

NATIONAL GAS POLICY - SERIES I GOVERNANCE & INDUSTRY STRUCTURE

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Background

The first half of 2017 ended on a positive note with the approval by the Federal Government of Nigeria (FGN), of the National Gas Policy (the **Policy**) which articulates Government's medium to long-term targets for natural gas development and utilisation. The Policy is the latest in a number of FGN initiatives to address the nation's gas policy issues, starting with the Natural Gas Strategy in 2003, the Natural Gas Policy (2004), Draft Natural Gas (Fiscal Reform) Act (2005) (also known as Draft Downstream Gas Act) and finally, the precursor to the Policy, the Gas Master Plan (**GMP**) (2008). This also includes legislation such as the Nigerian Domestic Gas Supply & Pricing Regulations and the Draft Petroleum Industry Bill (2008-Date).

Notably, the Policy replaces the GMP which hitherto, provided a blueprint for the growth of the domestic gas market, and was hinged on three fundamental principles, namely (i) *Gas Supply & Pricing Policy* (aimed at addressing challenges in gas supply to the domestic market as well as provide a framework for establishing minimum gas prices for gas purchaser(s) within any particular category; (ii) *Domestic Gas Supply Obligation (DSO)* (obliged E&P companies to dedicate a portion of their gas production to the domestic gas market; and (iii) *Gas Infrastructure Blueprint* (provided for the establishment of three gas gathering and processing facilities and a network of gas transmission lines).

Whilst to some degree, the GMP contributed to a measure of growth in the gas industry as seen in areas such as LNG exports and reduction of gas flaring, the FGN is seemingly of the view that it has underperformed in areas such as (i) non-completion of critical infrastructure such as the planned expansion of ELPS 2 and OB3 link pipeline which are currently under construction; (ii) non-completion of NLNG Train 7; (iii) failure to achieve projected domestic demand growth rate of 18-20%p.a. and Gas to Power projected generating capacity of 15GW by 2018 (as evident from current levels); significant inability of E&P companies to meet their DSO despite lowered levels; and (iv) minimal sale of LPG, CNG and GTL.

The Policy Direction

The Policy therefore addresses gas issues, articulates the government's vision for the gas sector and sets policy goals, strategies and an implementation plan for the introduction of an appropriate institutional, legal, regulatory and commercial framework to resolve the barriers currently affecting investment in the sector. Based on the Policy's vision to convert Nigeria to an attractive gas-based industrial nation, with significant presence in national and international markets, the Policy has some of the following key aspirations or goals: (i) transiting the economy from oil to gas; (ii) deepening utilization of gas in the domestic market so as to facilitate the growth of strategic sectors as well as gaining a presence in international markets; (iii) clear division of roles between private and public sectors

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(iv) creating an enabling environment for increased private sector participation in the gas sector; (v) addressing environmental issues, including gas flaring; and (vii) clarifying the rules guiding investment in the gas sector.

The Policy is built around the following core principles (i) Governance (Legislation & Regulation); (ii) Industry Structure (iii) Developing Gas Resources/Infrastructure (iv) Building the Gas Market (v) Developing National Human Resources; and (vi) Communications as well as (vii) Roadmap and Action Plan.

This newsletter however focuses only on *Governance (Legislation & Regulation)* and *Industry Structure*, whilst subsequent series will touch on the other aspects of the Policy, over the course of the next few days.

Governance (Legislation & Regulation)

The Policy favours a single, robust and independent regulatory authority for the petroleum sector with various departments along functional lines. Consistent with the Petroleum Industry Governance Bill, the Ministry of Petroleum Resources (**MPR**) would retain overall charge of the petroleum industry whilst the Nigerian Petroleum Regulatory Commission (the **NPRC**) would administer and enforce policies, laws and regulations relating to all aspects of petroleum operations, amongst others. In addition to restructuring the existing departments in the MPR (or the NPRC as applicable), new departments such as the National Gas Focal Point would be introduced. The Policy contemplates that there would also be a National Petroleum Policy Directorate which will act as a technical back office to the Minister and will comprise of the Oil Policy Division, the Gas Division, the Strategic Planning and Policy Research Centre (responsible for strategic planning and natural resource management issues, petroleum industry market developments, policy initiatives, regulatory initiatives etc.), and the Investment Promotion Office. The National Gas Focal Point would have dedicated project desks to facilitate the implementation of the programmes and projects emanating from the Policy, amongst others.

The Policy also envisages that there would be a new legislation on gas (though clarity is required on whether this would be separate from the PIB) which will reflect (x) the ownership of gas as a fuel in its own right rather than a by-product of oil production (y) separation of the upstream from downstream operations (z) greater focus on the development of the midstream and downstream segments (xx) separation of gas infrastructure ownership and operations from gas trading; (xy) pricing; (xz) competition regulation; (yx) fiscal regime (yy) licensing of different activities in the gas chain.

The Policy proposes the development of a suitable gas network code to govern open access to infrastructure facilities and wholesale gas trading. Whilst the specifics of the network code is yet to be articulated, policy thrust is that gas market development will be more project-led. Pending completion of the network code, point-to-point gas transportation agreements, with third party access would be adopted. Gas pricing would be market-led, save in respect of monopoly infrastructure areas including LNG liquefaction, gas processing, storage and transportation.

Furthermore, recognizing that a market-driven gas market is itself premised on the market being fully developed with sufficient gas supply volumes, the Policy provides for transitional pricing arrangements which shall be in place until the gas market is fully developed.

There would also be enhanced regulations on safety and environmental compliance; robust penalties for breaches of regulations and safety standards; criminal prosecutions for serious breaches of health and safety, including jail sentence for directors of offending companies.

Evidently, some of the aspirations set out in the Policy have already been reflected in the Petroleum Industry Governance Bill, most important of which is the coherence that it is likely to introduce in the areas of regulation and enforcement in the industry, with the NPRC empowered to act as the regulator of the petroleum industry, whilst the MPR merely exercises policy making and supervisory control over the industry.

Industry Structure

Based on the Policy, the new industry structure would feature:

- Mixed public-private participation, with a clear separation of roles between the government and the private sector. The proposed industry structure as encapsulated is in line with the FGN's drive of ensuring that the Nigerian National Petroleum Corporation (**NNPC**), the Nigerian Gas Company (**NGC**) and other government owned oil and gas entities, are restructured as purely commercial entities which would be stripped of their pseudo- regulatory functions in light with international standards;
- Independent regulation;
- A market structure which is premised on the need transit the Nigerian economy from a crude oil based economy, to a gas based economy;
- Restructuring of the NGC into separate transport and gas marketing companies (which has already been implemented) as well as strategic partnerships to support operations, in particular for NGC. Along these lines, the Policy proposes full legal separation of ownership of gas infrastructure and operations from gas trading such that a company involved in gas transportation would not be allowed to engage in the purchase and/or sale of gas, and vice versa;
- Greater involvement in marketing equity gas in international markets and a change in the market structure which would be geared towards wholesale market;
- Continued domestic gas supply obligation imposed on producers, with priority domestic utilisation in power generation. **Note:** To demonstrate government's commitment to enforcing compliance by upstream companies with their domestic gas supply obligations, the Policy proposes that the issuance and renewal of upstream licences would be conditional upon strict compliance by applicants, with their domestic gas supply obligations; and
- A reviewed role for the Gas Aggregation Company of Nigeria (**GACN**).

Conclusion

The Policy represents government's determination to address some of the issues which impede Nigeria's ability to harness its natural resources. Whilst the critical question is whether the Policy aspirations would transit to concrete government action, the passage of the Petroleum Industry Governance Bill (despite the delays militating against the wholesale passage of the entire Petroleum Industry Bill) is perceived by industry analysts as a signal of government's commitment to a more efficient petroleum sector, with its attendant benefits.

Coming Up: Series Two - Developing Gas Resources, Infrastructure & Building the Gas Market