Doing Business in the West African OSV Industry: Meeting Local Content requirements

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Introduction

- West Africa's OSV market is the largest OSV industrial cluster in Africa, a region that is currently viewed to control the largest CAPEX investment in the offshore technology sector. It is not therefore surprising to note that frontline world class OSV operators with a market presence in the region control the youngest fleet in the world's OSV market sector.

Introduction contin'd

- West Africa's OSV market is controlled by Nigeria, Africa's foremost producer of oil and gas and OPEC's 5th largest exporter of oil. Other oil producing countries in the region include Ghana, Liberia, Cameroun, Equatorial Guinea, Sao Tome and Principe, and Angola in Central Africa. In actual fact, the West African offshore oil sector share common boundaries with that of Central Africa forming the richest oil and Gas hub in the world with the highest CAPEX investment by the independent oil companies (IOCs).

Introduction contin'd 2

- When analyzed together, one discovers the presence of the two world largest OSV operators present in this single market region. Tidewater has a strong presence in Angola, while Bourbon has a strong presence in Nigeria. Jointly, the region is also referred to as the Gulf of Guinea.

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- The market is characterized by local content and cabotage regulations each of which takes its own toll on the profitability of the OSV operator itself. However, the client which constitutes of the oil majors themselves operates within the regulatory atmosphere allowed in the market sector.
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Objective

- The objective of this paper is to determine from the perspective of local content, the policy environment under which companies do business in West Africa.

Literature Review

- Darling (2011) noted in a report on local content for Revenue Watch Institute, “The private sector and industry associations emphasize the importance of predictability in a host country’s regulatory environment. As such, a relatively set legislative scenario with systematic oversight, even if it is a rigorous legal setting, makes a country a very attractive place in which to do business.” Therefore, rigorous monitoring and evaluation should not be cast as a deterrent to investment.

Literature Review contn'd

- Given the above scenario, one can go ahead to insist that the insistence on local content by African oil producing nations does not constitute a hindrance to doing business, rather it forms part of the business environment to which the OSV operator must adapt himself in a such a way as to maximize his benefits while improving his country of business.
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Nigeria's OSV business supply chain

- The plethora of legislations based on local content requirements in the oil and gas sector of most West African nations should therefore be viewed as an advantage to the serious player since the compliance thereto fulfils not only the businessman's aspiration of profit making, but also that of the host community's interest of adding value to her country's business supply chain .In Nigeria, this business supply chain is inadvertently defined to include the OSV bank sponsor of the supply vessel, the Nigerian partner in the OSV business and the Nigerian shipyard where the vessel is Nigerian built.

Local content viewed from the operator's eye

- The OSV operator wishing to do business in West Africa must first acclimatize himself with the financial implications of the regulatory requirement as this certainly affects his profitability. Haugesund (2011) in its annual report talks about local content laws in West Africa's country Nigeria where oil companies are being forced to prefer ships owned by Nigerians in preference to others in the OSV market. The level of success according to the report is just minimal as only few AHTS vessels and old vessels have been acquired by these Nigerians.

Methodology

- The method applied in the research is the business ecosystem approach which involves interview of the business community interested in the OSV market sector.

Report of Findings

- The findings of this work will be discussed under the following sub headings:
- The role and implications of local content
- Entering the West African offshore market
- Partnering opportunities in West Africa
- Legal considerations and pitfalls to avoid

The Role and implications of Local content, Nigeria

- Nigerian content is defined as the quantum of composite value added or created in the Nigerian economy through the utilization of Nigerian human and material resources for the provision of goods and services to the petroleum industry within acceptable, health safety and environment standards in order to stimulate the development of indigenous capabilities. Therefore the target of NC is to develop in-country capability through the use of systematic resources to make Nigerians acquire skills and capabilities to participate fully in oil and gas business activities without compromising safety or standards. Nigerian Content (2006) NNPC Group (ITD) (2005)

Nigerian Content Development Monitoring Board

- Local content affects all contract award in the oil and gas industry in Nigeria. The Nigerian Content Development Monitoring Board (NCDMB) established by the Nigerian Oil and Gas Industry Content Development (NOGICD) Act takes oversight of all contract tenders in Nigeria’s oil and gas sector beginning from the planning stage to the contract approval stage.
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Categorization of Vessels

- The marine vessel utilization scheme requires the categorization of marine vessel providers (vendors) according to ownership status and where a vessel is built. The scheme puts in place a three stage process designed to receive and evaluate vessel records; determine ownership profile of marine vessels, identify vessels constructed in Nigerian yards and evaluate Nigerians with genuine commitments to own marine vessels. The process in addition pre-qualifies and classifies marine vendors on the basis of which they will be engaged by industry.

Categorization of Vessels contn'd

- The ultimate effect is that vessels built in Nigeria and Nigerian companies that own vessels or have taken concrete steps to own vessels are then positioned to be given first consideration in award of contracts by industry. Through this process Nigerian companies that do not currently own vessels will be encouraged to take concrete steps to own vessels or build new vessels in Nigeria, discovering that such investments translates to fair and first consideration for work in the oil and gas industry. NCDMB(2013).

VESSEL CATEGORY LEGEND	TYPICAL VESSEL TYPES
CATEGORY 1 - Non Dynamically Positioned (DP)	CREW BOAT (CWB), SECURITY VESSEL (SCV), DIVING SUPPORT VESSELS (DSV), FAST SUPPLY INTERVENTION VESSEL (FSIV), SUPPLY VESSELS (SPV), MOORING LAUNCH VESSELS (MLV), SHALLOW DRAFT VESSELS (SDV),
CATEGORY 2 - DPs and Specialized Vessels	ACCOMMODATION VESSEL (ACCV), PLATFORM SUPPLY VESSEL (PSV, ANCHOR HANDLING TUG VESSEL (AHTV), TUG BOAT (TUGB), MULTI-PURPOSE VESSEL (MTPV), PIPE LAY BARGES (PLB)
CATEGORY 3 - short term vessels	INSTALLATION BARGES (INSV), JACKUP BARGES (JUB), LIFT BOATS (LFB), SEISMIC ACQUISITION VESSELS (SAV), NCDMB(2013)

Category AAA, AA and A respectively shall be accorded first consideration in tenders

AAA	Nigerian built and flagged vessel
AA	Evidence of ownership of category 2 (DP) and/or category 3 vessels
A	Evidence of ownership of category 1 (Non DP) vessels

Category BB and B respectively shall be accorded next consideration after exhausting capacity from Category A vendors.

BB	Nigerian lessee with plan to own vessel
B	Nigerian lessee without plan to own vessel but have a subsisting affiliation with foreign vessel owners for bare boat charter

FOREIGN VESSEL OPERATORS IN NIGERIA

- 4TH Category Vessels, Category D
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- A Company operating in Nigeria with foreign vessels is classified as category D
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- Where vessels of the company are built and flagged in Nigeria the vessels are classified as AAA.

Companies with incomplete data

- Others; Category C and E Vessels
- This refers to vessels with incomplete data to enable the board place their operations. Also included here are new entrants with mere plan to own vessels on short term basis as well as Nigerian and foreign owners that have not submitted enough documentations to properly class them.

Local Content in Angola's Offshore Sector

- *The Angolanisation concept*
- In Angola there is no specific or legal definition of what local content or the Angolanisation policy is. It can however be defined as follows:
- a. The need of Angolan individuals and/or companies to acquire majority shareholding of companies operating and/or providing services to the oil sector
- b. Obligation for service provider companies to recruit and train a minimum percentage of Angolan citizens and provide the same employment conditions to Angolan citizens and expatriates. Oil and Gas Tax Guide for Africa 2013

Local Content Requirements in Ghana's Offshore sector

- New local content regulations, known as the Petroleum (Local Content and Local Participation in Petroleum Activities) Regulations, 2012 was recently introduced to:
- • provide for the development of Ghana content in the Ghanaian petroleum industry;
- • provide for the Ghana Content Plans and a mechanism for coordination, monitoring of Ghanaian content.
- In essence, the regulations were designed to ensure the coordinated and extensive use of Ghanaian goods and services in the industry as a means of increasing the rate of
- Ghanaian participation in the petroleum industry in order to maximise its full benefits to Ghana.
- Oil and Gas Tax Guide for Africa 2013

Local content in Congo

- Since the mid 1990s, the Congolese authorities have pushed to promote local content.
- Under Decree no. 2000-160 of 7 August 2000, there is a requirement of having a minimum of 30% local shareholding in companies involved in contractual relationships with Congolese oil and gas companies.
- Oil and Gas Tax Guide for Africa 2013
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Local content, Sao Tome and Principe

- The concept of Saotomean Content (National Content) is provided by the Petroleum Fundamental Law.
- The National Content requirement aims to promote the Saotomean Business
- Community. The Saotomean State shall adopt measures which guarantee the following: the promotion of Saontomeans' investments in the petroleum sector;
- • that the local companies have the pre-emption rights on the award of participating interests, contracts for the provisions of goods and services, etc. Pursuant to the petroleum legislations, it shall be considered as local companies, companies in which the majority of the shares are held by Saotomeans;
- • the training and employment of Saotomeans at all positions in the oil companies.
- The Contractors shall only engage expatriates if suitably qualified citizens with the
- Requi red qualifications cannot be found in Sao Tome and Principe.
- Oil and Gas Tax Guide for Africa 2013

Entering the West African offshore market

- Most West African offshore supply vessel markets are controlled by the cabotage and local content regime. This implies the presence of market forces working against the new entrant or arriving ship operator. In this sense, the IOC's or independent oil companies employing supply vessels will always insist on the compliance of the supply ship operator to existing cabotage and local content requirements operating in the region.

Large market base, West Africa

- The West African market is dominated by Nigeria when valued based on capital expenditures CAPEX. West Africa controls world's largest CAPEX investments in the sub sea sector for the years 2011-2015 and most of these are concentrated in Nigeria.

Partnering Opportunities in West Africa

- Given the restrictions brought about by local content and legislations in West Africa, a lot of partnering opportunities now exists.
- A foreign based OSV operator wanting to enter Nigeria for instance will be most advantaged if she partners with Nigerians well knowledgeable in offshore support vessel operation.

Professionals only, should be allowed to practice

- However, the new entrant operator needs to be properly hedged against arbitrage. Given, the new conditions of perceptible opportunities in the sector, a large influx of individuals with little know how in ship operations is likely. Operators should be quick at detecting such and ensure that only qualified individuals are admitted to the profession.

Legal considerations and pitfalls to avoid

- The Nigerian Oil and Gas Industry Content Development (NOGICD) Act provides in:
- Section 105 ”The Nigerian Content Development and Monitoring Board (NCDMB) in conjunction with NIMASA shall have powers to enforce compliance with relevant sections of Coastal and Inland Shipping (Cabotage) Act in relation to matters pertaining to Nigerian content development”. To this end the two boards have developed a system of categorization of marine vessels in the sector that gives preference to ships, built and owned by Nigerians as way of fulfilling local content expectations of the law.

Cabotage levy

- The Coastal and Inland Shipping Act (Cabotage) Act 2003 specifically restricts the use of vessels in domestic coastal trade, within the coastal territorial inland waters or any
- point within the waters of the exclusive economic zone of Nigeria, to vessels wholly owned and manned by Nigerian citizens.
- However, waivers may be granted to permit the use of foreign vessels in domestic coastal trade.
- A chargeable vessel is any craft capable of being used for marine navigation and for carriage of persons and property.
- A surcharge of 2% of the contract sum performed is levied on any vessel engaged in coastal trade and payable into a fund to promote the development of indigenous ship acquisition capacity

Registration of Cabotage Vessels, Nigeria

- Sections 22 and 29 of Nigeria's Cabotage Act empowers NIMASA to open Special registers for cabotage vessels consisting of the following :
- 1.Special register for Cabotage(Nigerian Wholly owned vessels);
- 2. Special register for Cabotage(Bareboat Chartered vessels);
- 3. Special register for Cabotage (Joint venture owned vessels):
- 4.Special register for Cabotage((Fully Foreign Owned vessels);
- 5. Special register for Cabotage(Exempted vessels).

Ministerial Waivers ,' Nigeria's Cabotage Laws'

- Where the applicant provides proof that no Nigerian vessel is available to carry out the operation, he can apply to the Minister of Transport to grant waivers to the rules.
- Such waivers may be granted to the following rules;
- Waivers on the requirement for the vessel to be wholly Nigerian owned.
- Waivers on the requirement for vessel to be wholly manned by Nigerian citizens.
- Waivers on the requirement for the vessel to be built in Nigeria.

Conditions for granting waiver

- The procedures for applying for waiver are fully documented by NIMASA. The necessary condition is the certification from the required departments in NIMASA that
- no Nigerian ship is available for the job
- no Nigerian qualified officer is available for the crew position
- no Nigerian shipbuilding company has the capacity to construct the particular vessel
- a satisfactory survey report from NIMASA and
- a signed undertaking to pay the 2% cabotage surcharge.

Order of priority for granting waiver

- The order of priority for granting waivers is as follows:
- Wholly Nigerian owned vessels.
- Bareboat chartered vessels.
- Joint venture owned vessels.
- Foreign vessel that has complied with the provision of the Act.

Conditions for renewing waiver

- Upon approval and issuance of certificate of waiver, an operator is allowed to operate in Nigeria. He may only renew the waiver certification if he has proof of the following;
- Evidence of contribution to training of Nigerian cadets on board the vessel during the year of waiver;
- Evidence of sponsorship of training for Nigerian Seafarers/cadets.
- Evidence of dry docking and ship repairs in Nigeria.

Some certificates required by cabotage vessels in Nigeria

- Vessels operating in Nigeria’s cabotage waters must carry the following documents on board:
- Minimum safe manning certificate.
- Cabotage registration certificate.
- Crew list.
- Waiver certificate; and
- Vessel registration certificate etc.

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- Oil and Gas Tax Guide for Africa 2013 www.pwc.com/africaOGguide

Thank you message

- II Corinthians 4;6,7,The Holy Bible
- 6 For God who commanded the light to shine out of darkness hath shined in our hearts, to give the light of the knowledge of the glory of God in the face of Jesus Christ.
- 7 But we have this treasure in earthen vessels, that the excellency of the power may be of God and not of us.

Epilogue

- Revelation 22;11,12,13 The Holy Bible
- 11 He that is unjust, let him be unjust still; and he which is filthy, let him be filthy still: and he that is righteous, let him be righteous still: and he that is holy, let him be holy still.
- 12 And behold I come quickly; and my reward is with me to give every man according as his work shall be. 13 I am the Alpha and the Omega, the beginning and the end, the first and the last.