Production and Capacity
   - Current Production = 2.3 million bbl/d
   - Capacity = 3.3 million bbl/d

4. Nigeria is the 6th Largest Exporter Among OPEC

5. Nigeria is the 7th Largest Gas Reserves in the World

Nigeria has the reserve base / resource endowment to be a major player... BUT

B. PROBLEMS OF THE NIGERIA PETROLEUM INDUSTRY

1. Out-dated Legal Framework
2. Institutional Decay / Inefficient Regulatory Entities
3. Out-dated Fiscal Framework / Decline of Revenue
4. Host Communities Participation / Niger Delta Crisis
5. Downstream Liberalisation
6. Poor performance of NNPC - Reform of NNPC
7. Frontier Exploration
8. Exploitation of Gas for Development
9. Declining Production / Poor Reserves growth
10. Lack of Global / Regional Competitiveness

C. Historical Background and Trajectory of the PIB

You will recall that President Olusegun Obasanjo set up the Oil and Gas Industry (Reforms) Committee (OGIC) in the year 2000 to undertake comprehensive reform of the Nigeria Petroleum Industry. That Committee was charged to produce the blueprint for a national oil and gas policy. The Committee submitted its report to government in 2007 and this was translated into a proposed legislation, that is, the Petroleum Industry Bill 2008 which was sent to the National Assembly by former President Umaru Musa Yar Adua for legislative action. Since 2008 when it was first introduced, the Petroleum Industry Bill (PIB) has been in the works in one form or the other. During the 7th National Assembly (2011-15), additional efforts were made to pass the 2012 version of the Bill but it unfortunately was unsuccessful, similar to attempts at prior parliamentary sessions. The present effort has seen the bill split into three Bill and all have gone through second reading in this House

D. Government Aspiration for Petroleum Industry

- Production Capacity of 4million b/d oil
- Proven Crude Oil Reserves of 40 bln bbl
- Delivery of Power Road Map
- Delivery of Gas Master Plan
- Robust, long term revenue stream

E. Fundamental Objectives of Oil and Gas Industry Reform

- Create efficient and effective independent regulatory agency – a one-stop shop agency
- Promote effective policy making – separates policy making, regulation and commercial undertakings
- Reform NNPC for better performance and profitability
- Deregulate and liberalise the downstream petroleum sector
- Enhance Lease Administration for effective petroleum operations
- Optimize domestic gas supplies for power generation
- Promote Host Communities Participation and Create a conducive business environment
- Protect health, safety and the environment / Promote local content
- Establish a progressive fiscal framework that promotes investment and enhances government Revenue

F. <u>LAWS THAT WILL BE REPEALED WITH THE PASSAGE OF THE BILLS</u>

1. **Petroleum Act** (Cap. 350 of LFN 1990 as amended – which came into force on 27 November 1969);

The following regulations made pursuant to the Act will equally be affected:

(a) **Minerals Oil (Safety) Regulations 1963** (effective 11 April 1962)

(b) **Petroleum (Drilling and Production) Regulations** Nov. 1969

(c) **Crude Oil (Transportation and Shipment) Regulations** Dec. 1984

2. **Nigerian National Petroleum Corporation Act** (Cap. 320 of LFN 1990 as amended (1977);

3. **Deep Offshore and Inland Basin Production Sharing Contracts Act** (No. 9 of 1999 (as amended – (1993);

4. **Petroleum Profit Tax Act** (Cap. 354 of LFN 1990 as amended – (1958);

5. **Petroleum Products Pricing Regulatory Agency (Establishment) Act**, 2003

6. **Petroleum Technology Development Fund Act**, CAP P15 LFN, 2004.

7. **Petroleum Equalisation Fund (Management Board, etc.) Act**, CAP P11 LFN, 2004;

8. **Petroleum (Special) Trust Fund Act**, CAP P14 LFN, 2004;

9. **Associated Gas Re-injection Act** (Cap. 26 of LFN 1990 as amended – (1979) **and Associated Gas Re- injection (Continued Flaring of Gas) Regulations 1979** (as amended).

10. **Motor Spirits (Returns) Act**, CAP M20 LFN, 2004

G. LAWS THAT WILL BE PRESERVED

1. **Nigerian General Statutes**

    (a) Oil in Navigable Waters Act LFN 1990

    (b) Territorial Waters Act LFN 1990

    (c) Exclusive Economic Zone Act LFN 1990

    (d) Offshore Oil Revenue (Registration of Grants) Act LFN 1990

    (e) Companies Income Tax Act LFN 1990

    (f) Oil Pipelines Act (Cap. 338 of LFN 1990 as amended – (1956);

    (g) Other ancillary Legislations

2. **International Agreements**

    (a) The Maroua Declaration (1 June 1975);

    (b) UN Convention on Laws of the Sea1982;

    (c) Convention for the Co-operation in Protection and Development of the Marine Environment of West and Central African Region 1984;

    (d) Treaty between Nigeria and Equatorial Guinea

    (f) Treaty between Nigeria and with Sao Tome on the JDZ 2001

H. STRUCTURE AND CONTENT OF THE BILL

HB.16.12.877: A Bill for an Act to Provide for the Establishment of the Legal and Regulatory Framework, Institutions and Regulatory Authorities as well as guidelines for the operation of the Upstream and Downstream Sectors of the Nigerian Petroleum Industry.

Provisions of the Bill

Objectives, Vesting of ownership, management philosophy, Transparency / good governance – Part 1, Section 1 – 4

Institutions Created –

1. The Minister — Part 2 – Section 5 – 7
2. Oil and Gas Directorate — Part 3 – Section 8 – 29
3. Nigerian Petroleum Commission — Part 4 – Section 30 – 62
4. National Oil Company — Part 5 – Section 63 – 83
5. Nigerian Petroleum Asset Management Company — Part 6 – Section 84 – 106
6. Nigerian Petroleum Research Centre — Part 7 – Section 107 – 130

Repeals, Transitional and Savings Provisions — Part 8 – Section 131 – 137

Objectives, Vesting of ownership, management philosophy, Transparency / good governance Part 1: Section 1 – 4

1. Provides for the objectives of making the Act (earlier considered herewith).
2. Vests property and control of petroleum in the Government of the Federation.
3. States the philosophy for managing this national asset.
4. Ties the institutions to NEITI principles of transparency and good governance.

The Minister Part 2: Section 5 – 7

1. Functions of the Minister – mainly policy making, diplomatic roles and general supervision. Also to sign off on grants, amendment, renewal, extension or revocation of licences and leases.

2. Right of pre-emption – right to take all and any petroleum or petroleum product during

3. State of emergency and penalty for obstruction or interference.

4. In contrast with the provisions of the Petroleum Act, the powers and functions of the Minister is streamlined

Oil and Gas Directorate Part 3 – Section 8 – 29

- Its created as a body corporate
- Envisages demise of Ministry of Petroleum Resources
- Has a Board chaired by the Minister and a Director General and other directors
- To provide a back-up support office for the Minister
- Administer the industry and lease management.
- Financial provisions – Appropriation through National Assembly
- Funding – (a) Appropriation, (b) fees, grants, loans, etc.

- Annual report to the President (to send same to NASS)

Likely to generate furor with Ministry of Petroleum Resources and Civil Service

NIGERIAN PETROLEUM COMMISSION **Part 4 – Section 30 – 62**

- Provides for a single, independent regulator for the industry
- Vests Commission with functions encompassing upstream, midstream and downstream regulation.
- Vests Commission with exclusive responsibility over industry environmental regulation
- Provides for a Board of Directors instead of Executive and non-executive Commissioners (9 member board with only 1 non-executive chairman and 1 non-executive director).
- It provides for appointment of non-executive chairman by President but does not say who will appoint the remaining non-executive director.
- Gives Commission powers to issue regulations.
- Financial provisions – Appropriation through National Assembly
- Funding – (a) Cost of collection, (b) appropriation, (c) fees, grants, penalties, etc.
- Mid year and annual report – only to minister (not to NASS)

Reform of NNPC – Creation of two Commercial entities

1. **National Oil Company**

   <u>Characteristics of the National Oil Company</u>

1. Incorporated under CAMA
2. Vested with NNPC assets (JV, NPDC, Midstream & downstream assets, etc.)
3. Integrated
4. Initially capitalised (first year)
5. subsequently funded through market
6. Initial shareholders MOFI, MOPI and BPE
7. Progressively sell down Government stake to public

8. Managed by board appointed by shareholders
9. Public Procurement & Fiscal Responsibility Acts not applicable
10. Preserve jobs of current employees

2. NIGERIAN PETROLEUM ASSETS MANAGEMENT COMPANY

Characteristics of the National Oil Company

1. Incorporated under CAMA
2. Vested with NNPC assets (PSCs, risk service contracts, NLNG)
3. MOFI, MOPI and BPE as Shareholders
4. 100% Government owned
5. Funded by management fee via appropriation
6. Preserve jobs of current employees
7. Pay royalty, tax, profit oil / gas to federation account

Benefits of the Reform of NNPC / Creation of the two Commercial Entities

1. Enhanced revenues to the Federation through robust cost management and disciplined collection processes
2. Robust governance, performance and engender bottom line mind sets .
3. Focus on strategic interests, in particular cost management
4. Funding capacity by creating a financially capable entities with the ability to source independent (non-budgetary) financing for JV operations.
5. Rationalized portfolio to smaller, more manageable entities
6. Minimize/eliminate cross subsidization

Nigeria Petroleum Research Centre Part 7: Section 107 – 130

1. Provides a research centre for the Petroleum Industry
2. The centre is created as a corporate enti
3. **Funding** is through appropriation

G. Conclusion

1. A slim, focused yet robust framework proposed for effective governance of the Nigeria Petroleum Industry
2. Principles of separation, transparency and accountability has been adopted to enhance performance and growth
3. Key lapses associated with prior institutional frameworks have been remedied
4. Bill should go to Public Hearing for stakeholder engagements and follow up legislative passage