Review of Nigeria's Petroleum Industry Bill (PIB)

Azubuike H. Amadi, Victor D. Ola, and John O. Ayoola

***Abstract*—Since the discovery of Crude Oil in 1875, the Petroleum Industry has gradually improved in value due to the series of valuable products gotten from crude oil. The significant impact of crude oil as a source of energy has made exportation and importation of this mineral a lucrative business around the world, having turned to be the major source of revenue for most producing countries. Crude oil has contributed to about 80% of Nigerian Government revenue and foreign exchange since 1958, making it a key player in the economic plan of the country. Its importance in Nigeria has made the Legislature introduce lots of policies and laws governing the Oil and Gas business in the country. However, Nigerians with different views over the years have clamored for an improvement of these policies to enable the benefits of Her resources fairly get to the grassroots, producing communities and states while improving foreign investment policies in the country. These demands led to the introduction of the Petroleum Industry Bill (PIB) in the year 2000. This research work attempts to review and offer recommendations for improvements to avoid future litigations, violence, conflicts, and industry fragility. This work will also elaborate on different steps taken by the Nigerian Government over the years to implement this bill, challenges faced by the Government and International Oil Companies (IOCs), Government and its citizens, and anomalies seen in the bill up till status quo.**

***Index Terms*—PIB, Nigerian Legislature, Petroleum Bill, IOC, PIGB, NPRC, PSC, NNPC, Petroleum Transportation Network Code, Host Communities, COVID-19.**

I. INTRODUCTION

The petroleum industry in Nigeria holds a high stake in the country's economic decision. The same goes for countries whose economies lies largely on crude oil and its by-products. Therefore, issues concerning petroleum are handled cautiously in other to carry along all involved parties. The petroleum business, apart from being relevant to countries solely dependent on it, is also a high-profit, high-risk business. This is due to the large expenses usually put into the exploration and development phases which could take 8 to 13 years of development before First Oil [2]. The petroleum business has significant impact on world politics, economic policies, environmental consideration, commercial business participation and regional engagement. As the world population increases, the need for energy also increases, making the importance of the petroleum industry inevitable. Several technologies and researches are being put in place to explore other forms of energy to replace the non-renewable oil and gas industry. However, analysis and propositions made by researchers have shown that the demand for crude oil will still be significant within the next five decades. The producing countries, refining countries and the major buyers are key players in the petroleum industry. A typical example of a producing country is Nigeria, however, its refining capabilities at status quo is not significant, rather raw crude oil are exported for better refining into other products.

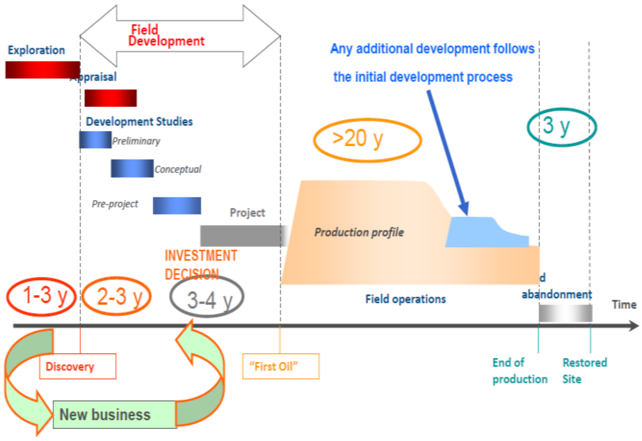

Fig. 1: The petroleum cycle from Exploration to Production [2]

When a sector of an economy gets very significant in nation-building, laws are put in place to guide the day-to-day operations of that sector. In countries with a parliamentary system of government like Nigeria, the Parliament or Legislature is in charge of lawmaking. Therefore, whatever bill of relevance to the country would normally be passed by the legislative arm of government before being signed into law by the executive arm.

A bill could be described as a drafted proposal of law being presented to the parliament for discussion. The parliament could either come to a resolve and accept a bill or not, using methods best fit and agreed on by the same parliament.

The PIB was first introduced to the Nigerian National Assembly in 2008 during President Goodluck Ebele Jonathan's administration. However, there where Petroleum Act of 1969 governing operations in the petroleum industry between the citizens, Government and Oil firms, though the Act has been described as obsolete due to changes, awareness, and technology [5]. Presently, there have also been an amendment of the Deep Offshore and Inland Basin Production Sharing Contracts (PSC) Bill in 2019, making the deep-water fiscal terms more competitive [7]. The contents of the PIB has been debated severally at the Nigerian National Assembly since its introduction making its full passage linger till present.

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II. NIGERIAN PARLIAMENTARY SYSTEM

This study is focused on Nigeria and its Petroleum Industry Bill, aimed at improving the country's economy through petroleum, therefore, a good understanding of the system of government and the process of law till its enforcement needs to be understood. Nigeria practices the Presidential system of Government with three arms, the Executive, Legislature and Judiciary. The Legislature, which this work focuses on, is divided into two chambers namely, the Upper House (Senate) consisting of 109 senatorial seats and the Lower House (House of Representatives) consisting of 360 seats. The Legislature makes the law, the Judiciary interprets the law, while the Executive arm executes the law. For a bill to become law in Nigeria, there must be an agreement by both the House and the Senate and it must be sent to the President for assent. However, upon assent refusal or delay, two-third of both chambers can pass the bill into law, overruling the President's veto and assent. Any concerned citizen, government or organization could sponsor a bill to be heard in the National Assembly through a legislative member.

III. ANALYSIS OF THE PETROLEUM INDUSTRY BILL

The PIB was described by KPMG as an Omnibus bill aimed at regulating the entire sphere of the petroleum industry and repealing all existing oil and gas legislation [6]. The PIB has been a work in progress since the Presidential committee set up to look into the oil and gas industry resumed activities in 2007 with the sole aim of improving transparency in the Nigerian National Petroleum Corporation (NNPC) and improve Nigeria's share of her oil revenue. The bill has experienced lot of objections from the International Oil Companies (IOCs) and subsequently the NNPC during the course of deliberations by the legislative arm [4]. The significant point raised by interested parties has led to delays and re-structuring of the PIB causing its setback in the Nigerian's 7th Assembly. The then Minister of State for Petroleum Resources, Dr. Ibe Kachukwu suggested an amendment of the bill to ease its speed up. The PIB was subsequently unbundled into four fractions in 2016, namely:

1. Petroleum Industry Governance Bill (PIGB)
2. Petroleum Industry Administration Bill (PIAB)
3. Petroleum Industry Fiscal Bill (PIFB)
4. Petroleum Host and Impacted Communities Bill (PHICB)

PIGB focuses on the creation of new/existing Government institutions grouped into four categories for the reasons listed below:

i. Policies and general strategy formulator – The Minister of Petroleum Resources holds this responsibility
ii. Regulator – National Petroleum Regulatory Commission (NPRC)
iii. Commercial institutions – Nigeria Petroleum Assets Management Company (NAPAMC) and Nigerian Petroleum Company (NPC). The NPC effectively replace the NNPC as it is NAPAMC equity are held in a 40-40-20% by the Ministry of Petroleum, Ministry of Finance and Bureau of Public Enterprises.
iv. Others: NAPLMC(temporary) and PEF
v. Ancillary institutions – Ministry of Petroleum Incorporated (MOPI), Nigerian Petroleum Liability Management Company (NAPLMC) and Petroleum Equalization Fund (PEF)

The PIAB is tasked with the management of the production and exploration operations within the country and in trust for the country, with aims of promoting transparency during operations while making sure involved parties are accorded fair share of the day-to-day operations.

The PIFB is concerned with tax-related issues and terms of contracts in the oil and gas industry. All fiscal terms are required to be up-scaled to best practices and global standards by the PIFB.

The PHICB focuses on the protection of the rights and opportunities of the locals or host communities in terms of compensations or restitutions for both the environmental and social cost of their resources being exploited and extraction activities around such exploitation [4].

Among the fragmented PIB, the PIGB is the only bill that has scaled through the Senate and House of Representatives. It was passed in the Senate on the 25th of May 2017 and House of representative on January 2018. However, the assent of the President is still expected to make it a law.

IV. OBSTACLES OF THE PIB

The PIB investigates the management of Nigerian Petroleum Resources, Ownership, Powers and Functions of the Petroleum Minister, Regulatory body (NPRC) for regulation of the Downstream, Midstream, and Upstream and Restructuring of the NNPC [7].

Issues concerning these areas are the actual obstacles to the PIB passage.

A. Legislative Obstacles

The legislative arm is a consortium of elected citizens with different goals and interest based on recommendations from represented regions, however, they all boil down to making the best decisions for Nigeria. Their decisions mostly take a reasonable amount of time for debate and scrutiny before coming to agreement. However, politics is at its peak at the National Assembly and series of lobbying and sponsoring also takes place. The PIB has been deliberated severally in the Nigerian Assembly but conflicts of interest in major areas that will enhance transparency and sustainability has stalled the bill for a while now. Till a consensus by the Lower and Upper House is achieved the bill will still be delayed.

B. IOC Obstacles

The International Oil Companies are investors who are after profit making in the Petroleum industry. They are always looking for fairer terms of engagement. The PIB will determine the terms of their future contacts and profits acquired, which makes them get involved in every step of the bill process to protect their interest.

C. Host Community Obstacles

These are key stakeholders of the petroleum industry since the resources are collected directly from their lands. The reoccurring issues of unrest in the Niger Delta part of

Nigeria are mostly due to the shortchanging of the revenues meant for the people of this region based on their host community status. Therefore, the PIB is seen as an easy route to make a lasting law that will protect their interest. The Host Communities through delegates are also following the PIB process and debate pari passu, countering, counter countering, adding, and removing to make sure their interests are being protected irrespective of the Government's national interest agenda.

D. Executive Obstacles

The development of the Oil and Gas policy has passed through four different Nigerian Presidents with different views. First the Oil and Gas sector reform Implementation Committee (OGIC) was set up by President Olusegun Obasanjo on the 24th of April, 2000 with aims of separating the oil and gas regulatory and policy making institutions from the commercial institutions. However, that administration did not complete the job. On the 7th of September, 2007 President Umaru Musa Yar'Adua appointed a new head of the OGIC with a mandate of restructuring the Petroleum industry to improve its GDP level comparably to top 20 largest world economies by 2020 [9]. It was on the basis of this the PIB was introduced in 2008 and spanned into the President Goodluck Ebele Jonathan's Administration, however, Nigerians were debating a new version of PIB in 2012 which was seen by OGIC experts as a substantial deviation from the 2008 PIB and generally lacks direction [8]. We are presently in the President Muhammadu Buhari Administration which has divided the PIB into four part and succeeded in passing a part of the bill (PIGB) in 2017 (Senate) and 2018 (House of Representative), however three vital parts are yet to be passed with promises by Petroleum Minister, Timipre Sylva and Senate Committee on Petroleum to secure its passage before the end of 2020 [4].

As the PIB seeks to liberalize the NPC (NNPC) to be a competitive National Oil Company, some likely areas of concern for the Executive are its exemption from a number of Civil Service Acts and codes (Particularly FRA and PRA) Also, the independence of the committee nominating the Board of Directors from the Government.

V. IRREGULARITIES OF THE PIB

According to Dr. Tunde Folawiyo, the PIB should have provisions for reducing flaring which is a major challenge globally since the world is working towards cleaner energy and sustainability. There are no provisions for ownership of pipelines, depots, and other assets of government in the PIB. The pricing mechanism for petroleum products of downstream sub-sectors are not captured in the bill [3].

There is also the perceived lacuna in the bill's silence regarding the role of the Nigerian Content Monitoring and Development Board in a restructured industry.

The PIGB is just one aspect of the entire bill, therefore the full benefits of this bill cannot be achieved till all aspects are considered and approved as law.

According to OSIWA, the PIB was not clearly linked to any energy policy that responds to security of local gas consumption, power supply, local content enhancement, downstream reform, and refineries. There was no linkage between the oil and gas sector and the local economy, making the country still vulnerable to the instability that threatens the Niger Delta Revenue peace.

VI. EFFECTS OF DELAYED PIB

Contracts in the petroleum industry are mostly long term, therefore the delay in implementation of the PIB leads to contracts been stalled because of lack of clarity and fragility of laws of the land with future changes. As many Oil firms believe that new investments in the Petroleum industry may depend largely on the PIB passage having seen the impact of the PSC Amendment Bill in 2019 where royalty payments increased to between 0% to 10% depending on the present oil price [7].

Developmental benefits (social and environmental) of host communities keeps lingering as the bill delays. However, the bill should clearly state the improvement of the involvement of host communities in the Petroleum Industry.

A Daily Trust Analysis reports that the delay of the PIB and concluded that an estimate of over \$120 billion (Over \$15 billion yearly) has been lost to diverted or withheld investments. Shell Petroleum Development Company has put to hold two offshore oil and gas projects worth \$30 billion till the approval of the PIB, PETAN has also estimated a \$10billion loss due to non-PIB [1].

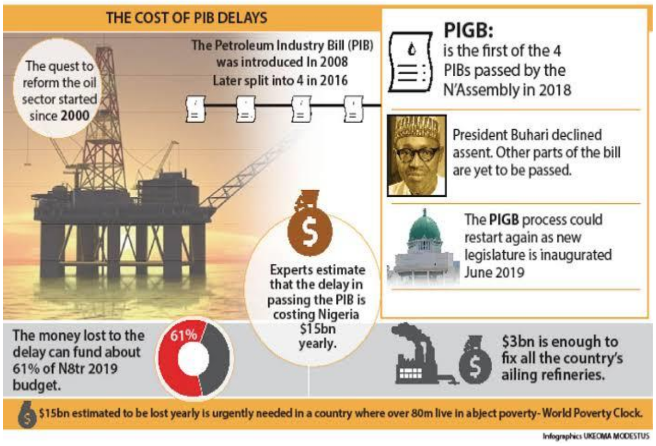

Fig. 2: Delay cost according to Daily Trust [1]

VII. BENEFITS OF THE PIB

The PIB should ensure that supply obligations on gas should be given a high consideration, because of the high gas reserves of the country which have not been well utilized and distributed locally. This will improve the revenue generated from gas production and distribution within the country.

The PIB is meant to merge NNPC's subsidiaries to an entity for accountability.

The PIB is meant to enable retain and improvement of the countries' share of the revenues derived from the Petroleum Industry.

The PIB would create a solid legal framework and conducive business environment for industry operators as power is shifted from an individual (The Petroleum Minister) to an institution (The NPRC)

The promotion of transparency and accountability is a key benefit of the PIB amongst others since the country is fighting towards curbing corruption within the country.

VIII. Conclusion

The delay in passage of the PIB into law as can be seen from this study has caused a lot of economic damage to Nigeria as a country, in terms of huge investments lost or withheld, reforms, high quality blueprint; one which could have catapulted the economy into a great pedestal creating job opportunities, restoring peace to the Niger Delta region, improving government revenues, maximizing the oil and gas sector's value and seeing to the welfare of the Nigerian populace at large.

All stakeholders involved in the passage and implementation of the PIB should put national interest at heart during this discourse owing to its elaborate nature. I for-see the PIB's success or failure to be a reference point for other Nigeria's extractive industry discourse in the nearest future.

Since the PIB tends to bridge the gap between three areas of the industry – legal, institutional, and regulatory framework, a better synergy between the legislative and executive arm of government should be reached on the passage of the bill as other matters contributing in lesser capacity to the economy has seen speedy passage and swift government processes. In all, a clear-cut commitment, transparency, and accountability of all stakeholders to seeing the success of this bill should be at the fore burner being portrayed to all the parties involved and most importantly, the Nigerian masses in order to ensure the benefits the passage of this bill will bring.

The PIB should be given timely consent because the global oil events in recent years is putting Nigeria at a slim chance of economic benefits steadily. With energy efficiency realized in the Americas, to the alternative renewable energy in the European market and a massive discovery of oil in other African states amongst other factors, Nigeria's opportunities for maximum derived benefits is narrowing down by the years.

IX. Recommendations

Taking cognizance of the several steps the Ministry of Petroleum, Parliament, Executive, IOCs, National Oil companies and citizens have put into the survival of the PIB, the following recommendations were made for the PIB:

1. Emergency response plan for the Petroleum Industry to issues like the COVID-19 pandemic.
2. Issues like the NPRC taking charges for service rendered is unprofessional, however, as a regulatory body, charges could be taken from defaulting companies under its jurisdiction.
3. Financing of NPRC should come from the profits of NPC.
4. Well defined roles and contracts should be assigned to the leadership of the new government institutions, especially the directors and board members.
5. Proper structures of regulatory bodies, to avoid abuse of power.
6. Price determination for petroleum products should be structured based on key determinants, not arbitrary figure, to ensure transparency in the NPRC.
7. Licensing and tender process should be non-discretionary, open, and competitive.
8. A Petroleum Transportation Network Code could be included in the bill just like the Nigerian Gas Transportation Network Code (NGTNC) launched in February 2020.
9. The Nigerian Local Content campaign should be captured in the PIB, especially in Petroleum software development, Petroleum technology and Petroleum Industry manpower.
10. Opaqueness in the functions or duties and jurisdiction of each entity in the framework should be disallowed through strict adherence to the NEITI Act.
11. PIB should be given a serious scrutiny in all honesty as the model adopted here might be a determinant factor if other extractive sector of the nation be patterned after the PIB for economic advantages.
12. There should be a massive deployment of a unified database for access to information and data processing among the different research institutions and stakeholder involved to enhance ease and transparency in the process of the bill passage.

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