

# **LOCAL CONTENT IN THE OIL AND GAS SECTOR IN GHANA\***

## **1. Background**

Oil exploitation in Ghana began as far back as 1896 by the West African Oil and Fuel Company. A minor find was made in 1970 in the Saltpond field in eastern Ghana and some 3.47 million barrels were produced from 1978 to 1985 when the field was shut-in. The present major find was made in 2007 by a consortium of investors<sup>1</sup> in collaboration with Ghana's national oil company - Ghana National Petroleum Corporation (GNPC) - in the Western Maritime Zone of Ghana, some 60 nautical miles offshore. The field has been named "Jubilee Field" in commemoration of Ghana's 50<sup>th</sup> Independence Anniversary.

The Jubilee Field was officially commissioned on 15th December, 2010. The field is estimated to hold up to 1.8 billion barrels of light, sweet crude oil. Some 120,000 barrels of oil is pumped daily from the field, racking over US\$3 billion since commencement of production for the exchequer. Other discoveries have been made since the commencement of commercial production with the Tweneboah-Enyenra-Ntomme (TEN) Field scheduled to start production in 2016. Its production rate is estimated to be about 80,000 barrels daily.

As in many developing countries, the oil find created euphoria; the perception being that it would herald the much needed resources for the nation's socio-economic advancement and/or the general economic development of the country. The oil find also brings in its wake the feeling and/or desire that indigenes, both natural and artificial, ought to be fully involved in, and reap the benefits that accrue from, petroleum exploitation. The foregoing has been viewed within the context of *local content* which usually finds expression in various petroleum agreements. Provisions on matters such as employment and training of Ghanaian nationals, promotion of research and development, participation of local industries in the provision of services, and technology transfer provisions which seek to address the subject, are collectively referred to as *local content* or *domestic* or *national content*.

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<sup>1</sup> Kosmos Energy Ghana, Tullow Ghana Limited, Anardako Petroleum Corporation, Sabre Oil and Gas Holdings Limited and the EO Group. See Thomas Kojo Stephens, Ghana. In Pereira and Talus K (ed) *African Upstream Oil and Gas: A practical Guide to the Law and Regulation* 192 (Globe Law and Publishing, 2015); Petroleum Commission Ghana: [www.petrocom.gov.gh/local-content.html](http://www.petrocom.gov.gh/local-content.html). I'm grateful to Dr. Stephens for an invaluable insight into the subject.

Local content has been defined as the “quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the petroleum industry value chain and which can be measured in monetary terms.”<sup>2</sup> Essentially, then local content denotes the level of involvement of local actors, both natural and artificial, in the oil and gas industry. A related term is *local participation*, which in the Ghanaian context, is viewed as the level of Ghanaian equity ownership in the oil and gas industry.<sup>3</sup>

## 2. The Policy and Legal Frameworks on Local Content

Successive Ghanaian governments and policy makers have sought to realize the implementation of local content through various legal and policy initiatives. Apart from the 1992 Constitution, several pieces of legislation govern the oil and gas sector in Ghana.<sup>4</sup> Some of these laws address local content.

### 2.1 The 1992 Constitution

Article 4(2) of the 1992 Constitution of the Republic of Ghana vests Parliament with the power to provide for the delimitation of Ghana’s territorial sea, contiguous zone, Exclusive Economic Zone (EEZ) and continental shelf. An earlier legislation, PNDCL 159, established a 200 nautical mile limit for the EEZ and the Continental shelf.<sup>5</sup> The Jubilee Field is thus within Ghana’s EEZ.

All minerals in their natural state in Ghana are vested in the President on behalf of, and in trust for the people of Ghana. (Article 257 (6). Minerals include oil and gas. Article 268 (1) mandates the Parliamentary ratification of any transactions, contract or undertaking involving the grant of a right of concession for the exploitation of any mineral, water or other natural resources. Hence in Ghana, all petroleum agreements

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<sup>2</sup> Ministry of Energy, Republic of Ghana, Local Content and Participation in Petroleum Activities – Policy Framework (March 3<sup>rd</sup>, 2011) (hereinafter “Policy Document”) p. 6.

<sup>3</sup> *ibid*

<sup>4</sup> The principal legislation include Ghana National and *Petroleum Corporation Act* 1983 (PNDCL 64), the *Petroleum (Exploration and Production) Act* 1984 (PNDCL 84), the *Petroleum Income Tax Act* 1987 (PNDCL 188), the *Petroleum Commission Act* 2011 (Act 821), the *Petroleum Revenue Management Act* 2011 (Act 815). Other relevant legislation includes: the *Environmental Protection Agency Act* 1994 (Act 490), the *Environmental Assessment Regulations* 1999 (LI 1652), as amended; the *Customs, Excise and Preventive Service (Management) Act* 1993 (PNDCL 330); as amended; the *Maritime Zones (Delimitation) Act* 1986 (PNDCL 159); the *Ghana Maritime Security Act* 2004 (Act 675), as amended; *Labour Act* 2003 (Act 651); and the *Companies Act* 1963 (Act 179). There is also the Model Petroleum Agreement (MPA). There is a new piece of legislation which was enacted in September 2015, the *Income Tax Act* 2015 (Act 896) which repeals the *Income Tax Act* 2000 (Act 592). A whole Section has been put in the new legislation that covers taxation in the petroleum industry. However, the *Petroleum income Tax Act* 1987 (PNDCL 188) has not been repealed. The provisions in the *Petroleum Income Tax Act* remain valid to the extent that they are not inconsistent with the provisions of this Act.

<sup>5</sup> A process has been set in motion to extend the shelf to 350 nautical miles.

must receive Parliamentary ratification in order to be valid. Further, Article 269 (1) vests Parliament with the power to provide for the formation of such natural resource commissions as it deems necessary for the regulation and management of natural resources, and for the coordination of policies in relation to them. Pursuant to this provision, the *Petroleum Commission Act, 2011 (Act 821)* was passed. The Act established the Petroleum Commission, the regulatory body for the industry.

## 2.2 Legislative Enactments

Before legislation was enacted specifically for the petroleum industry in the early 1980s, oil and gas law was subsumed under the general mining legal framework, particularly under the *Minerals Act, 1962 (Act 126)*. In 1983, the *Ghana National Petroleum Corporation Act (PNDCL 64)* was enacted and this set up the national oil company (GNPC) and vested it with powers to promote the exploration, development and production of oil resources in Ghana. This was followed by the enactment of the *Petroleum (Exploration and Production) Act, 1983 (PNDCL 68)* to govern petroleum exploration and production. The *Petroleum Act* was, however, repealed in the following year by the *Petroleum (Exploration and Production) Act, 1984 (PNDCL 84)*, which sought to bring the law more in line with industry concerns. The *Petroleum Act* established the basic contractual framework between the international companies, the state and GNPC. By these two pieces of legislation – the *GNPC Act* and the *Petroleum Act* – the oil industry became governed by means of a distinct legal framework.<sup>6</sup>

The first legislative enactment on the subject of local content is contained in the *Petroleum (Exploration and Production) Act, 1984*. Section 23 of the Act provides that a contractor or subcontractor while carrying out Petroleum operations shall prepare and implement plans for the transfer to the GNPC of advanced and technological knowhow and skills relating to petroleum operations. The provision however shall not be interpreted to disable the contractor or subcontractor from protecting their competitive position in the petroleum industry or requiring the corporation also to take steps to protect that competitive position.

The provision was carefully crafted to assure the investor community that their intellectual property rights would be respected. The nation was at the time, desperately in need of foreign investors' participation in the oil and gas sector. This provision and

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<sup>6</sup> In 1987, the *Petroleum Income Tax Act (PNDCL 188)* was enacted to govern matters related to taxation within the petroleum industry. At the time there were three pieces of legislation that were in existence, complemented by a Model Petroleum Agreement (MPA). Upon the 2007 discovery, the *Petroleum Revenue Management Act 2011 (Act 815)* was enacted to govern the collection and use of revenue from the industry, while the *Petroleum Commission Act 2011 (Act 821)* established the Petroleum Commission, the industry's regulatory body. A number of regulations have also been passed. The *Ghana Maritime Authority (Fees and Charges) Regulations, 2012 (LI 2009)* provide for the imposition of maritime fees and charges on installation, pipelines, ships, cables and other assets used in the maritime domain. Thomas Kojo Stephens, supra n. 1 at p. 186.

the general paucity of legislation on the subject was thus to be expected. There has, however, been major policy and legislative shifts to a much more active role by indigenes following the oil find through policy and legislative initiatives to which we now turn.

### **3. The policy Framework**

Following the 2007 oil find, pressure was mounted on the government by civil society and the populace in general for a local content policy for the oil and gas sector. A wide stakeholder consultation was set in motion; culminating in the preparation and adoption of the policy document to guide the sector in 2010.

The policy document is a comprehensive document that addresses all aspects of local content in the quest to realize the maximum benefit from the oil and gas sector. The policy aims at ensuring capacity development in terms of employment of Ghanaians, use of Ghanaian goods and services, transfer of technology and know-how, indigenization of knowledge and ownership.

The policy is also expected to aid the integration of the Oil and Gas sector with other sectors of the Ghanaian economy, to harmonize national growth and development, and to also develop gas-based industries. The thrust is that at every stage of the exploration, development and production of the oil and gas resource, the extent of local content and local participation should be proportional to available local capability. Further, it will ensure that the capability of Ghanaians is developed sustainably to ensure progressive local content and local participation.<sup>7</sup>

The policy document identifies the major obstacles facing the realization of local content in particular, the highly capital intensive nature of the industry and the absence of the requisite technology required to realize this objective.<sup>8</sup> Within the context of these and other challenges, some policy goals are set to be attained:

- sustainable exploitation of Ghana's oil and gas endowment;
- judicious management of oil and gas revenue for the overall benefit and welfare of all Ghanaians, including future generations;
- attracting increased local value – added investment in the oil and gas sector;
- creating job opportunities in the oil and gas and related industries;
- indigenizing knowledge, expertise and technology in the oil and gas and related industries; and

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<sup>7</sup> Policy Document, supra n4 at p4. It is also worthy of note that Ghana's Model Petroleum Agreement (MPA), which was and is still used in a modified form in negotiations with the IOC's, contains provisions covering Local Content – Article 20 (Purchasing and Procurement), Article 21 (Employment and Training).

<sup>8</sup> Technology such as drilling services, fabrication, marine support, engineering/design and production services.

- facilitating the transfer of technology and know-how from oil and gas to other economic sectors.

It is envisaged that these actions will lead to the creation of a self-sustaining and buoyant economy.<sup>9</sup> In the light of the foregoing, the Government has as its vision for the Sector, a commitment to deploying an effective local content, capacity development and local participation by Ghanaian citizens in all roles, at all levels and in all activities relating to the oil and gas value chain.<sup>10</sup> For the realization of this vision certain policy objectives are provided for in the policy document:

- maximize the value-addition and job creation, through the use of local expertise, goods and services, businesses and financing in the oil and gas industry value chain and the retention of benefits within Ghana;
- develop local capability in all aspects of the oil and gas value chain through education, skills and expertise development, transfer of technology and know-how and an active research and development portfolio;
- achieve a least 90 percent local employment and in-country spend in the oil and gas industry value chain within a decade of the start of every petroleum license or contract, in the provision of such supplies and services that are determined by the LCC to be of high priority to Ghana;
- increase capabilities and international competitiveness of domestic businesses and industrial sectors;
- create oil and gas and related supportive industries that will sustain economic development;
- achieve and maintain a degree of influence or control by Ghanaians over development initiatives for local/domestic stakeholders; and
- provide a rigorous and transparent monitoring and reporting system to ensure delivery of the Policy Goals.<sup>11</sup>

The measures proposed for adoption to attain these objectives: namely, participation of Ghanaian citizens in the ownership of businesses in the oil and gas industry; provision of goods and services in the sector by Ghanaian companies; employment and training of citizens; technology transfer; local capacity development; legislation; gender balance and oil and gas business development fund are elaborated in the policy document. They are further concretized in the form of legislation<sup>12</sup> which is discussed below.<sup>13</sup>

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<sup>9</sup> Ibid at pp.7-8.

<sup>10</sup> Ibid at p 8.

<sup>11</sup> Ibid at p. 9.

<sup>12</sup> LI 2204.

<sup>13</sup> The Local Content Regulations has an Appendix, with Schedules that basically shows where the country intends to be percentage-wise in terms of how much local content must be achieved in the various thematic areas at various intervals – example 5 years, 10 years etc.

## 4. The Legislative Framework

As observed, the *Petroleum Commission Act, 2011*<sup>14</sup> established the Petroleum Commission as the regulatory body for the petroleum industry in Ghana. Amongst the functions of the Commission as provided for in Section 3 of the Act is the promotion of local content and local participation in petroleum activities. In that regard, Act 821 makes provision for the establishment of a local content committee<sup>15</sup> to deal with the local content programme.<sup>16</sup> The substantive legislation on local content is set out in the *Petroleum (Local Content and Local Participation) Regulations, 2013 (LI 2204)*.<sup>17</sup>

LI 2204 is a rather comprehensive document comprising 49 regulations arranged under the following topics: general provisions, local content plan, employment and training sub-plan and succession plan, programme for research and research development sub-plan, technology transfer programmes and reports, local insurance services content, legal services content, financial services content, local content performance reporting, data and information on local content, monitoring compliance and enforcement and miscellaneous provisions. For present purposes, the subject is addressed under five main areas, namely:

- Employment and Training of Nationals
- Local industries/Goods and Services
- Research and Development
- Technology Transfer
- Compliance and Enforcement

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<sup>14</sup> Act 821.

<sup>15</sup> Membership comprises members and non-members of the Board. The governing Board itself comprises the Chief Executive Officer of the Commission, one representative from the EPA not below the rank of a Director, one representative of the institution of geoscientists and 3 other persons at least one of whom must be a woman. S. 4, Act 821.

<sup>16</sup> LI 2204 entrusts the responsibility for its implementation to the Local Content Committee which is also responsible for the following: oversee, coordinate, and manage the development of local content; prepare guidelines, to include targets and formats for local content plans and reporting; make appropriate recommendations to the Commission for the smooth implementation of these Regulations; set minimum standard requirements for local content in local content plans where applicable; undertake public education; undertake local content monitoring and audit; and perform any other functions conferred on the Committee by the Commission in accordance with the provisions of applicable laws. The Committee shall submit quarterly reports of its activities to the Commission.

<sup>17</sup> LI 2204. The legislation was passed on 19 November, 2013 but took effect from 1<sup>st</sup> February, 2014.

#### **4.1 Employment and Training of Nationals**

The Petroleum Act, 1984 and the MPA enjoin contractors and sub-contractors to ensure that Ghanaians with the requisite expertise and qualifications are employed in preference to foreign nationals. The contractor is also enjoined to prepare and implement plans and programmes for the training of Ghanaians in job classifications and in all aspects of petroleum operations. The contractor is also required to pay to the State agreed sums for training and technology support for the building of local capacity. Such expenses are tax deductible. When requested, the contractor is also obliged to provide training for mutually agreed number of persons nominated by the GNPC to be seconded for on job training with the contractor.<sup>18</sup>

Where Ghanaians are not employed because of lack of expertise, the contractor shall ensure to the satisfaction of the Commission that every reasonable effort is made to provide training for Ghanaians in that field.<sup>19</sup> Only Ghanaians can be employed in junior level or middle level position in the oil and gas industry.<sup>20</sup> The contractor is also enjoined to furnish the Commission a succession plan for any such position occupied by non-Ghanaians. Industrial dispute settlement shall be in accordance with the Labour Act, 2003, (Act 651).

#### **4.2 Local Industries Goods and Services**

The provisions on the subject are rather stringent and designed to ensure maximum participation of Ghanaians in the Sector. For a start, the country aims at ensuring that priority consideration is given to Ghanaian companies in the award of oil blocks and associated projects in the oil and gas industry. Foreign business entities are enjoined to have at least five percent (5%) equity participation by indigenous Ghanaian Companies in order to qualify to enter into a petroleum agreement or qualify for a petroleum licence.<sup>21</sup>

The Minister responsible for Petroleum may vary this requirement in circumstances where an indigenous Ghanaian Company is unable to satisfy the 5% equity participation<sup>22</sup>. The interest of a Ghanaian Company arising from a petroleum

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<sup>18</sup> Thomas Kojo Stephens, *supra* n.1 at 196; SS 23 (10) and 23 (13) of the Petroleum Act.

<sup>19</sup> Regulation 17 (5) LI 2204. A Petroleum (Exploration and Production) Bill, 2014 is before Parliament for passage into law.

<sup>20</sup> Junior or middle level positions includes the position of foreman, supervisor or any corresponding position designated as such. Regulation 19, LI 2204.

<sup>21</sup> Regulation 4(2) LI 2204.

<sup>22</sup> Regulation 4 (3) LI 2204. GNPC has a minimum of 10% carried interest in all petroleum agreements.

agreement or a petroleum licence is not transferable to a non-indigenous Ghanaian Company.<sup>23</sup>

In order to ensure increased financial benefits of Ghanaians and the state, all operators in the oil and gas industry shall as far as practicable use goods and services produced or provided in Ghana for their services. The operators shall give priority to the purchase from citizens of Ghana, local products and services that are competitive in terms of price, quality and timely availability.

A non-indigenous Ghanaian company which intends to provide goods and services to a contractor, the GNPC or other allied entity in the industry within the country shall incorporate a joint Venture Company with an indigenous Ghanaian Company and afford that Company an equity participation of at least 10%.<sup>24</sup> In the acquisition of plants, equipment supplies and services, the contractor is enjoined to give preference to those produced in Ghana.

### **4.3 Research and Development**

Upon the execution of a petroleum agreement and prior to the commencement of petroleum activities, a contractor or other allied entity shall submit a programme for research, development and budget to the Commission for the promotion of education, practical attachments, training and research and development in relation to its overall work programme and activities in Ghana. A Research and Development plan or programme shall:

- outline a revolving three to five year programme for petroleum related research and development initiatives to be undertaken in the country;
- provide details of the expected expenditure that will be made in implementing the plan;
- provide for public calls for proposals for research and development initiatives associated with the activities of the contractor; and
- criteria for selecting proposals which qualify for support.

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<sup>23</sup> The provision seeks to concretise the government's policy objective of giving first consideration to the Ghanaian independent operators in the award of oil blocks, oil lifting licenses and in all projects for which contracts are to be awarded in the Ghanaian oil and gas industry. However, these operators must demonstrate that they possess such capacity and fulfil the requisite conditions as may be specified. The selection of such a citizen of Ghana shall be the subject of fair and transparent procedures. Opportunities will be afforded Ghanaian Pension and Mutual Funds to access appropriate equity participation, so as to facilitate widespread ownership by citizens of Ghana of businesses involved in the oil and gas sector in Ghana. Policy document, supra n.4 at p 11.

<sup>24</sup> Regulation 4 (6) LI 2204.

The contractor, subcontractor, licensee or other allied entity is required to update its research and development plan annually, and submit the updated plan to the Commission for review and approval.<sup>25</sup>

#### **4.4 Technology Transfer**

As noted, Section 23 of the *Petroleum (Exploration and Production) Act*, 1984 contains provisions on transfer of technology by the contractor. These provisions have been further amplified in LI 2204.

The transfer of technology is to be done within the overall framework of the national plan on technology transfer. Consequently technology transfer by contractors in the section is to be in accordance with the national plan on technology transfer. In that regard, a contractor is required to provide for the approval of the Commission a technology transfer sub-plan<sup>26</sup> and support and facilitate technology transfer as prescribed.<sup>27</sup> An annual technology transfer report shall be furnished the commission by the contractor.

#### **4.5 Compliance and Enforcement**

The objectives contained in the policy on local content and concretised in LI 2204 are laudable. However, these need to be monitored and/or enforced to ensure compliance. In that regard, LI 2204 contains provisions on the subject.

As noted, the Commission's Local Content Committee (LCC) is tasked with ensuring the implementation of the local content programme with clear cut functions. The LCC is required to submit quarterly reports to the Commission on its activities.

All contractors, as part of the application process to engage in petroleum activities are required to provide a Local Content plan for approval by the Commission. This is a condition precedent for the grant of a Licence.<sup>28</sup> LI 2204 also provides for local content

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<sup>25</sup> Regulation 21 LI 2204.

<sup>26</sup> Regulation 24, LI 2204. A Technology Transfer Sub-Plan submitted by a contractor, sub-contractor, licensee or other allied entity shall include programme of planned initiatives aimed at promoting the effective transfer of technologies from the contractor, sub-contractor, licensee or other allied entity to a Ghanaian indigenous company or citizen.

<sup>27</sup> Regulation 25, LI 2204. A contractor, subcontractor, licensee or other allied entity shall support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Ghanaian companies or citizens and foreign contractors and service companies or supply companies. The Minister shall consult with relevant Government agencies to propose fiscal incentives to assist foreign companies which aim to develop technological capacity and skills of citizens; and indigenous Ghanaian companies which establish factories and production units in the country. The Commission shall propose the criteria for obtaining the fiscal incentives.

<sup>28</sup> Regulations 8, 9 and 10 provide for the procedure and contents of the plan.

performance reporting <sup>29</sup> which are duly assessed by the Commission to ensure compliance and/or conformity with the LI 2204<sup>30</sup>.

LI 2204 provides for the establishment of a Common Qualification System<sup>31</sup>. Provision is also made for Local Content monitoring. For purposes of enforcing the Regulations, the Commission may initiate an investigation into an activity of the Contractor.<sup>32</sup>

LI2204 also provides for offences and penalties for violation of its provision. A whole array of offences punishable by monetary fines, imprisonment or both, are provided for under LI2204.<sup>33</sup> These include: making a false statement when submitting a plan, returns, report or other document; a citizen who acts as a front or connives with a foreign citizen or company to deceive the commission; conniving with a citizen or an indigenous Ghanaian company to deceive the Commission as representing an indigenous Ghanaian Company in order to meet the Local Content requirement; failing to support the plan or programme on technology transfer.

A person aggrieved by a decision of the Commission may lodge a complaint with the Minister who shall act on same within thirty (30) days of receipt of the complaint. Ultimately, resort may be had to the High Court for redress by a person dissatisfied with a decision of the Minister.

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<sup>29</sup> Regulation 34. A Contractor, subcontractor, licensee or other allied entity shall within forty-five days of the beginning of each year after commencement of petroleum activities submit to the Commission an annual Local Content Performance Report covering all its projects and activities for the year under review. The report shall be in a format prescribed by the Commission and shall specify by category of expenditure and local content on both current and cumulative cost basis; and show the employment achievement in terms of hours worked by Ghanaians and foreigners as well as their job positions and remuneration.

<sup>30</sup> Regulation 35, LI 2204. The Commission shall, within 50 working days after receipt of the Local Content Performance Report, assess and review the Local Content Performance Report to ensure compliance with these Regulations. For the purposes of assessment and verification of the report, a contractor, subcontractor, licensee or an allied entity shall allow an employee or a designated agent of the Commission access to their facilities, documents and information as the Commission may require.

<sup>31</sup> Regulation 38, LI 2204. The object of the Common Qualification System is to serve as the sole system for the registration and pre-qualification of local content in the petroleum industry. Common Qualification System shall be used for the verification of contractors; the evaluation of application of local content submitted by a contractor, subcontractor, licensee or other allied entity; the tracking and monitoring of performance and provision of feedback; and ranking and categorization of petroleum service companies based on capabilities and local content.

<sup>32</sup> Regulation 45, LI 2204. The Commission may for the purposes of enforcing these Regulations initiate an investigation into an activity of a contractor, subcontractor, licensee or other allied entity. The Commission may launch investigation to ensure that the Ghanaian company principle is not diluted by the operation of a front; or bid rigging and cartelisation are avoided in the procurement process.

<sup>33</sup> Regulation 46, LI 2204.

## 5. The Local Content Regime in Ghana: Challenges and Prospects

As noted, the oil find engendered an expectation on the part of the citizenry that it would bring in the much needed resources for the nation's socio-economic development, and employment prospects.<sup>34</sup> These expectations provided the impetus for the provision of a policy on local content which has since been concretised into law. On paper therefore, all appears to be well as the policy and legislative frameworks provide the necessary institutional and regulatory basis under the auspices of the Commission, for the realization of the local content ideal. However, in practice there are serious challenges, militating against the realization of this ideal; particularly, in the areas of finance and technological knowhow<sup>35</sup> on the part of the citizenry.

The oil and gas industry is by nature capital intensive, and has thus not brought in its wake, the much needed employment for the mass of the Ghanaian unemployed youth. Besides there is little knowhow domestically, about petroleum activities on the part of industry to enable them actively participate in the sector. So for now, and until capacity is developed for indigenes in the oil and gas industry, not much can be expected from the sector as a source of employment. This is a challenge which faces the country and which government and policy makers should pursue vigorously.

The citizenry are also constrained financially in the quest to participate in the industry. As noted, there is a minimum 5% requirement for Ghanaian equity participation in petroleum ventures as well as 10% interest in joint ventures<sup>36</sup> providing for goods and services. Few Ghanaians have the financial means to engage in these. Indeed, the whole subject of petroleum contract agreements is so shrouded in secrecy that in practice, only persons well placed and/or connected with government stand the chance of being able to participate in the industry. There is thus the need for openness and/or transparency in contractual arrangements in the sector.<sup>37</sup>

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<sup>34</sup> As of 2013; 6,929 personnel employed in Petroleum upstream sector; 5,589 Ghanaians (80%); 1,340 expatriates (20%); Ghanaians occupy 40% Managerial and 52% core technical positions; 232 companies registered with Petroleum Commission, of which 152 Ghanaian (65%).

<sup>35</sup> Technical knowhow includes drilling services, production services, fabrication, engineering/design, marine support. Efforts at the moment are being concentrated on non-technical services such as logistics, legal and financial service, IT services, support services (buildings, hospitality, travel etc), with limited success. In respect of direct support – specific local services typical of deep water environment such as: Boat suppliers, helicopter charter, airplane charter, crane rental, machine shops/fabrication yards, tank rental, supply of chemicals, waste management etc. In respect of services, we are referring to corporate banking – bonds, reserves based lending, construction and operating insurance, legal – commercial agreements, freight forwarding, office supply base and accommodation rentals, hospitality facilities etc.

<sup>36</sup> Regulation 4 (6), LI 2204.

<sup>37</sup> The Ghanaian partners in petroleum blocks are largely unknown. Thus, the public do not in general know who are the owners/interest holders in companies such as Blue Star Exploration Ghana Limited (Offshore South West

Further, rather than the prescribed 5% or 10% equity requirement, LI 2204 could be amended for the investor firms to float shares on the stock exchange to allow for maximum participation by the general public. In that regard, care should be taken to ensure that a limit is placed on how much shares can be acquired by an individual or entity. The current equity requirement is a recipe for corruption and/or fronting by Ghanaians. Even though LI 2204 criminalizes such conduct, in practice such offences are difficult to detect.

Altogether then, the existing institutional and legislative frameworks on local content, are plagued with daunting practical implementation challenges which policy makers, government and citizens must address in order to realize the local content ideal. For now, the nation must be largely content with the revenue from the resource.

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Tano Block), Petro Gulf Limited (Deepwater Cape Three Points West Block), Royal Gate Ghana Limited (Offshore Cape Three Points South Block), Base Energy Ghana Limited (Expanded Shallow Water Tano Block), Sapholda (Shallow Water Cape Three Points Block) etc.