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Local Content in Cameroon
MYTH OR REALITY?

Approximately 90% of new hydrocarbon production in the next 20 years will come from developing countries. In order to capitalize on the perceived resources boom, many emerging economies have introduced local content requirements into their governance and regulatory and contractual frameworks that govern natural resource developments with a view to creating jobs, promoting enterprise development, and acquiring new skills and technologies.

Local content forms an integral part of many tender processes and contractual agreements. It encompasses community investments such as local staffing, local procurement, capacity building, and sometimes, registration and/or localization of assets. It is a common perception on the ground that developing countries are exploited by international oil companies, and that valuable natural resources are tapped without adding long-term value to national prosperity. Some even go as far as to say that international companies are stealing from host nations. However, if host nations, oil companies, and drilling contractors collaborate and work strategically with reasonable local content measures, the value for all parties will be maximized.

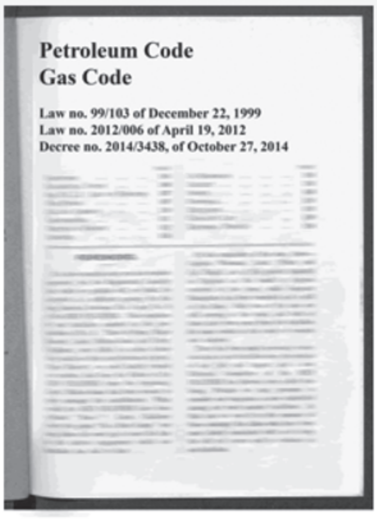
Cameroonization of the Oil Sector

Cameroon has a wealth of natural resources, including rich potential in the agricultural, forestry, and mining sectors. However, compared with some of its neighbors, the country still has a small petroleum sector, with few references to local content requirements.The Petroleum Code, adopted by Law no. 99/103 of December 22, 1999, includes a general local content principle of "Cameroonization" of jobs, according to which the holder of an oil permit, as well as its sub-contractors, must primarily employ Cameroonian workers with appropriate qualifications in their operations. For this purpose, the oil contractor is required to conduct and fund training programs for its Cameroonian personnel, the terms of which must be included in the relevant contract.

Decree no. 2000/465, of June 30, 2000, regulating the Petroleum Code, strengthens the objective of "Cameroonization" of jobs, by stating that applications for exploitation authorizations must include the commitment to set up (i) training programs for Cameroonian workers and (ii) a program designed to integrate Cameroonians in the applicant company's petroleum operations. Moreover, said Decree provides that the holder of the oil permit must submit two to four times per year, depending on the operation, a report that includes *inter alia* the number of Cameroonian and expatriate workers assigned to petroleum activities in Cameroon in each quarter.

The "Cameroonization" principle is also expressly foreseen in the Collective Bargaining Agreement applicable to the oil sector. Employers are committed to implementing this principle in line with government policy, legislation, and conventions entered into with the State. According to the *Société Nationale des Hydrocarbures* (SNH), the regulatory body of the sector, the recruitment of general labor must give preference to the people of the locality where the project is being undertaken, and local manpower compensation should reflect about 60-70% of the amount paid by the operators to their subcontractors.

The Gas Code



Petroleum Code
Gas Code

Law no. 99/103 of December 22, 1999
Law no. 2012/006 of April 19, 2012
Decree no. 2014/3438, of October 27, 2014

For the very first time within the context of Cameroonian legislation, mention has been made of local content in an entire section of the Gas Code, adopted by Law no. 2012/006 of April 19, 2012. This section requires gas companies to valorize Cameroonian gas resources via the development of local human resources, companies and industries, by proposing such measures in detail during their gas agreement negotiations with the State, and creating a special account to establish and develop local training facilities. The Gas Code expressly requires the amount of the contribution to be between 1% and 5% of the total investments projected for the first term of the gas convention (the local E&P contract). All contribution amounts must be included in the gas convention.

In addition, gas companies should give preference to the employment of Cameroonian personnel who have the required skills. Compliance with local content obligations requires setting up (i) a professional and technical training program for Cameroonian human resources, and (ii) recruitment of Cameroonian personnel for all positions and levels of responsibility. Furthermore, gas companies and subcontractors should give preference to Cameroonian companies that meet the international standards in this field for the awarding of contracts for construction, provision of services, goods, equipment, materials, and gas facilities.

Gas companies and subcontractors must also periodically evaluate local companies' capabilities, and aid companies that have not yet reached international standards in developing their capacity. Decree no. 2014/3438, of October 27, 2014 regulating the Gas Code, was expected to bring further developments in terms of local content. However, although the issue is regulated by Chapter VI, its provisions were not able to provide an extensive set of measures to substantially change or develop the current legal framework.

Learning from your Neighbors

The aforementioned provisions show the government's determination for oil and gas companies to involve more locals in the sector. However, it seems that the political expectations do not match reality. In the case of ancillary services, many more Cameroonians could be employed than is presently the case. The principle that the resources are owned by the people of Cameroon, and therefore, they ought to extract as much value as possible, underpins the local content effort. But the value added by the oil and gas business is in many ways not felt in the local economy, because local sub-contractors are not used. Apart from the instances where services may simply not be available locally, this is caused in large part by the lack of an effective enforcement body.

Traditionally, in African societies, younger siblings learn from older ones. With respect to the oil and gas industry, notably with regard to local content, Nigeria could be seen as an example for Cameroon, as it has been for other countries in West Africa in the past.

To consolidate the objective of increasing indigenous participation, the Nigerian Government introduced the Nigerian Oil and Gas Industry Content Development Act (the Local Content Act). This has brought a significant shift in ensuring an increase in indigenous participation within the industry, and therefore, trying to achieve the government target of 70% use of indigenous labor, materials, and resources in all oil and gas projects in country. The Local Content Act, which was enacted on April 22, 2010 provides a framework for increased Nigerian participation in the oil and gas industry. It prescribes minimum thresholds for Nigerian participation in activities within the industry through the utilization of Nigerian human and material resources and services in the upstream sector of the industry. This includes all activities connected with the exploration, development, exploitation, transportation, and sale of Nigerian crude oil and natural gas resources.

The initial impact of the Local Content Act has seen great changes being made, with most IOCs (international oil companies) making efforts to comply with its provisions. One initiative that has made an impact is the opportunity, in certain cases, for Nigerian independent

Source: Igor Ovsyannykov

operators to be given first consideration in the award of oil blocks, oil field licenses, oil lifting licenses, and in all projects for which a contract is to be awarded in the Nigerian oil and gas industry. Exclusive consideration is also provided to Nigerian indigenous services companies which demonstrate ownership of equipment, Nigerian personnel, and capacity to execute such work to bid for contracts and services onshore and in swamp operating areas of the Nigerian oil and gas industry. In furtherance of ensuring greater stability and growth in the Nigerian oil and gas sector, the Local Content Act further mandates that a minimum of 10% of total revenue accruing from operations in Nigeria is retained in country, notably for reinvestment.

The inclusion of Nigerians in oil operations has provided a significant avenue through which skills can be acquired, subsequently contributing to the development of the industry and the economy in general. This is substantiated through the Local Content Act, which requires that for each of its operations, an operator or project promoter may retain a maximum of 5% of management positions as may be approved by the Nigerian Content Development and Monitoring Board (NCDMB) as expatriate positions to take care of the interests of investors. It is also made mandatory for operators in the industry to provide a viable succession plan, whereby Nigerians will be trained for each incumbent expatriate position for a maximum period of four years, at the end of which the positions shall become “Nigerianized”. Furthermore, the Act mandates that operators and companies operating in Nigeria shall only employ Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company.

It is worth noting that an operator, contractor, or subcontractor who carries out any project contrary to any of the provisions as highlighted under the Local Content Act will be committing an offense, and upon conviction, will be liable to a fine of 5% of the project sum for each project in which the offense is committed (and under certain circumstances, the project might be cancelled).

Conclusion

In the Cameroonian context, the inclusion of local content provisions in legislation may be seen by the Government and the local population as a step in the right direction, but it is still not enough. The agencies to follow up on its implementation are lacking. A board like the NCDMB in Cameroon could create more jobs and lead to the award of contracts locally and the promotion of a sector that may be better served by Cameroonian companies or joint ventures with foreign contractors. Although it is natural that the country tries to emulate the actions taken by some of its neighbors, care must also be taken to keep expectations reasonable, *i.e.* not killing the goose that lays the golden egg. Too much local content, too quickly can lead to the flight of investors and services and goods of dubious quality, with long lasting negative effects on the environment and the economy. We wouldn’t be surprised to see Cameroon reach out to its neighbors for assistance in creating specific structures such as the NCDMB to reinforce the legal and regulatory framework of the sector (the Republic of Congo and Kenya both sought the NCDMB’s assistance to help design and put in place national content policies for the oil and gas sector). In doing so, and by learning from the mistakes and excesses of both its neighbors and other countries worldwide, the Cameroonian government will be able to create progressive and comprehensive strategies to ensure the successful integration of its nationals into all the aspects of the oil and gas industry, without scaring away investors.

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