

LOCAL CONTENT POLICIES AND RESOURCE BENEFITS IN EMERGING OIL ECONOMIES OF THE DEVELOPING WORLD: A CASE OF THE BUDDING OIL AND GAS INDUSTRY IN UGANDA

BY

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A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL FULFULMENT OF THE REQUIREMENT FOR THE AWARD OF MASTER OF LAWS IN OIL AND GAS LAW AT THE INSTITUTE OF PETROLEUM STUDIES KAMPALA IN AFFLIATION TO UCU.

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DECLARATION

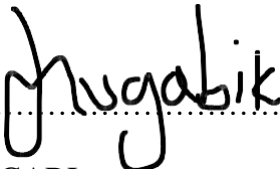
I, Butagira Penelope Ssempebwa declare that this Dissertation is an original piece of work, not copied from anywhere and has never been submitted to any other institution for academic purpose or otherwise. It has been done under the supervision of my university supervisor who read my drafts and gave suggestions for improvement.

Signed

Date.....

APPROVAL

This Dissertation titled “**Local Content Policies and Resource Benefits in emerging oil economies of the developing world: a case of the budding oil and gas industry in Uganda**” has been submitted under my supervision and approval.

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Date.....09/05/2023.....

(Supervisor)

DEDICATION

This dissertation is dedicated to my parents Francis & Lydia Butagira.

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ACRONYMS

FID	Final Investment Decision
IOCs	International Oil Companies
LCP's	Local Content Policies
MEMD	Ministry of Energy and Mineral Development
NOGTR	National Oil Gas Talent Register
NSD	National Supplier Database
PAU	Petroleum Authority of Uganda
SMEs	Small and Medium Enterprises
UNOC	Uganda National Oil Company
PSAs	Production Sharing Agreements
QSHE	Quality Safety Health and Environment

ABSTRACT

The application of Local Content Policies in extractive industries has been positively linked to the realization of resource benefits in the extractive sector such as employment of nationals, participation of local SMEs, enhancement of local technology and the emergence of a strong national oil company. This study purposed to examine the local content policies specific to the oil and gas industry in Uganda and to explore if indeed the application of these policies in the sector can lead to the realization of resource benefits. The methodology adopted was a mix of Doctrinal legal research and qualitative research. The doctrinal research focused on the interpretation of LC policies laws and regulations of the oil and gas industry in Uganda, it also focused on a review of published journal articles, research papers, published texts, institutional reports specific to the research topic with the intent of providing a comparative analysis as well as an in-depth interpretation of the policies. The qualitative research was essential to study the LCPs in practice and assess their impact on the local industry and data was analyzed to inform the findings. It is the conclusion of this paper that the Local Content Policies of Uganda although sound on paper may not be applicable in the social economic situation of Uganda because of challenges in skills gap, lack of job experience required in most job applications, lack of access to affordable finance, difficulty in acquiring internationally accepted QSHE certification, a lack of knowledge of the operations of the Oil & Gas industry, unfavorable tax policies, unfavorable procurement laws, lack of a clear policy on technology transfer. The findings suggest a need for policy review in areas training of locals, governance and monitoring, access international certification in QSHE, affordable financing and incentives specifically for the sector.

CHAPTER ONE

1.0. Introduction

Uganda made commercial discovery of oil and gas in the Albertine Graben in 2006. The Government of Uganda, aware of the finite nature of the resource¹, the capital intensive and highly technical nature of the industry, carefully crafted policies and laws with the intention of maximizing benefits from the resource and avoiding the resource curse. The National Oil and Gas policy² objectives 7 and 8 aim for participation of Ugandans directly and indirectly in oil and gas activities. A specific policy on local content was developed by the Government of Uganda, whose goal is to promote competitiveness of Ugandan enterprises and Ugandan labour in the oil industry³. The guiding principles of the local content policy of Uganda are to increase local efficiency and productivity in the oil and gas sector and to promote backward and forward linkages, capacity building, transparency, skills and technology, a spirit of collaboration and cooperation. The Local Content Policy⁴ provides for the establishment of a business support center whose role is to build up local content through sensitization of citizens and local companies on the supply of good opportunities available in the sector. It also provides for establishment of a regularly updated database of local suppliers who are prequalified to supply goods and services to the oil and gas industry sector⁵.

The policy aims to use regulations and procedures to promote and strengthen the entities responsible for certification and quality assurance standards for goods and services, it also aims to develop and ensure implementation of procurement and contract regulations and procedures that promote and strengthen the capacity of the institutions responsible for certification, standards, and quality assurance systems for goods and services⁶.

A local or National Content policy is guided by the politics of the host Government. In Indonesia for example *resource nationalism* was the guiding political influence behind their Local Content

¹ At peak oil production of 200,000barrels per day, Uganda's oil discovered so far is expected to last between 20 to 30 years. Source: *The Oil and Gas sector in Uganda: Frequently asked questions. Ministry of Energy and Mineral Development Document. May 2019. <https://www.petroleum.go.ug>*

² National Oil and Gas Policy of Uganda 2008

³ National Local Content Policy for Petroleum in Uganda,2013

⁴ Ministry of Energy and Mineral Development. National Content Policy for the Petroleum Subsector in Uganda. 2016

⁵ Ibid 18

⁶ Ibid19

Policy. In Uganda it can be argued that vision to transform the country into prosperous middle class nation⁷ by stressing *wealth creation* through private sector support was the guiding influence in the development of local content policy and the legal framework for local content. The favourable policy in developing economies would be one that encourages investment in the sector but includes an element of local content.

The resource benefits from a successful Local Content policy are evidenced by employment of nationals in the sector, participation of the state in oil and gas activities through its national oil company, participation of small and medium enterprises in the oil and gas sector as well as the transfer of knowledge and technology from International Oil companies to domestic companies.

A sound successful local content policy is measured against the mill and bastable tests⁸. The Mill test gauges whether the sector can eventually survive international competition without protection from the State while the Bastable tests gauges whether the present value in terms of cost of protection can be offset against future benefits from the resource.

However, research in developing economies participating in the oil and gas industry, shows that the success of policies is contingent upon other external factors such as capacity and competence of domestic firms to produce the required goods or services, a supportive banking sector and the overall economic environment. Research further shows policies in developing oil economies can be hampered by corruption and elite capture. There is also the danger that could arise from what would-be investors could perceive as restrictive and difficult to apply policies.

National Content or Local Content as defined in the Uganda upstream local content regulations⁹ is defined to mean the level of use of Ugandan goods and services, local expertise, Ugandan companies, Ugandan citizens, businesses, registered entities and financing in petroleum activities. It is also defined to mean the weighted added value to the Ugandan economy arising out of the utilization of local material and local human resource for the provision of goods to the oil and gas sector.

⁷ Vision 2040 approved by Cabinet in 2007 www.npa.go.ug/uganda-2040

⁸ Tordo, Silvana, M. Warner, OE. Manzano.Y. Anouti.2013. Local Content in the Oil and Gas Sector. A World Bank study. Washington DC; World Bank. <http://documents.worldbank.org/curated/en/2013/01/17997330/local-content-oil-gas-sector>

⁹ Section 4 of The Petroleum (Exploration, Development and Production) (National Content) Regulations, 2016

A brief analysis of the data on local content application in the oil and gas sector from 2018 to date generally seems to show a positive trajectory. However, despite evidence of procurement contracts between IOCs and local companies, direct employment of nationals and training of Ugandans in the technical fields of the sector, and an injection of USD 6billion directly into the sector since the signing of the FID in 2022, there are still hindrances to effective implementation of the LCP. The combined direct employment percentage of Ugandans Total E&P, CNOOC and Tullow dropped from 81% in December 2018 to 65% in January 2019.¹⁰ This was partly attributed to a delayed Final Investment Decision (FID) and indeed post FID the percentage of Ugandans directly employed in the oil and gas industry has risen to 95%.¹¹ However, the 95% accounts for 4,724 individuals and yet the sector is expected to have absorbed 160,000 Ugandans into direct employment by the time of production which is projected to be by 2025. The latest data on procurement contracts awarded to Ugandan owned companies by the IOCs shows an increase from 72% in 2019 to 95% in 2021. However, of the USD147million spent on procurement in the same period, USD78million accounting for only 53% of joint oil companies procurement budget was spent on Ugandan companies.¹²

It should be noted that after the Final Investment Decision in June 2022, the oil and gas sector is quickly evolving as the country and stakeholders look to production of first oil in 2025.

1.1. Purpose of the Study

The purpose of this study was to examine Local Content Policies in relation to the realization of resource benefits. This involves a probe into the policy in action with an overall objective of determining if the policy is viable, sustainable and practical in the context of Uganda's socioeconomic structure.

1.2. Significance of the Study

The success of local content policy is measured by indicators such as the level of nationals employed, level of local SME participation and level of transfer of skills and technology. There are reported challenges with the implementation of local content policy in the employment of nationals and in the participation of Ugandan companies as provided for in the National Local

¹⁰ National Content Report 2019 for National Content activities undertaken in 2019

¹¹ 3rd National Content Annual Conference Bulletin 28 -29 June 2022 can be accessed on www.pau.go.ug

¹² 3rd National Content Annual Conference Bulletin 28 -29 June 2022 can be accessed on www.pau.go.ug

Content Policy¹³ and National content laws and regulations. There is also a challenge with the adaption of the local content policy on skilling and technological transfer. Presently most research on local content policy and resource benefits has been conducted on advanced oil economies. In some of these developed oil economies, successes of these policies have been aided by phenomena unique to their countries. In Indonesia for example, research established a strong linkage between Local content policies and increased employment percentages. However, the success of Indonesia's local content policy was influenced by the rise in *resource nationalism*¹⁴ a phenomenon that saw the Government, uncompromisingly, prioritize locals over foreigners in the energy sector. In Norway, considered to be the most successful in LCP implementation in the Oil & Gas sector, the advantage of a work force technically skilled in ship building was a unique phenomenon that contributed to its LCP success¹⁵.

Further, developed oil economies have established oil companies that are even transboundary for example Norway's state company Statoil has a presence in 40 countries. Uganda Oil and Gas industry is just budding with a young national oil company¹⁶ and looking to attract more foreign investment.

According to Tordo et al¹⁷, in the 1970s the focus in oil and gas industries in oil economies was on backward links through transfer of technology as a means to create local employment opportunities. Currently the focus has shifted to having both backward and forward linkages to enable domestic growth opportunities for example development of local refineries. Uganda, according to her local content policy seeks to promote both backward and forward linkages in its LCP. There is no "one size fits all" when it comes to successful implementation of Local or National Content in the Oil and Gas sector and Uganda as a budding oil economy has to test its policy in relation to its socio – economic attributes. This paper has considered the policies within the context of Uganda's socio economic setting.

¹³ Ministry of Energy and Mineral Development. National Content Policy for the Petroleum Subsector in Uganda. 2016.

¹⁴ Warburton E: Resource Nationalism in post-boom Indonesia. The New normal? *Low Institute for International Policy* April 2017

¹⁵ Isaken, J. 2014. Petroleum resource management in Norway. A role Model for Upcoming African Petro States? Paper presented at IESE Conference. August 2014 in Maputo, Mozambique

¹⁶ Uganda National Oil Company was incorporated as a limited liability Company in June 2015 www.unoc.co.ug

¹⁷ Tordo, Silvana, M. Warner, OE. Manzano.Y. Anouti.2013. Local Content in the Oil and Gas Sector. A World Bank study. Washington DC; World Bank. <http://documents.worldbank.org/curated/en/2013/01/17997330/local-content-oil-gas-sector>

1.3. Objectives of the study

This study overall assessed whether local content policy is effective in producing oil resource benefits in developing economies specifically using Uganda as a case study.

The overall objective was broken down into three specific objectives and the local content policy was assessed in three areas which are the local content policy in relation to participation of local Companies and SMEs, the local Content Policy on Employment of Nationals and the Local Content Policy on research and skilling.

1.4. Research Questions

1. Whether local content policies influence the employability of nationals in the oil and gas sector in Uganda?
2. Whether local content policies influence the participation of local companies/SMEs the oil and gas sector in Uganda?
3. Whether the local content policies influence technology transfer, local technology development and skilling in the oil and gas sector in Uganda

1.5. Problem Statement

The deliberate introduction of Local Content Policies in extractive sectors has been positively linked to resource benefits such as employment of nationals, participation of locally owned companies, enhancement of local technology and the emergence of strong national companies in the sector. This can be seen in oil and gas economies of the developed world such as Norway. It is therefore expected that the Local Content Policies specific to Uganda's Oil and Gas sector will produce positive benefits. However, worrying statistics have emerged in Uganda's oil & gas sector. The initial projection was that by 2025, 160,000 Ugandans would be directly absorbed in the sector. In 2022 the sector had only absorbed 4,274 at managerial and support staff levels. In 2022 only 53% of the joint oil companies' procurement budget was spent on Ugandan Companies indicating a problem with local SME participation in the sector. Data gathered from the National Oil and Gas Talent Register shows that by 2019 technical competencies were still low among nationals in comparison to the recommendations in the workforce skills strategy. In the Engineering profession, the civil and building engineers capacity was at 2% and the welding profession stood at 4.5%. The National content report of 2019 mentions job experience as a serious challenge in job applications with companies demanding as high as 10years experience

of working in the O&G sector for certain jobs. This paper seeks to investigate the local content policies specific to the oil and gas sector of Uganda to establish their application within the social, economic, political setting of Uganda.

1.6. The scope of the study

The study covered the years of 2017 to 2023. 2017 is significant because it is the year after the national content regulations came into force; the Regulations activated the local content policies. The significance of including 2022 is because it was the year when the Final Investment Decision was made. It should be noted that before the Final Investment Decision in February 2022 was concluded, there was a lull in activity which caused voluntary and non-voluntary retirement of employees in the sector. This was also exacerbated by the Covid-19 pandemic. The delay in signing the FID and the Covid-19 pandemic were non anticipated factors. The six-year period may seem long therefore, but the researcher considers it ample in order to fairly assess the effect of local content policies on resource benefits.

1.7. Conclusion

It can be concluded from the chapter findings that Local Content are productive development policies. They are largely protective intended to encourage national participation in an industry that it is highly technical and capital intensive. The chapter has also established that there exists an established policy, laws and regulations in place in Uganda specifically for the development of local content in the oil and gas industry. The chapter also points out an important shift from the focus on backward linkages to backward and forward linkages in Local Content Policies. This chapter has also shown that there are challenges in implementation of local content policies in the oil and gas industry sector in Uganda.

CHAPTER TWO

METHODOLOGY

2.0. Introduction

This chapter presents the legal context and research setting, the area of study, study design, population of study, qualitative data collection methods such as the question guide, questionnaire and document, reliability and validity of the study instruments, data collection procedure and analysis and ethical considerations.

2.1. Legal Context and Research setting

The research explored the local content policy of Uganda as laid out in the laws and regulation in relation to its intended benefits to the society. The local content policy was studied in the setting of an emerging oil economy to determine whether it is indeed an enabler for the realization of resource benefits.

The Study was undertaken using the doctrinal research approach. The Doctrinal method is the core legal research method and lies at the basis of common law¹⁸. Doctrinal research focused on exploring the policies, law and regulation on local content particularly those that apply in the jurisdiction of country case study- Uganda. In this regard a desk review of the policies, laws, regulation was delved into. However, in order to be objective in the analysis of the policy, this research also studied published research papers, published text and institutional reports on the topic of Local Content Policies in relation to resource benefits within the context of a developing economy. For further objectivity and comparative analysis, the local content polices of developed economies were studied.

Doctrinal research combines positivism and the view that the law is objective, and fixed and neutral¹⁹. It has been described as pure legal, conventional and “black letter law”²⁰. However, the study topic required an in depth understanding of the law in action in order to contribute effectively to the body of knowledge on Local Content policy and its impact within the context of the socio – economic setting of a developing economy. To achieve this and to further reduce the possibility of researcher bias, the study adopted a mix of the doctrinal legal research method

¹⁸ Hutchinson, T & Duncan N: Defining and Describing what we do: doctrinal legal research . Deakin Law Review 2012 Vol 17, No. 1, 2012, 83-119

¹⁹ Ibid 17

²⁰ Mohammed K. Combining Method in Legal Research. The social sciences 11(21): 5191 – 5198, 2016. Medwell Journals

and the qualitative approach method. The researcher also considered the intended audience as not being restricted to purely legal minds but also the economists and politicians who influence policy.

The mixed approach considers the context within which the law exists²¹. The context for this is set within an agro based economy, categorized as developing which is in the early phase of oil production. The further context is that the Government is set on ensuring that in addition to revenue from direct taxation of the new oil and gas sector, the economy growth is boosted by the active participation of the local human resource and local businesses in the Oil and Gas Industry.

The qualitative approach in this study used in depth interviews from a cross section of industry players whom the researcher deemed relevant in assessing the local content policy and laws in action.

Wolfram Cox & Hassard²² support the use of mixed approaches because multiple methods help to research a problem from all sides. First-hand information was collected from limited fieldwork. In depth interviews were conducted with key informants and experts in the area of local content in Uganda. Question guides were developed to guide the interviews however the natural pattern of human inquiry was followed as explained in the Grounded Theory allowing the researcher to analyse the responses and develop findings and recommendations relevant to the study.

The Qualitative approach complimented the doctrinal method by depicting a picture of the law in action. Gaps were highlighted between the local content policies and the economic and social realities. Qualitative research enabled the researcher to explore new areas, deal with value-laden questions, build theories, and to do in-depth examination of phenomena. The relationship between local content policies and resource benefits was studied in detail.

2.2. Area of Study

The areas of study were specific to employment of locals in the oil and gas sector, participation of local SMEs or local Companies in the oil and gas sector and the training and skilling of locals in the oil and gas sector. The local companies selected for assessment are all registered on the National Supplier Database because the law requires that the Oil companies deal with companies

²¹ Ibid 19

²² Wolfram Cox J, Hassard J. Triangulation. Encyclopedia of case study research. 2010 Jan 1:944-7.

registered on the NSD. National content specialists were also interviewed to provide the statistical picture of the application of local content in the key areas of employment, SME participation and Training. After conducting interviews with Chief Executive Officers and Managing Directors of the selected companies, it became necessary to conduct an interview with an expert in the Banking Industry specific in the area of funding oil and gas projects.

2.3. Population Size

The in depth interviews were carried out with six interviewees. The interviewees were four CEOs whose companies operate in the oil and gas sector; two of these provide services in the tier 1 category. The choice of companies in the tier One contract category was deliberate to understand what they were doing differently. There was an in depth interview with a national content specialist with the national oil company. It should be noted that there were several attempts made to interview the local content specialist of the monitoring agency PAU, but efforts did not yield positive results. Nevertheless, the knowledge and experience gathered from the interviews is enough to inform logical analysis and findings.

2.4. Data Collection Methods

2.4.1. Document Review

The sources of the law and policy were first identified and these included National Policy directives that are specific to the oil and gas industry in Uganda, laws and regulations on local content. They were then interpreted and analysed.

The researcher obtained some of the necessary secondary data and information through text on local content as well as published papers. Further relevant Information was obtained from documents like; National Content Reports and Bulletins, PAU annual national content reports, reports from the Office of Auditor General, Oil company national content plans, MEMD reports, OAG annual reports and oil and gas monitoring and evaluation reports among other documents. The researcher also obtained information from studies of local content in other developing economies such as Ghana and Nigeria and developed economies such as Norway. Document reviews provided insight into the research topic and also highlighted best practice in the area of Local Content policy. Document review and analysis complement the information from other sources such as in-depth interviews²³. Document review in doctrinal research is not only about

²³ Bowen GA. Document analysis as a qualitative research method. Qualitative research journal. 2009 Aug 3.

locating the secondary data and resources but it is about reading, analyzing and joining new information to the body of law²⁴.

2.4.2. Key Informant Interviews

The personal interviews were conducted using an interview guide and recorded. These were later transcribed verbatim and the transcribed interviews are attached as an appendix to the document. Khadijah²⁵ in a paper discussing combining methods in legal research argued that interviewees who are selected must be able to represent a relevant cross section and all the answers provided must be reported in exact verbatim forms and also must be disclosed. The interviews provided very good insight about the local Content policy in action. The selection consisted of Chief Executive Officers of local companies that had been awarded Tier One Contracts, CEOs of local companies in the Tier Two category, a National Specialist from the Uganda National Oil Company, a Senior Bank Official specializing in financing of SMEs and in Enterprise Development. During the course of interviews clarification was sought on different issues. The interviews focused on the experience of the interviewees after the enactment of the laws and regulations on local content. The interviewees were given lee way to discuss and offer insight and suggestions rising from the challenges they had raised.

The interviews were handled at the time most appropriate to the interviewee and where possible at the places of work. Interviews done at the work places gave the interviewer a chance to observe for example the elaborate management system in place at one of the companies in the Tier One Category and also a proposed letter to enter into a Joint Venture with a foreign company.

It should be pointed that some interviewees the researcher would have liked to interview did not respond positively possibly because of busy schedules.

2.4.3. Question Guide

A question guide was developed by the researcher which was sent in advance to the interviewees so that by the time of the appointment, the interviewee had an idea of the information was sought. The use of the “what” in the questions²⁶ was deliberate as this study was intended to

²⁴ Bowrey, K. Assessing Research performance in the discipline of law. The Australian experience with research metrics, 2006 -2011.

²⁵ Ibid 19

²⁶ See appendix A for question guide

track the outcome, so far, of the local content policy. Yin²⁷ in his discussion on the “form of the research question” mentioned that research questions that focus on the what are an advantage when the aim of the research is to track outcomes or to describe the existence of a phenomenon or incidence. The guide was not restricted and the interviewee had the liberty to add what information he or she considered pertinent to share. This method was particularly helpful in gathering as much information from the respondents.

2.5. Questionnaire

The questionnaire was used for interviewees who were too busy to grant interviews but whom the researcher deemed had important information relevant to the research²⁸. The Questionnaire contained both closed and open-ended questions. The closed questions were restricted while the open-ended questions were used to obtain considered answers and opinions. The open-ended questions were intended to collect as much expert knowledge as possible. The researcher believes that honest answers were obtained as these were backed with facts and data by the respondent. The questionnaire was used to interview a National Content Specialist.

2.6. Data Analysis

Qualitative research depends on the human factor, and this can be a great strength or a great weakness. It is therefore important that the analytical process of data and text is reported and documented fully and truthfully²⁹ for the findings to be found credible. In qualitative research, the researcher’s perspective must be articulated because qualitative research is interpretive³⁰.

The desk review used the content analysis technique that involved identification and transcription of the qualitative findings into themes. The themes were developed using the research questions as a guide. The three themes are local content policy and local SME participation, Local Content Policy and Employment and Local Content Policy and Training and Technological Transfer. Implication and conclusions from the in-depth interviews were also deduced. The reviewed data was compared with the information gathered from the transcribed interviews. The interviewees were established as credible and trustworthy and therefore all the information they relayed could be construed as credible. All the different data gathered was

²⁷ Yin, K.N. 2018. Case Study Research and Applications Design and Methods. Sixth Edition pp.43 -44

²⁸ See appendix A. Questionnaire for National Content Specialist

²⁹ Bryne, M.M 2001 Data Analysis Strategies for qualitative research. AORN Journal 74 (9) 904 -906

³⁰ Bryne, M M.2001 Evaluating the findings of qualitative research. AORN Journal 73(3), 703 – 703.

analysed and the points of agreement and disagreement were established. It is these points that subsequently informed the analysis and findings of the research.

2.7. Ethics Consideration

The researcher ensured that the selected key informants of confidentiality and also ensured that they were informed about the purpose of the study prior to securing their consent to participate.

In instances where key informants required their identity to be concealed, it has been concealed.

The researcher also acknowledged the authors of all the literature read, reviewed and referenced in the study.

2.8. Methodological constraints /limitations

The limitations while conducting the interviews were:

- i) Failure to access a key official in the monitoring agency (PAU) despite repeated requests perhaps due to his busy schedule
- ii) Sensitivity in revealing business frustration in especially toward the monitoring agency and the oil companies. The researcher could only infer this from the responses to suggested solutions.
- iii) There was a time constraint and therefore it was not possible to carry out more interviews but the researcher was able to overcome this through a realistic but careful selection of respondents.
- iv) The oil and gas industry is a fairly new and therefore there is limited local human resource operating in the sector.
- v) Restricted information sharing for example the official from the bank could not disclose the number of local companies that have been able to access financing and those that have been tuned away for proper comparative analysis. She cited privacy and confidentiality.
- vi) Memory bias of the researcher during observations

2.9. Conclusion

The study is in a setting of an emerging oil economy in a developing country and which economy has local content policy, laws and regulation on local content in place. The study adopted a mix of doctrinal and qualitative approach. The area of study was local companies, the Petroleum Authority of Uganda, Ministry of Energy Mineral Development, Uganda National Oil

Company, the Banking sector. The researcher used data collection strategy methods such as in depth interviews, document reviews, key informant interviews and question guides. This research was carried out with ethical considerations mindful to maintain the integrity of research.

CHAPTER THREE

LITERATURE REVIEW

3.0. Introduction

This chapter will review two theories related to the research topic. It will also review literature from different published articles, journals, books and research papers. The literature will be reviewed under three expected local content benefits that is local SME participation, local employment and local skills and technology. It will also review the data gathered from interviews and relate it to reviewed case studies from developed and developing economies. The literature reviewed and comparisons made, will inform the conclusion.

3.1. Theoretical review

Oil and gas resources benefit a nation not only in terms of revenue through taxes and oil sales, but also through inclusion of local content. Inclusion of local content improves citizen welfare because it provides for direct and indirect employment of nationals, SMEs and local company participation and contributes to energy security. Therefore it can be said that an effective local content policy adds value to the host nation³¹. It is a considered fact that the oil industry not only employs workers for its main phases of production and refining but that for every job in production and mining four jobs are indirectly generated in industries related to the oil and gas sector³². However, without deliberate policy that gives the nationals a competitive advantage, the oil resource can move from providing benefits to being a curse.

This study considered the resource based theory and the resource network theory.

Grant³³ describes **the resource based theory of competitive advantage** as involving a five step process. The process includes identifying the resource, identifying the local capabilities to effectively exploit the resource, projection of what the resource is likely to produce once fully exploited, a selection of the best ways to benefit from the resource and finally an identification of the gaps and challenges in exploitation and how to try and close them.

³¹ Pereira G.E., Matthews.C., Trischmann. H. 2019. Local Content Policies in the Petroleum Industry: Lessons learned. *Oil and Gas natural resources energy journal* Vol.4, Number 5 2019 pp 631

³² Ackah, G.C & Mohammed,S.A. Local Content Law and Practice. The case of Ghana. Mining for Change. *Natural Resources and Industry in Africa*.2020. UNU-WIDER PP.142

³³ Grant, R.M. 2001 Resource Based Theory of Competitive Advantage: Implications for policy formulation PPP.114 -135

Relating Grant's theory it can be stated that the Constitution vests all ownership of minerals and petroleum resources in the Government³⁴ and that the expectation of the citizens is that the benefits of this resource will be tangible. Another expectation is that the Government will enact policies such as Local Content Policies that will give the locals a competitive advantage in the industry so as to encourage participation in the resource exploitation with the aim of enjoying benefits. However, a nascent oil economy such as Uganda, faces competition from already established global supply chains and highly skilled and experienced personnel in the global oil industry. In light of the aforementioned challenges, it is therefore the expectation that the policy on local content should then establish how best local resource can be merged with international capabilities with the resultant effect in the sector being the growth in local employment, increased participation of local companies and technological and skills transfer.

Another theory related to this research is the **Industry Network Theory** which proposes a wholeness or entirety of relationships among firms engaged in the processes of production, distribution and use of goods and services³⁵. These relationships are an essential requirement or a pre-condition for the functioning of an Industry system. In other words, relationships are the *sine qua non* of the theory. In the oil and gas industry the Production Sharing Agreements establish the essential relationship between the IOCs and the Host Government. Policies such as Local Content Policies are part of the laws and policies that govern the industry. A key feature of the National Oil and Gas Policy is the establishment of backward and forward linkages. Hirschman³⁶ in his book "The Strategy of Economic Development" described the backward links as those that related to the demand of goods (inputs) by an industry from another industry in order to produce an output. An example of this in the upstream oil and gas industry phase is demand for cement (which is locally produced) in order to construct the structures (output) for production. The forward links are related to the output of one industry being supplied to another industry as inputs for their outputs. An example in the oil and gas industry would be the supply of crude oil to petrochemical industries to enable petrochemical industry produce outputs for sale. These backward and forward links can impact local content by creating direct and indirect employment and increased demand for products along the relationship chain.

³⁴ Article 244 of the 1995 Constitution of the Republic of Uganda (As Amended)

³⁵ G. Easton (1992) Industrial Networks: A Review pp. 161 – 182 Industrial Networks; A New View Of Reality. Edited by Bjorn Axelsson and Geoffrey Easton. Routledge Revivals

³⁶ Hirschman, A.O (1958) The Strategy of Economic Development. New Haven: Yale University Press. Pp.217

3.2. Local Content Policy and Local SME participation.

In a 2010 study on Local Content Policies and SMEs carried out in Nigeria³⁷ whose sample population included small to medium sized firms and key informants operating in the oil and gas industry, it was found that the LCP had not registered tangible success in creating joint venture arrangements between local firms and international firms. The reasons for a lukewarm approach by licensed companies to joint venture arrangements include reluctance to transfer proprietary technology, the need for total control of the business by the foreign investors and little or no interest in divesting shares to a local company. However, this study should have considered the socio economic setting and secondly the effect of division of powers between the central state and the federated states on policy in order to reach a fair conclusion.

In a paper discussing the political economy of the resource curse, Rosser³⁸ tackled the question of whether natural resources in developing economies are bad for development. He concluded that the answer to this question could not be comprehensively concluded without factoring in factors such as a culture of rent seeking, mismanagement and corruption. He went on to state that economic, social political forces play a major role in shaping outcomes

In a study carried out on local content and struggling suppliers in Nigeria³⁹ after review of eighteen (18) in depth interviews of key sector informants as an empirical basis, the following conclusions were made regarding Local Content and SME participation in Nigeria. The conclusions were that despite good local content law and policies in place, suppliers were struggling because of a poor local banking credit system with fair interest rates, challenges faced at bidding, evaluation and award stage such as corruption, bulky bidding documents and requirements, the edging out of indigenous firms by the experienced large international firms because of the nature of large contracts that required large capital finance and the lack of a sound justice system. The researcher credited the law on the face of it as being a good local content law but the law in action faced economic and social challenges. An interview carried out with a CEO

³⁷ Bellema, U. 2010. Local Content Policy and SMEs sector promotion. The Nigerian Oil Industry Experience Vol.5 No.5; International Journal of Business Management

³⁸ Rosser, A (2006) The Political Economy of the Resource Curse: A literature Survey. *Institute of Development Studies, University of Sussex*

³⁹ Vaaland, T.I., Soneye, S.O.A & Owusu. A.R Local Content and Struggling Suppliers. A network analysis of Nigeria' Oil and Gas Industry. *African Journal of Business Management*, 6(5): 5399-5413, <http://dx.doi.org/10.5897/AJBM11.2538>

of a private sector company⁴⁰, revealed three similar challenges that local companies face while bidding for work in the oil and gas sector. The challenges are lack of experience, poor access to financing and creative compliance of the licensees. On creative compliance she revealed that more often than not, licensed companies award contracts to non-Ugandan companies and in cases where the Authority comes in to enforce the legal requirement, joint venture companies are created but the local company have less negotiating power in these joint ventures. On poor access to financing, she revealed that International Banks in Uganda, despite having experience in financing of oil related projects in other oil producing economies in the continent, are slow in loan process approval leading to loss of contracts. She cited the example of contracts for environment assessment under the upstream sector.

A National Content Specialist⁴¹ revealed the factors limiting participation of local SMEs in the oil and gas sector in Uganda are poor access to finance, arcane regulatory environments and deficient local infrastructure. She also mentioned a laxity in compliance with international standards particularly in education and goods required specifically for the oil and gas sector.

One interviewee⁴² whose company is among the 25 percent of the Ugandan companies which were awarded direct contracts mentioned attitude and willingness to learn and understand the oil and gas sector as taking priority over issues like access to financing. His company, he pointed out, took an initiative to acquire ISO certification in quality assurance, quality control and health safety and the environment. This initiative stemmed from the understanding that the oil and gas sector is specific on quality control, quality assurance, health safety and the environment along the value chain. The licensed companies seek his company out for services because very few Ugandan Companies have these ISO certifications, his company is also able to compete. He argues that understanding of the industry has propelled his company to think beyond the sixteen ring fenced areas and is projecting to compete for contract for works in the next phase of maintenance and operations. However, this particular firm has been operating in the oil and gas sector since 2011 and has therefore has an experience of over a decade in understanding the sector and is therefore able to identify the priority considerations for a contractor and is able to plan towards achieving that.

⁴⁰ Interviewee 4. Transcribed Interviews Appendix

⁴¹ See Transcribed Interviews in Appendix

⁴² Interviewee Two. Appendix Transcribed Interviews

Experience in the industry is an important consideration in the awarding of procurement contracts in the Oil and Gas Sector. According to Tordo et al procurement contracts in the petroleum industry are mostly awarded to firms that have a record of previous successful deliveries and that can manage large contracts⁴³. Local firms, even with sound liquidity, may not be able to draw away supply contracts from global supply chains on the basis of lack of supply experience.

In an analysis paper on local content development in Norway, Heum⁴⁴ states the success in Norway's policy that caused a shift in reliance on International Companies in oil production activities was due to deliberate action by the state in educating itself on the needs of the petroleum industry and developing expertise in the area of this need. This success is evidenced by the fact that when it comes to new oil field developments in Norway, 80 percent of maintenance and operations is provided by local companies. The Norwegian work force, however, had the advantage of advanced technical competencies because of its ship building and hydro energy industry. The success regarding its policy on employment can be attributed to this extra factor⁴⁵.

3.3. LCPs and Employment

Oil and gas industry activities generally have a positive effect on employment in an economy through direct, indirect and induced employment⁴⁶. Direct employment is created from the core activities of the oil and gas industry processes of exploration, development and production. Indirect employment is generated by the industries that support the activities but are not involved in the core activities; industries such as steel, plastics, cement etc. Induced employment is generated by jobs outside the industry that are generated as a result of supplying services to those employed in the industry and these include accommodation services, entertainment, restaurants etc. The adoption of local content policies on employment contributes to the improvement of

⁴³ Tordo, Silvana, M. Warner, OE. Manzano.Y. Anouti.2013. Local Content in the Oil and Gas Sector. A World Bank study. Washington DC; World Bank. <http://documents.worldbank.org/curated/en/2013/01/17997330/local-content-oil-gas-sector>

⁴⁴ Heum, P: Local Content Development – Experiences from Oil and Gas activities in Norway. *Institute for Research in Economics and Business Administration*. SNF working paper No.2/08

⁴⁵ Isaken J, 2014. Petroleum resource management in Norway. A role model for upcoming African Petro States? Paper presented at IESE conference in August 2014 in Maputo, Mozambique

⁴⁶ Krupnick, J.A & Esharte,I .2017. Economic Impacts of Unconventional Oil and Gas Development pp 10

citizens welfare however the policy has to be able to provide nationals with a competitive advantage in order for the resource to yield benefits⁴⁷.

Some oil economies opted for stringent regulation in order to ensure competitive advantage. In Indonesia the local content policy was influenced by the surge of *resource nationalism* a phenomenon that led to uncompromised prioritization of employment of nationals in the sector. This however produced the negative consequence of international oil companies and international investors exiting the country⁴⁸.

The projection for manpower requirements for the oil and gas sector according to a national content specialist⁴⁹, reveal that the sector will generate up to 160,000 jobs including direct, indirect and induced jobs with 140,000 being generated by the contractors and subcontractors. The projection is that there will be a peak of direct employment at 13,000 jobs and this will plateau in the development phase.

A study on employment in the oil and gas industry in Ghana⁵⁰ revealed that despite the rush by many young Ghanaians to acquire skills in the sector, they were still waiting to be employed ten years after extraction had begun. In the case of Ghana, oil and gas discoveries were made in 2007 and by 2010, extraction of its oil from the ground had begun. It can be argued therefore that the projection for Uganda's oil and gas sector is merely a hopeful one and not a correct prediction. There is also the glaring issue of lack of experience in the sector that seems to be pertinent in nascent oil economies in the developing world. Oil companies advertise for jobs but require as long as 10 years working experience in the oil and gas sector⁵¹. It has been observed that the employment opportunities in most cases do not benefit the locals and the local communities because of the high degree of specialization of the industry and the need for experience.

⁴⁷ Pereira G.E., Matthews.C. & Trischmann.H. 2019. Local Content Policies in the Petroleum Industry: Lessons Learned. *Oil and Gas Natural Resources Energy Journal* Volume 4, Number 5 pp.631

⁴⁸ Pereira, G.E, Koenck,A.E, Nwapi,C & Araujo de Lacerda,I. 2022. Carrot or Stick? Enforcing Compliance with Local Content Requirements in the International Oil and Gas Industry. *OGEL Volume 20 Issue 3*

⁴⁹ Appendix IV

⁵⁰ Ackah, G.C & Mohammed,S.A. Local Content Law and Practice. The case of Ghana. Mining for Change. *Natural Resources and Industry in Africa*.2020. UNU-WIDER PP.148

⁵¹ Appendix V

Vaaland et al⁵² however suggested that to overcome the obstacles such as inexperience and skills gap all the actors including research and development institutions, international players, regulators, education institutions, the legal system must recognize the need for interdependence and work towards finding viable solutions.

Norway is considered to be the most successful in LCP implementation in the oil and gas industry. In Norway for example, maintenance contracts are awarded to Norwegian companies. Norway had the advantage of its successful shipbuilding industry and therefore incorporating this skilled workforce into the oil and gas industry worked to their advantage⁵³. Findings in Australia, Scandinavia and the United States support the argument that LCPs that aim to develop sectors connected to the core activities are more successful in the long term⁵⁴. Uganda is a developing economy with a low industrial base. It is also an agro-based economy, it may be worth exploring building on developing and linking already existing sectors such as the agro, transport and ICT sectors to the oil and gas industry to fully dominate employment in the ring fenced areas as a policy is created to tag qualified Ugandans to the national oil company to gain experience.

3.4. LCP and Training/Skills & Technology Transfer

The oil and gas industry is a highly specialized industry and in order to benefit from employment in this sector, the workforce need to acquire specific skills. Transfer of Technologies and the development of technology is also crucial in local content development.

Norway opted to create specific preferential Training Agreements between its national oil company (STATOIL) and IOCs to train Norwegians. Asiago & Wasuna⁵⁵ argue that Norway through this specific training witnessed technological advancement and increased participation of Norwegians in the complex operations of oil and gas industry. However, it would have been important to note by Asiago & Wasuna that Norway was well developed in the area of technical skills because of its ship building industry. This skilled force could build and provide oil tankers, apply shipping expertise and advanced methods of numerical analysis to its offshore

⁵² Vaaland, T.I., Soneye, S.O.A & Owusu. A.R Local Content and Struggling Suppliers. A network analysis of Nigeria' Oil and Gas Industry. *African Journal of Business Management*, 6(5): 5399-5413, <http://dx.doi.org/10.5897/AJBM11.2538>

⁵³ Pereira, G.E., Koenck, A.E., Nwapi,C and Araujo de Laacerda,I. 2022. Carrot or Stick? Enforcing Compliance with Local Content Requirements in the International Oil and Gas Industry

⁵⁴ Tordo S & Others. 2013. Local Content Policies in the Oil and Gas Sector. A world bank study

⁵⁵ Asiago, B.C & Wasuna,K.M. 2018. Are Local Content Requirements in Developing Petroleum Sectors Sustainable? Managing Expectations While Aligning Sustainable Principles with Regulatory Policy. *OGEL* Vol. 16 Issue 4 pp 1 -19

operations⁵⁶. The oil and gas industry in Norway also partnered with universities in the area of research and development by donating used technology to universities so they could study and improve the technology required for the oil and gas industry operations.

The training and technology transfer should focus on value addition and must first focus on the development of existing capabilities within the manufacturing sector. In Uganda, one can theorise that the metal fabrication and welding industry is one of the existing capabilities. Kazazzi and Nouri⁵⁷ argue that industrial development is a learning process where expansion of capabilities and capacities arises from solving challenging tasks in collaboration with internationally leading competence. Kazazi argues rightly that in order to narrow the technological and skills gap, there must be an infrastructure base to build upon. This argument can perhaps inform the way forward for nascent oil economies in the developing world to reach realistic approaches in the development of local content.

3.5. Conclusion

The theory of competitive advantage can be used to develop the argument that in order to realise resource benefits, a nation in developing policy, must cast ahead and anticipate possible gaps and challenges that may arise from adoption of a particular policy used to exploit the resource and seek to close them. The Industry network theory emphasizes that relationships are an essential requirement for the functioning of the industry system. In the oil and gas industry relationships are essential to the development of backward and forward linkages along the Exploration Development and Production Chain. These linkages expand the benefits to be enjoyed by the local population from the resource. The social economic political environment of the country is critical in the development of local content and local content policy. It is also important to have knowledge of the needs of the industry and then develop expertise in the needs area. Legal systems must recognize the need for interdependence among all the industry players and develop a means for players to work together to overcome obstacles such as inexperience and skills/technological gap. It can also be concluded that training and technology transfer should focus on value addition within companies operating in the sector regardless of whether or not the companies are local.

⁵⁶ Bannet, C. 2021 Local Content and Sustainable Development in Norway. 245 - 263

⁵⁷ Kazazi, A & Nouri, B.2012. A Conceptual Model for Local Development in Petroleum Industry. *Management Science Letters* 2 (2012) 2165 -2174

CHAPTER FOUR
**LEGAL FRAMEWORK OF LOCAL CONTENT IN THE OIL & GAS SECTOR IN
UGANDA**

4.0. Introduction

This section will review the definition of local content and Local content policy within the context of the legal framework of Uganda. It will study the policies and their applicability within the political, social and economic setting of Uganda in order to assess their practical relevance to the development of local content in the oil and gas sector.

4.1. Definition of Local Content and Local Content Policy

There is no set universal definition for local content or national content. Definitions vary according to the priority given by the host country or investor. The Upstream National Content Regulations define national or local content as the: *“level of use of Ugandan local expertise, goods and services, Ugandan companies, Uganda citizens, registered entities, businesses in petroleum activities”* and *“the substantial combined value added or created in the Ugandan economy through the utilization of Uganda human and material resources for the provision of goods”*⁵⁸

The National Local Content Policy of Uganda defined national content in terms of value added through use of goods available or produced in Uganda and services provided by Ugandan enterprises and citizens as well as the employment of Ugandans⁵⁹. Maximizing value addition requires that the policy ensures *direct spend, indirect spend and induced spend*⁶⁰. Direct spend is the sum approved at the Final Investment Decision which is the sum of all overheads associated with the project and the sum of all the contracts awarded. Indirect spend is the money that is earned as a result of expenditure of the contractors and subcontractors for example payment for accommodation to a hotel owner or food to a restaurant. Induced spend is the spend associated with after payday, when contractors and employees choose to spend their earnings in the economy for example building houses, engaging in new businesses etc.

⁵⁸ Regulation 4 (a) and (b) of the Petroleum (Exploration, Development and Production) (National Content) Regulations, 2016

⁵⁹ National Content Policy for the Petroleum subsector in Uganda. February 2017. Ministry of Energy and Mineral Development

⁶⁰ National Content Specialist UNOC

It should be noted that policies on promotion of local content were created by the Government of Uganda before the policy on local content specific to the oil and gas sector. Policies such as the BUBU policy⁶¹ which was created to support the supply, purchase, production of local services and goods and the MSME policy⁶² which was created to stimulate growth of micro small and medium enterprises through access to finance, creation of conducive institutional and legal frameworks, provision of business skills and business support provisions. However, because of the nature of the oil and gas industry, the government of Uganda deemed it necessary to create a policy that would encourage inclusion and competitiveness of Ugandan labour and enterprises within the oil and gas sector.

Local content policies can be categorized into *market-creating* local content policies, *sustaining* local content policies and *efficiency* local content policies⁶³. *Market-Creating* Local Content Policies and *Efficiency* Local Content policies aim to create sustainability of economic growth by building local capabilities and diversifying the economy through creation of new value chain networks. Market creating policies favour domestic enterprises and they encourage research and development ensuring continuity of innovation and efficiency. Local content policies in nascent oil developing economies usually adopt a mix of Market creating⁶⁴ and Efficiency LC policies. *Sustaining* local Content policies intentionally create opportunity for the domestic suppliers already engaged in industry to upgrade technologically to meet international quality standards. Usually these policies are adopted by already developed economies. An example is Norway, which had an advanced ship building industry before it discovered oil and gas. Norway upgraded its technology by directing its policy towards research and development of existing industrial and engineering capacity. The technology was upgraded to a level where Norway can export expert human resource. Norway looked to the long term to prepare her own state oil companies to be able to compete on the international market. The lessons from the Norwegian experience are that the policy must take into account the regulatory framework in place, the administrative

⁶¹ Build Uganda Buy Uganda Policy 2014

⁶² Uganda Micro, small and medium enterprise policy, 2015.

⁶³ Kalyuzhnova & Others. 2016. Local Content Policies in resource rich countries.pp.25 -26

⁶⁴ The national vision of Uganda is to have, within 30 years, a fully transformed Ugandan society from peasant to middle income. This vision guides all sector policy and planning. The vision is divided into five national development plans. The focus of the current National Development Goal for Uganda (NDPIII – 2021 to 2026) for example, is to improve the quality of life of Ugandans and increase the average household incomes. The oil and gas sector provides an avenue for creating diverse opportunities for Ugandans to participate and increase their incomes. This goal is adopted in all sector policies including the oil and gas sector.

governance structures and also plan for the international competitive market because LC policies are intended to be temporary. Norway lifted its restrictive policies when it became a member of the world trade organization and a signatory to the General Agreement on Tariff Trade. The principles of WTO and GATT mandate fair trade. Uganda is a member of the WTO and therefore mandated to uphold the principles however, there is an exception in the GATT and WTO for developing economies in as far as the specific policies that are created to aid their development. A good local content policy therefore would adopt a mix of all three if it is to prepare its national industry to survive in the internationally competitive market.

In creating local content policy, the intention of the creators must therefore seek to answer three pertinent issues. First is, if the policy will favour rapid transfer of technology, create capacity and promote international competitiveness, second is if the policy will create an indirect and induced effect in other sectors of the economy or third if the policy is viable through the lens of the local economic and industrial capabilities. A local Content policy should therefore not only be tailored to the socio economic goals of a country but also alive to the realities of its current capacity in terms of for example, its human resource and technological advancement.

There are two regulatory approaches to legislation of local content in the oil and gas sector. There is the rules based regulatory approach and the principles based regulatory approach⁶⁵. Research has shown that this has a bearing on the overall success of a LC policy. Rules based legislation features commands embedded in the legislation, to the effect that licensed companies must add value to the economy through the development of local capacity, procurement of local goods and services and development of national capacity. Rules based legislation also features targeted local content along the value chain⁶⁶ for example Uganda has local content regulation for the upstream and midstream oil and gas sectors. Rules based legislation has a presence of command for example in production sharing agreements there is a command regarding mandatory contribution of training and research fee by licensed companies⁶⁷. Rules based legislation does not focus on incentivizing licensees but rather specifies compliance and monitoring processes for example through local content plans, technology transfer reports and

⁶⁵ Asiago, C.B. 2021. The Inevitability of legal flexibility over certainty- the case of local content requirements in the upstream petroleum sector pp

⁶⁶ Asiago, C.B. 2021. The Inevitability of legal flexibility over certainty- the case of local content requirements in the upstream petroleum sector pp

⁶⁷ Article 19 of the Model Production Sharing Agreement

performance reports etc. One of the key roles of the PAU is monitoring and ensuring compliance of the players in the sector. The advantage of the regulatory approach is that it encourages local players to get an opportunity to engage in an otherwise highly sophisticated and advanced industry. The disadvantages of Rules based regulatory approach is that it can be detailed, tedious and seemingly unfair to the licensed companies. It can lead to lukewarm cooperation of licensed companies and can create negative consequences such as regulatory capture and creative compliance. The nature of the oil and gas industry is high risk and more capital than labour intensive and therefore the licensed company in managing its risk may prefer to contract experienced companies and experienced human resource.

Principles based legislation allows for regulatory flexibility in terms of compliance, internal management and enforcement⁶⁸. Norway known for its successes in local content took the approach of principles based legislation. Norway does not have specific local content regulation for the oil and gas sector. It instead opted to address the issues as they arose between regulator and licensed companies. This establishes a relationship of mutual trust and cooperation. Norway's success in this approach can also be attributed to its efficient system of administrative governance, transparent regulatory framework and stable institutions⁶⁹. It is unrealistic to depend on regulation to achieve a high percentage of local participation in all stages of the petroleum value chain⁷⁰. According to Olsen⁷¹ the only country that has achieved a fairly high percentage of local content is Norway at 74%. Ritwika⁷² in his paper on the enhancing of local content in Uganda's oil and gas industry observed from his study of the local content sector found that a collaborative approach was more practical than a command and control approach.

4.2. Local Content Policy and Ugandan Company/SME participation.

The definition of a Ugandan Company is provided in the national content regulations⁷³ to mean an entity incorporated under the Companies Act, 2012, that uses available local materials, employs 70percent Ugandans as management staff, 70percent as technical staff and 95percent as

⁶⁸ Asiago, C.B. 2021. The Inevitability of legal flexibility over certainty- the case of local content requirements in the upstream petroleum sector pp

⁶⁹ Banet, C. 2021. Local Content and Sustainable Development in Norway pp. 245 - 263

⁷⁰ Ackah G.C. & Mohammed S. A. 2020. Local Content Law and Practice: The case of Ghana pp 139 -160

⁷¹ Olsen, A. 2013. No Country has Achieved Local Content' Offshore Ghana Magazine 11:20-1

⁷² Ritwika, S. 2018. Enhancing Local Content in Uganda's Oil and Gas Industry 552 - 7

⁷³ Section 125 of the Petroleum Exploration Development and Production Act, 2013 and Regulation 4 of The Petroleum Exploration Development and Production National Content Regulations, 2016

support staff and one that provides value addition. This entity must also be approved by the PAU.

The laws of Uganda ring fences specific categories of goods and services for national entities to participate in including security, transport, human resource management, foods and beverages, office supplies, civil works, local available construction materials, crane hire, clearing and forwarding, land surveying, environmental impact assessment studies, fuel supply, communication and ICT and waste management where possible⁷⁴. These ring fenced areas are typically found in the development phase of the oil and gas industry cycle. Ring fencing is a credit and a discredit. The credit is that it allows local companies to penetrate the sector and to benefit from the industry. However, in the long run it may be a discredit because local companies may not look beyond the ring fenced areas to interest themselves in the production phase areas that include maintenance and operations. The production phase dominates the oil and gas and for Uganda, this phase is expected to last 25 or more years for the already explored wells.

The local content regulations stipulate that a licensee company shall submit to Petroleum Authority (PAU) a detailed plan showing how preference shall be given to goods that are manufactured in Uganda or available in Uganda⁷⁵. The regulations further stipulate that during procurement, priority should be to Ugandan goods and services⁷⁶. However the regulations also state the goods and services should be competitive in terms of quality and timely availability⁷⁷. The policy in this regard is favours the local industry but is mindful of the high level of risks the licensees face such as capital risks, supply risks, market risk etc. It is also mindful of the quality standards of the international industry.

In instances where the goods and services are not available in Uganda, the regulations require that International companies that have entered into a Joint Venture with local companies be given priority in the award for contracts for supply of goods by the Licensed companies⁷⁸. In exceptional cases, a company wholly owned by non-Ugandans may be awarded contracts only

⁷⁴ Regulation 10 (1) and 10 (2) and the schedule The Petroleum Exploration Development and Production National Content Regulations, 2016

⁷⁵ Regulation 8 (a) of The Petroleum Exploration Development and Production National Content Regulations, 2016

⁷⁶ Regulation 9(1) of The Petroleum Exploration Development and Production National Content Regulations, 2016

⁷⁷ Regulation 3 (a) of The Petroleum Exploration Development and Production National Content Regulations, 2016

⁷⁸ Regulation 3 (c) of The Petroleum Exploration Development and Production National Content Regulations, 2016

after it has been shown that no capacity exists in Uganda and with approval of the Authority⁷⁹. The expectation is that by creating demand for domestic goods and services in the sector, Local Companies will be able to compete with the larger firms and in turn create jobs and stimulate economic growth. It can also be argued from a political point of view that the citizenry will embrace the sector avoiding incidences of economic sabotage in the industry. In practice however, international companies are using the provision on joint venture to cleverly dominate the supplier space in the industry. One CEO⁸⁰ revealed that some local companies that enter into joint ventures are not interested in participating in the industry but make sure to tick all the boxes required to fulfill the conditions within the meaning of a Ugandan company. They then enter into joint venture agreement which typically grants more profit shares to the international company. Another CEO involved in the transport and logistics sector revealed⁸¹ that the international companies come in with the machinery and the capital and because of this the local company is forced to agree to a bare minimum in the profit share in the joint venture. The translation into resource benefits in this regard is minimal

Local companies interested in participating in the sector are required to register in a National Supplier Data base that is managed by the Authority. This registration is intended to create a pool of legitimate enterprises which the licensed companies can have easy access to. PAU carries out physical verification which includes ascertaining of physical address, proof of legal status and shareholding. As at 2023 the National Supplier data base had 1,827 Ugandan entities. However, of these entities, Ugandan Companies accounted for only 25 percent of direct contracts signed at Tier 1 level. It is the expectation of Government that the foreign contractor will subcontract Ugandan companies raising their participation in the sector to 40percent at Tier 2 level⁸². The low percentage of participation at Tier 1 level can be attributed to lack of experience in the oil and gas industry. A CEO in a transport and logistics company⁸³ that has been in operation in the East African region since 1973 mentioned how drivers with over 20years

⁷⁹ Regulation 3 (d) of The Petroleum Exploration Development and Production National Content Regulations, 2016

⁸⁰ Interviewee 2. See Appendix on Transcribed Interviews

⁸¹ Interviewee 1. See Appendix on Transcribed Interviews

⁸² Statement on Uganda's oil and Gas sector: Key Milestones for 2022 and outlook for 2023. Joint Media Briefing Ministry of Energy and Mineral Development, Petroleum Authority of Uganda and Uganda National Oil Company 20th January 2023

⁸³ Ibid 58

experience in driving trucks initially failed the competence test set by the oil companies and had to undergo training specifically required by the oil and gas companies.

The petroleum Act⁸⁴ mandates the procurement of local goods and services where available, on a competitive basis and easy-to-understand procedures for tender and supply give adequate opportunity for local suppliers to compete favorably for the provision of goods. For a local company to participate, it must be registered on the NSD and it is required that a company must reapply after a year in order to remain on the NSD. The intention is to maintain the integrity of the NSD clearing it annually of companies that are found to be involved in corrupt practices and other misconduct or have been declared bankrupt. A local content specialist⁸⁵ revealed that the oil companies consider three areas in bid evaluation the Technical area, the unpriced commercial area and the legal and regulatory area. The Technical area includes past experience, delivery methodology, project schedule, ISO certifications, Project Organization Structure, health safety and environment, technical deviations and portion for subcontracting. The Unpriced Commercial areas include assessment of the financial status, tax clearance, source of financing, non-bankruptcy, insurance coverage of the company and personnel. The legal and regulatory areas include permits and licenses, tax and NSSF compliance, regulatory compliance, physical address, legal status and registration, bribery and corruption. This translates into very bulky bid documents for the local companies and this has been raised by local companies as one of the challenges in the procurement process, this is also an avenue for corrupt practices because companies will inevitably try and short cut the process. A CEO of a company in the tier 1 category⁸⁶ revealed that his company spent a huge amount of money in activities of acquiring and putting in place a company organizational management structure and acquiring QSHE international certification. He was very candid in revealing that the cost of those two activities alone could be compared to probably the turnover of an average local company for a year. Statistics reveal that the procurement of goods and services locally is at 24% measuring below at least 40% of the required standard as set out by the MEMD⁸⁷ and in 2020, the percentage of Ugandan businesses registered on the National Supply Data base of the Petroleum Authority of Uganda were 79%.

⁸⁴ Article 20 in the Petroleum (Exploration, Development and Production) Act, 2013

⁸⁵ Appendix of Transcribed interviews

⁸⁶ Ibid 59

⁸⁷ Auditor General Report. Assessment of the performance of Oil and Gas sector in Uganda. 2021 (pg 14-30).

The Local Content regulations in an anticipation of the problem of local firm management of large contracts provided that the licensee shall whenever possible allow other Ugandan companies and citizens to join the oil sector by providing contract periods of five years for capital intensive contracts and three years for low cost contracts⁸⁸. This, on the face of it, is a sound regulation however it may impose a burden on the licensee company in terms of costs and time spent going through procurement and bidding processes after relatively short periods of contract. The nature of contracts in the oil and gas sector are bundled contracts. The regulations recommend unbundling of contracts⁸⁹ to reduce the scope of works, complexity, size in order to allow more national companies to bid for these contracts. The regulations also provide that the licensee shall provide payments terms in shorter duration as well as upfront payments⁹⁰. One of the interviewees revealed that there are some costs that must be covered and will not wait for payment for example the URA requirement to pay VAT even before the company has received payment for goods supplied, this forces the company to borrow money from a commercial bank to cover the tax obligation as it waits to receive payment. Commercial banks charge interest and this will definitely affect the income of the firm. Although the policy tries to address the requirement for sound liquidity which most local companies do not have, through for example unbundling of contracts, the oil companies have a set standard in the procurement and payment processes. Unbundling of contracts may increase the risk to the oil company which now has to deal with different contractors supplying the same good or service.

4.3. LCPs and Employment

National Content Policy 7 and 8 provide for national participation of Ugandans in the oil and gas sector. The Upstream national content regulations⁹¹ provide for training of employees by the oil companies through avenues such as internship in affiliate companies to gain experience and also provision of a succession plan that indicates how the company intends to transit to a situation where all its employees are Ugandan.

The Upstream national content regulations⁹² state that the International Oil Companies (IOCs) should aim to have at least 30% of management staff composed of nationals at the start of

⁸⁸Regulation 12 (3)

⁸⁹ Regulation 10 (4) of the Refining Conversion Transmission Mid Storage National Content Regulations, 2016

⁹⁰ Regulation 12 (4)

⁹¹ Regulations 19 (3) and 20

⁹² Regulation 17 (4) of the Upstream national content regulations

petroleum activities. This percentage is expected to increase up to at least 70% within a five-year period. Incremental percentages are also expected for the other categories of employees that is the technical staff from 40% at the start to 90% at 10 years⁹³. Middle level and support staff are required to be at a consistent 95% right from the start of the petroleum activities to full operation.⁹⁴ The Local Content provision in Petroleum Act⁹⁵ adds that non-citizens can only be employed after it has been certified by the Petroleum Authority that there are no Ugandans capable of performing the work. The law also requires oil companies to make provisions for skills transfer in cases where a non-citizen has been approved for a position. It is an establishment fact that oil and gas development generally leads to an increase in employment⁹⁶ however in order to realise resource benefits in the area of in the direct and indirect areas of employment issues like equal pay and skills enhancement must be considered. It should be noted that even a year after the signing Financial Investment Decision, the percentage of locals employed remains low in comparison to what is expected and the skills enhancement is also low.

The Upstream Act ⁹⁷states that the training and recruitment of Ugandans in all phases of petroleum activities must take into account, equity of persons with disabilities and gender. The NOGTR reflects a position of inequity in gender with 21 percent female and 79percent male. This is contrary to the affirmative action policy of at least 30%. In addition, between 2018 and 2020, the licensed oil companies spent a combined total of only 29.2% of their joint wage bill on salaries for nationals. The discrepancy between salaries of local labour and expatriate labour was noted to be on average as wide as 5 to 10 times. This discrepancy was in the oil companies of CNOOC and TEPU⁹⁸. In addition, only 2% of employees are obtained from host communities performing largely sub-contracting and support roles contrary to local content policies of having 70% of locals⁹⁹. The discrepancy in pay can be pegged to lack of adequate experience just as in the area of supply of good and services. The licensed companies in as much as they are required by the law to plan for recruitment and training of Ugandans

⁹³ Ibid 12

⁹⁴ The Petroleum (Exploration, Development and Production) Act, 2013

⁹⁵ Ibid13

⁹⁶ Krupnick, J.A & Echarte, I. 2017. Economic Impacts of Unconventional Oil & Gas Development

⁹⁷ Petroleum (Exploration Development and Production) Act Section 126(2)19

⁹⁸ Auditor General Report. Assessment of the performance of Oil and Gas sector in Uganda. 2021 (pg. 5-9).

⁹⁹ Auditor General Report. Assessment of the performance of Oil and Gas sector in Uganda. 2021 (pg 14-30).

A local content specialist revealed that to date, Uganda does not have a unified agreed position on how Ugandans will be certified to work in the oil and gas sector and because of this reason, absorption has been poor. She suggested that this could lead to massive importation of labour by contractors if it is not addressed now. This coupled with lack of job experience¹⁰⁰ are challenges faced by Ugandans seeking employment in the oil and gas sector. The National content report of 2019 mentions job experience as a challenge applicants face in job applications.

4.4. LCP and Training/Skills & Technology Transfer

The purpose of skilling and training in the oil and gas sector is creation of employment. However, it also leads to creation of localized innovation and technology which can lead to indirect employment and affordable solutions. The Upstream Act¹⁰¹ provides for the training of Ugandans as well as technology transfer to Ugandans. The licensed companies are required to have a plan that includes recruitment and training of Ugandans, a plan to support research and development. The plan is expected to provide for training in all phases of petroleum activities and will include the training needs of the licensed company as well as the major contractors of the project with a breakdown of the skills required. This plan is subject to approval by the Authority¹⁰². The Production Sharing Agreements require companies to train and employ qualified Ugandans¹⁰³. The Licensee is also mandated to pay to the Government a training and research fee. This amount is incremental from the exploration phase on to the development phase and continuing on even after the commencement of the production phase¹⁰⁴. The development of skills is through training, conferences, benchmarking, mentorships, scholarships and attachments to affiliate companies. As at August 2022¹⁰⁵, two major international oil companies had offered specific technical training scholarships in preparation for the expected workforce. TOTAL offered 200 scholarships and CNOOC offered 40 scholarships. Aside from specific technical training, a total of 11,800 Ugandans received training and certification in different oil and gas disciplines such as Health, Safety and the Environment (HSE), Scaffolding and heavy goods

¹⁰⁰ The appendix on Job Adverts contains examples of two newspaper articles by Jobs are being advertised by the oil companies and job experience is mentioned as a requirement for application.

¹⁰¹ Sections 126 & 127 of the Exploration Development Act

¹⁰² Regulation 17 (1)(2)(3)

¹⁰³ Article 19.1 of the Model Production Sharing Agreement

¹⁰⁴ Article 19.3 of the Model Production Sharing Agreement between the Government of Uganda and the Licensee lays out the research and training fee as follows: The first exploration period USD 200,000 Per 12months, second exploration period USD 200,000per 12months, Third Exploration period USD200,000 per 12 months, Development period USD 300,000 and following commencement of production USD 400,000 per 12 months per license

¹⁰⁵ National Content Specialist UNOC

vehicle transportation. Trainees have received international certifications such as the National Examination Board in Occupational Health and Safety (NEBOSH) and Engineering Construction Industry Training Board (ECITB) among others.

However, data gathered from the National Oil and Gas Talent Register (NOGTR), the Electronic management system managed by the Petroleum authority, shows that from the year 2019 technical competencies were low among nationals in relation to the recommended workforce skills development strategy and this low percentage had not improved much by 2022. In the Engineering profession for example, much as the country Geological and petroleum engineers' capacity stood at 109%, the civil and building engineers was at 2% and the Welding profession stood at 4.5%. The low percentages could be attributed partly to a lack of awareness on the part of Ugandans of the National Oil and Gas Talent Register or it could mean that the skills enhancement envisioned by the Local Content policies is not functioning as it should.

One of the CEOs¹⁰⁶ of a local company gave an example of the level of training required for a driver in order to be employed in the industry. He mentioned that the drivers require international certification in health, safety and the environment. According to Ritwika¹⁰⁷ thirty-three truck companies were surveyed in 2012 and it was found that out of a total fleet of 2,500 trucks only 200 trucks met the ISO 9001 quality management standards and land and transport and safety practices required by the oil and gas industry.

Although Oil companies sent nationals to their affiliates, to gain experience, the rate of absorption of skilled locals is still low. The NOGTR as at April 2022 also revealed another worrying statistic, 5436 males were registered on the website compared to 1,440 women.

The adaption of the local content policy on skilling and technological transfer is crucial to realizing resource benefits. The policy calls for adopting of measures that would raise the standard of vocational education centres to certified world standard institutions that produce graduates able to compete favourably for employment in the oil and gas sector. Qualified trainers, good apprenticeship programs, properly managed institutions are all expected characteristics of the vocational centres under the local content policy on skilling and technological transfer. The licensed oil companies are mandated to direct their contractors and

¹⁰⁶ Interviewee 1. Appendix on Transcribed interviews

¹⁰⁷ Ritwika, S 2018. Enhancing local Content in Uganda's oil and gas industry. Pp.17

subcontractors to support key training institutions to develop into oil and gas, world-standard, training centres and to share information on skills requirements with relevant stake holders in the oil and gas industry¹⁰⁸. The approach to developing national human resource data base for the oil and gas industry constituting employees certified in technical skills, is a commendable strategy for developing local content. However, this approach can be supported by the establishment and operationalization of a fund to support human resource development¹⁰⁹. The Auditor General in his Report¹¹⁰ confirmed that the skill gaps remains above 15% between Ugandan employees and foreign employees.

Further the policy mandates certain entities to promote the monitoring and evaluation of technology transfer and knowhow Ugandan enterprises and support existing institutions with an objective of carrying out research and development. Furthermore there should be collaboration between Ugandan institutions and international oil companies to enhance Research & Development as well as and technology transfer¹¹¹.

4.5. Conclusion

Policy and regulatory framework in a nascent oil economy must shield the newly formed local enterprises that have been created for the purpose of participating in oil and gas activities. It is the expectation of citizens that Governments should use their sovereignty to create solid policies that result in tangible benefits for the nation¹¹². An analysis of the legal framework reveals that strong policies, laws and regulations regarding the protection and promotion of the local content in the oil and gas industry of Uganda are in place. However as is correctly stated by Heum et al¹¹³ relying on Regulation and Policies alone to achieve maximum local participation along the value chain is unrealistic.

¹⁰⁸ Ministry of Energy and Mineral Development. National Content Policy for the Petroleum Subsector in Uganda. 2016.

¹⁰⁹ Byaruhanga J, Langer A. On the right track? An analysis of the implementation of oil and gas sector local content policies in Uganda. *The Extractive Industries and Society*. 2020 Apr 1;7(2):302-9.

¹¹⁰ Auditor General Report. Assessment of the performance of Oil and Gas sector in Uganda. 2021 (pg 14-30).

¹¹¹ PEPD. E&P: Exploration Drilling Petroleum Exploration and Production Department, Uganda, 2013 p. Web page.

¹¹² Pereira.G.E., Matthews.C., Trischmann. 2019. Local Content Policies in the Petroleum Industry: Lessons Learned *Oil and Gas Natural Resources and Energy Journal* Vol 4, No,5 PP 631

¹¹³ Heum, P., Kasande, R., Ekern, F, O., Nyomba, A. Policy and Regulatory Framework to Enhance Local Content. Yardsticks and Best Practice. "Local Content Uganda" SNF Project No.1286 Institute for Research in Economics and Business Administration Bergen January 2011

CHAPTER FIVE

ANALYSIS AND FINDINGS

5.0 Introduction

Uganda has strong policy, institutional frameworks, laws and regulation that will support development of local content in the oil and gas sector. The Local Content Policy is a rules-based policy with rules to follow and a monitoring system to ensure compliance. It is also a productive development policy. As a developing economy and nascent oil economy it is logical that Uganda took the option of rules-based regulation. This is because if it were to allow for free and fair trade as provided for under WTO and GATT terms, the licensed companies would opt for more experienced companies in the global supply chain to contract with as opposed to local inexperienced companies. However, the success of rules-based regulation depends largely on the cooperation from the international companies.

The cooperation of licensed companies is important to the success of the local content but a rules-based policy without cooperation can lead to the unintended consequences of creative compliance and regulatory capture. One of the directors interviewed stated that there was creative compliance on the part of the International Companies for example companies are registered to satisfy the criteria for “local” share percentage however in reality the local element consists of lawyers or other Ugandans who have agreed to name use for a fee. In the PAU database such a company is registered as local but in essence it is not.

5.1. The important role of Petroleum Authority of Uganda as a monitoring body

The Petroleum Authority of Uganda as a monitoring body is crucial to the success of local content in the oil and gas industry in Uganda. PAU monitors the key areas of enterprise development, technological transfer, employment and capacity building. The Authority has created a National Supplier Database (NSD) and a NOTGR on their online platform. It is a fact that local companies register on the NSD however there are complaints about the bulk of information required which hampers ease of registration. However, the companies that manage to register realize benefits in the form of subcontracts or even joint ventures for example one of the directors of the interviewed companies did mention that he had been approached to enter into a Joint Venture Agreement because another company had got his company information from the NSD. However, PAU does not assess the fairness in the value amounts of subcontracts and one of the interviewees mentioned that this has created an attitude of “take it or leave it” from the

international companies leaving local companies with no choice but to accept small amounts in a contract worth billions.

The NOTGR gives Ugandans provides visibility for Ugandans who are qualified to work in the oil and gas sector. However, there is a skills gap in a number of technical areas which affects both employment and the local companies for example a report on national content development mentions that no training has been done in supply chain management and logistics in the oil and gas industry. However even in areas of expertise that have hit the required number for example in electrical engineering job experience is still a requirement from the Oil& Gas companies.

The PAU also organizes national content conferences whose primary aim is to provide information to local companies regarding opportunities in the sector and also act as forum for supplier engagement. One of the owners of a business interviewed accredited PAU for organization of local content conferences however, they mentioned that they do not solve the underlying issue which is a lack of internationally certified knowledge of the quality standards, safety, health and environment required to operate in the oil and gas sector. Local firms do not have the ability to meet the quality of standards required by the Oil and Gas Industry and this is in spite of supportive Local Content regulation. Insufficient capability development interventions and limited supplier capabilities is a combination that requires urgent remedial policy action.

The success of local content relies on a consistent positive partnership between the Monitoring agency, in this case the PAU, and the local companies. The monitoring agency should come in to assist where challenges arise. One Interviewee reported that there was reluctance by the Licensed companies to assist local companies especially in areas of technology transfer. Another mentioned that the Authority is detached from the local companies and another stated that they do not know where to address their challenges citing the possible reason of being unbothered due to the fact that they view the agency as another employer that pays them to attend to their job but that they do not realise the importance of the success of local content.

5.2. The need for introduction of specific tax incentives

Uganda being a developing economy has to balance revenue collection with awarding of tax incentives to local companies or SMEs to attract them to participate in the sector. Take the issue of Value Added Tax on Imports. Local companies raised the issue of value added tax on local imports in the National Content Conference held on June 28, 2022 to June 29,2022 and stated

that companies in Tier II that import goods to supply to the Tier I contractors have to pay VAT and insurance even before receiving payment from the Tier I company for contracted services. They further stated that they are forced to borrow loans from commercial banks at high interest rates to clear these dues as they await payment.

5.3. The need for affordable financing options

The Local Companies face the challenge of limited borrowing capacity. International banks are not willing to extend credit and the commercial Banks even though some are willing to extend credit to SMEs have a high lending rates. Two interviewees mentioned difficult conditions such as the requirement for three year audited accounts this is despite the fact that most companies experienced a slump due to the COVID 19 world economic shut down.

The contractors require local firms to produce financial track record before they can be considered for contracts. This was mentioned as a challenge by one of the interviewees. While this is a valid requirement by the Contractors to mitigate supply risk, it is difficult for local companies to meet.

It is not all glum in the area of access to finance. Banks for example Stanbic Bank Limited have developed financial services tailored to the needs of local companies in the oil and gas sector. One of the interviewees disclosed that the Bank realized that the local companies lacked adequate collateral for the capital required and so they came up with an innovative solution in the form of structured financing. As long as the local company has a valid contract to supply or a Local Purchasing Order with one of the key players in the oil and gas industry in Uganda that is CNOOC, Total, UNOC or EACCOP, the bank will consider financing the company after an enhanced due diligence. However, this particular interviewee mentioned that the company profiles are usually weak and that is a challenge during due diligence. Companies do not have steady financial records and also good business character or reputation.

5.4. The need for establishment of an Industry Enhancement Centre

There is need for the establishment of an industry enhancement centre or an enterprise development centre. This centre is critical to increase the level of SME participation in the oil and gas industry. The oil and gas industry emphasizes a high level of quality, health, safety and environment along the oil and gas chain. One of the CEOs interviewed attested to the fact that his company after attaining international Certification in quality, health, safety and environment

as well as a deep understanding of the sector was able to compete favourably for contracts in the Tier 1 category. The SMEs need orientation to the industry with an emphasis on attaining international certification standards in quality, management, health, safety and the environment.

This industry enhancement centre may also help these companies learn to create and maintain strong company profiles that are required in accessing finance. *Weak company profiles* was one of the hindering factors to accessing finance mentioned by the Bank Interviewee. In the case of Norway, building industrial knowledge was one of the top priorities of the government and it resulted in increased local participation. The urgency of the establishment of an industry enhancement centre cannot be over emphasized. This centre would provide financial advisory services and training to domestic suppliers relevant to the oil and gas industry.

5.5. LCP measures as transitional

While the ring fencing of areas of supply may be of benefit in the short term to increase local SME participation, in the long term it may work to the detriment of most SMEs especially as the industry transits to the midstream phase which shall require expertise in maintenance and operations. Local companies engaged contracted for early civil works may be affected. Local Content Policy should be designed to be transitional preparing the industry for competition in the international oil and gas industry. The government should prepare its human resource, local companies to be able to compete in the international oil industry. Norway as part of its LCP strategy developed local supply of goods and services that would make it competitive in the oil and gas industry as opposed to demanding discriminatory use of local goods and services. However, for a nascent oil economy that is a developing economy, it requires sufficient time operating under restrictive policies so as to be able to grow and compete in a liberalized market.

5.6. The need for oil and gas standards

The complex and hazardous nature of the industry demands the highest level of performance in terms of quality, technical integrity, health, safety & environmental standards. Uganda has a laxity in complying with these standards and has not synchronized all the industry required standards to the Ugandan standards especially in areas of education and goods required specifically for the O&G Sector that are new requirements in the country.

5.7. The nature of the economy

Uganda is new to the oil and gas industry has no special prior characteristics such as high industrial capacity working in its favour for example Norway had an existent ship building industry even before it discovered oil and therefore it had a section of its locals who had technical competencies. Uganda is an agro based economy and does not have an industrial baseline to quickly develop national content capacity relevant to the highly specialized and technical oil and gas industry. The local companies therefore are already disadvantaged and cannot competitively bid for contracts based on quality assurance, price, technical competences and in many other areas are non-existent.

5.8. Arcane regulation

The regulation is arcane and not easy to comprehend by local companies. Suppliers have complained about the bulk of requirements required to be registered on the national data base. There is also a reluctance of suppliers towards responding to bulky bid documents. They miss out on deadlines and this in turn reduces their chances of being contracted hence not being utilized at all.

5.9 Conclusion

The intention of the policy makers was to create a law that would enable local participation in the oil and gas sector. The policy is a productive development policy and the laws and regulations that stem from the policy are intended to protect the local industry especially since under the international laws of free and fair trade, the local industry would not manage competition from a the already experienced global supply chain. Despite the policy being fairly good on paper, an analysis of the data gathered from reports and in-depth interviews has revealed that the policy needs review. The findings indicate that there are challenges to employment of locals such as the requirement for job experience. There are challenges to SME or local participation in the sector such as lack of affordable finance, requisite expertise, lack of QSHE certification and weak knowledge of the oil and gas industry. The challenges faced in the area of training is the reluctance by the oil companies to transfer knowledge and to date, a lack of acceptable certification. The findings however reveal that there may be a way to address these challenges through the strengthening and funding of the National Oil company so that it is able to provide the avenue for qualified professional to acquire experience, the creation of a specific policy for affordable financing for companies involved in the sector and the set-up of a fully

functional incubation centre. As long as the cost of the implementation of these remedial policies does not supersede the projected cost benefits to the company in the long run.

CHAPTER SIX

RECOMMENDATIONS AND CONCLUSION

6.0. Introduction

The project life cycle of oil and gas estimated using the reserves in the already explored wells in the Albertine region is 40 years. The stages of the oil production cycle can be categorised in mainly four stages. The stages are the exploration and appraisal stage estimated at three to five years, the development stage which is estimated at three to five years, the Development stage which is the longest lasting for 25years plus years and then the decommissioning stage estimated at three to five years. Local content opportunities should be abundant in all stages but a study of the local content policies and experience of the policy in action from the local actors in the sector, it can be concluded that local content opportunities in Uganda, are currently most abundant in only the development stage.

The Development stage currently only offers local content opportunities in non-specialist goods and services and these translate into a small percentage of the billion dollar contracts. The oil and gas specialist goods and services take the bigger percentage or earnings in the contract. The established reasons are as discussed in the analysis and findings.

The Local Content Policy, Laws and regulations are solid and offer a protective ambit within which the local industry can thrive. Local Content Policies fully effected can lead to the realization of resource benefits. However, the research has revealed that the international players are reluctant to transfer technology and to employ highly qualified Ugandans citing “lack of experience. The research has further revealed that there are creeping incidences of creative compliance and *take it or leave it* offers to local partners. The law, well intentioned did not envisage that once applied it would face such challenges. Perhaps the focus should be dual, first on enabling the local industries that offer indirect benefits and second on the National Oil Company which in partnership act as a hub for specialized training and technological development.

It is clear that there is an issue with the local companies in the adoption of oil and gas standards. These standards are specific to the Industry for example the QSHE standards. The importance of acquiring oil and gas industry certification cannot be left to the local companies. Government needs to take this on and avail certification at a reasonable costs. The need for the local actors to

understand and comply with industry standards is as crucial as financing. As one interviewee aptly put it – it is more important than financing. Local Content policies need to address the standards gap in order for the local actors to enjoy impactful resource benefits.

The policy should be able to enhance the competence of local industry enabling the local actors to survive beyond the protective ambit provided by the current policy. Norway's success in local content is based, not on the fact that it initially protected its local industry but on the fact that it focused on developing dynamic, technologically advanced local competent actors that could compete in, and lead in international competence. Initiatives like the Stanbic Bank model of business enterprise development should be commended and supported.

The local content sector in Ugandan exhibits both insufficient development interventions and limited local supplier capabilities, factors that require remedial policy action sooner than later. It would be ambitious to recommend that all challenges identified in the findings should be turned into remedial policies immediately. However certain key areas can be remedied by policies and this would make a larger impact in the realization of resource benefits. The following remedial policies are suggested:

6.1. Education and Training policy

It has been established that the international companies are reluctant to transfer technology or hire local staff with qualifications but with little or no experience. If they do hire local staff there is evidence of discrepancy in pay. The licensed companies seemingly achieve some level of compliance in their training programs but this does not have the desired impact. The Government can direct policy towards funding the National Oil Company UNOC to take the lead in forming relationships with the private sector, the international companies and universities to bridge the gap created by inexperience. Norway focused its efforts on making sure domestic firms understood the crucial aspects of the oil industry by building up and supporting its major oil companies such as STATOIL and other local oil companies. These state companies were linked to the national academia to encourage technological research and development. The state should strengthen its education and training policy and take the lead in this aspect.

6.2. Governance and monitoring policy

The Auditor General of Uganda in a close of year audit report ending 2019, did note that during the auditing process of local content in the oil and a gas sector, it was not easy to identify what

could be the reason behind the statistics gap between the expectations and the reality when it came to local content. He appealed to the Petroleum Authority of Uganda to speed up the development of a national content monitoring system for the oil and gas sector. The monitoring agency needs to expand its monitoring of the sector to include deeper engagement with the local companies and focusing on creative solutions to the challenges that they face. The creative solutions are obtained through constant stakeholder engagement with the oil companies, the banking industry, the tax body etc. As one interviewee commented – they need to go beyond holding quarterly national content conferences that mention opportunities and do not address challenges.

6.3. Policy on Quality Safety Health and Environment

It has been established that contractors prefer to subcontract local companies that have International Certification in QSHE to operate in the oil and gas industry. The policy should be remedied to focus on how best QSHE can be acquired by local companies. This would have to be a multi sectoral consultation including the MEMD, PAU, the local companies and other concerned agencies like UNBS and NEMA. The aim would be to explore an affordable solution for local SMEs to acquire certification. International QSHE standards are crucial in establishing confidence between international and local companies in the sector and are crucial to oil and gas contracts.

6.4. Policy on Financing

It has been established that local companies face the challenge of lack of access to affordable financing. The Government needs to rethink the policy and possibly offer affordable funding through financing schemes for local companies or local joint ventures that are awarded contracts. Government should of course be mindful of the fact that the cost of implementing local content should be able to be offset by future benefits. The companies should be able to grow and re finance the scheme. There are possible other options and this also calls for serious stakeholder engagement.

6.5. Private sector incentives policy

Local Content Policy should be remedied to look into incentives for local SMEs. Local companies that import machinery and trucks intended for use in subcontracts should be considered for tax incentives. The tax can be transferred or translated through other avenues such

as induced spending. Such incentive policies are what the local SMEs will require after receiving training in business enterprise development.

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APPENDICES

APPENDIX I: QUESTIONNAIRE GUIDE FOR CEOs

1. What is the name of your company?
2. What does your company do?
3. Is your company interested in or participating in the oil and gas industry sector in Uganda?
4. Is your company registered on the National Supplier Database?
5. What has been your experience so far?
6. What would you like to improve upon or done differently by the industry players?

APPENDIX II: TRANSCRIBED INTERVIEWS

INTERVIEWEE ONE:

MANAGING DIRECTOR OF A TRANSPORT & LOGISTICS COMPANY

About the company:

- Company was established in 1973.
- Area of expertise: Transport & Logistics and operates within the East Africa region.
- The Company is registered on the National Supply Data Base.

Experience so far

1. The first realization is that there are plenty of opportunities in the O&G for the transport & logistics sector.
2. The second realization was that as transport and logistics companies, we were not ready for the oil and gas industry. Truck drivers with over 20 years' experience failed the tests given by the contractors of the companies because the specifications are different. A driver should be able to do safety checks on the trucks even before turning on the ignition. Drivers were also required to train in health safety and the environment in accordance with international standards. The specificity of the requirements goes as far as the diet of the drivers and personal insurance.
3. The third realization was that the company must have a budget for specialized training of the drivers and also must plan for expenses such as insurance, standard feeding etc.
4. Not many trucking companies are able to afford the cost of procuring the type and standard of trucks required e.g. a truck should not be older than 5 years. The expenses of training and maintenance of the drivers is also another expense that companies are not prepared for. Most companies realized that they lack capacity.
5. The Delayed negotiations in the oil and gas gave companies time to train drivers. However, drivers who trained in 2012 are still waiting for employment and trucks procured in 2012 are not suitable anymore.
6. Registration on the National Supplier Database is beneficial because as a company you receive offers for joint partnerships from foreign companies.

7. Law on local content is very good on paper but in reality the local companies take little of the share.

Challenges

1. Access to affordable finance is a challenge. Banks require three years of company audited accounts but in reality business has been bad for the last three because of the covid 19 pandemic that badly hit the transport and logistics sector.
2. Huge capital is needed for projects but most of our local companies have never managed contracts of 1million dollars.
3. Joint venture partnerships with foreign partners do not benefit local partners especially because local partners have little to bring to the table. It follows that the one with the larger investment earns the larger share.

Possible solutions

1. Access to financing with affordable interest rates should be made available to local companies. Government can also step in to help in this area. An example is China that directly funds viable projects of its citizens especially abroad, local companies cannot compete with rates offered by foreign banks.
2. Government should find a way working with the stakeholders to subsidize the cost of required Training (QSHE) and the required certification.

INTERVIEWEE TWO:

MANAGING DIRECTOR OF A “TIER ONE’ CATEGORY

About the company

- Company was started in 2012.
- EPC contractor that provides oil & gas infrastructure & construction (Tier 1 category)
- Company is ISO certified and QSHE certified
- Company is registered on the National Supplier Database

Experience so far

1. Starting early work with Tullow, Total & CNOOC has worked to the Companies’ advantage because they have been able to understand how the oil companies work and this has been able to guide their development as a supply company in the oil and gas sector.
2. The local content law and regulations give a good advantage to locals through the ring fencing regulation. What Ugandans are enjoying is what other countries got into after many years of production. Case in point – Nigeria.
3. A number of projects are bundled under one contract and awarded to a contractor. However, before the contractor sub contracts to a company to supply they must satisfy themselves about the capability and capacity of the company to meet the required stands. At this point there is a lot of bidding and technical engagement.
4. The company attributes that have enabled it to win tier 1 contracts are:
 - a) The attitude to learn and understand the oil and gas industry
 - b) The quality of human resource which has been developed through training of personnel and recruitment of qualified personnel
 - c) An understanding of the industry value chain.
 - d) Growing with the companies. Rohi started with small contracts, gained the trust of the oil companies and in turn was contracted for bigger works which has seen a growth in the company’s resource base.
5. Local content provisions give a window but success in the local industry depends majorly on attitude, philosophy and willingness to learn and understand that every process is important in the value chain management. To understand that projects follow chains and

any delay, however small, along the chain can disrupt delivery of the project in time. Understanding and appreciation of time schedule as important to a contract in oil and gas industry. Every small contract is valuable to the bigger project. Be it a cam set up, supplying fuel.

6. The company's self-initiative in acquiring ISO certification for Quality, Safety, Health and Environment in oil and gas has been of great advantage in accessing opportunities to supply.

Challenges/Observations

1. Most of the works involved in the set-up of the main processing facility is where most of the ring fenced local areas are. However, the longest phase in an oil and gas cycle involves maintenance and operations in an oil & gas sector. We are not prepared for this as a country. What will be the local content at the next stage?
2. You are awarded a contract but in reality 80percent is equipment. The equipment is held by a foreign company so the company is going to take 80percent of the profit within the local content.
3. Finances are crucial to oil and gas projects but what is even more crucial is the ability to manage the scope of work for such big contracts and for contracted works to be able to meet the level of quality assurance, control, safety required. The question "what is safety in oil and gas" is very important.
4. Quarterly national content conferences organized by PAU are a good initiative however they don't dig deep into the actual challenges. They only mention the available opportunities. This information just increases expectation and entitlement in Ugandans but doesn't give insight/inroads in as far as tapping into the money is concerned.
5. Breaking up contracts for example civil works worth USD10million into smaller contracts say 10 of USD1 million each, as provided for in the law is unrealistic as it becomes difficult to manage and increases the risk.
6. International Companies don't have time to train in local content.
7. A joint venture with a company that actually understands the scope puts you at a disadvantage. Joint partner will not wait for local partner to learn.

Possible Solutions to challenges

1. The Government should invest in change of attitude and enabling infrastructure such as a certifying body that can certify equipment instead of looking for outside certification.
2. Companies must be injected with knowledge of the way things are done in the oil and gas industry plus the concept of sustainability. Companies making 200m a year, need to change mindset to realise that the 200m may be just the cost of setting up the management system to run the project.
3. Government must focus on improving the quality of companies expected to participating in the local content sector. For now, it is very low. The critical focus should be on **Natural growth and sustainability.**

INTERVIEWEE THREE:

MANAGING DIRECTOR OF A TIER ONE CATEGORY COMPANY

About the company:

- Established in 2015.
- Provides site civil works, construction and engineering services to the oil and gas industry in the Tier 1 category.
- The company is ISO and QSHE certified.
- The company is registered on the National Supplier Data base

Experience so far

1. Government has put in place a good law and regulations to ensure maximum participation of local companies and citizens through various ways such as;
 - Ring fencing certain project packages for Ugandan companies only with a threshold of upto UGX 15 Billion [*PPDA thresholds for national providers*]
 - A reservation of at least 30% of value of works through subcontracting of works and supply of materials, equipment and services to national and resident providers for projects over Ugx 45 Billion and other works above 15 Billion where the bidder is a foreign provider.
2. These projects worth Millions of Dollars are awarded to foreign contractors because of lack of local capacity in terms of funding, personnel and equipment mobilisation requirements.
3. The International companies that are awarded these projects are inherently business minded and interested in repatriating as much of the funds back to their parent countries as possible. They are also interested in providing work opportunities for their own nationals and businesses to expand their export and employment base.
4. The projects that have external funding often have restrictions that bar implementation of local content as they strive to return most of the spend to their economies.
5. Evaluation criteria for these bids often discourage local companies, even those that have verifiable international partners guarantees with the required experience from

participating directly in the lucrative procurements but rather prefer to deal with the foreign entity directly.

6. Much as local content is seemingly enforced, the activities/ works/ services subcontracted to local firms are drainage, earthworks, some ancillary works, natural material supplies and labour supplies which are intensive but often priced quite low and hence not much opportunity for a large turnover and also discouraging.
7. Some earthworks, structures and drainage packages are offered to local companies, but these are often priced tightly with the “*fat*” re-allocated to items that will be self-performed a phenomenon called “*skewed loading*”. Since government implementing agencies do not have authority to dictate rates offered to Local contractors as they are not part of the main contract, the “*take it or leave it rates*” offered are very low and often crippling. In desperation for work, local companies often end up taking up these rates.
8. Much of the major lucrative works/services for example on a road project include activities such as;
 - Asphalt paving
 - Chemical stabilisation
 - Base construction
 - Quarry set-up and operation
 - Major structures/ Bridges
 - International sourcing of materials
 - High level supervision

The above activities are often self-performed by the foreign firms hence local firms do not get opportunity to gain the capacity for these works.

9. Also prevalent in Uganda is the occurrence of “*Pseudo-shareholders*” in some local companies. These companies are in-fact run and have ultimate beneficiaries who are foreign but front a local person as a majority shareholder while they have another backdoor agreement that supersedes the incorporation documents.

Proposed solutions

1. Government needs to put better monitoring strategies to ensure that the local content amount is not valued in materials purchased but actual works up to 30% of contract value.
2. Local materials such as gravel and aggregates are already a given to be purchased from within the perimeter of the project and so should not be valued as part of the local content.
3. Government should ensure Ugandan personnel in key contractor management roles to ensure knowledge transfer for future projects.
4. Government should look beyond the main contract and look at the subcontracts as well to ensure fair rates and fair packages are issued to subcontractors and audit the values of the contracts and monitor the realisation of those subcontractor amounts.
5. PPDA needs to institute a Technical Unit that reports to the Chief Executive Director to develop monitoring tools and capacity to continually supervise, audit and report on implementation of local content policies. These reports and recommendations would then be made to the relevant implementing entities to ensure maximum output for the local content and if not implemented sufficiently, the contract suspended.
6. The PPDA thresholds for ring-fenced projects for local contractors need to be increased to accelerate potential. Suggestion to Ugx 50 Billion.
7. Government should work out a scheme to provide collateral or letter of comfort to commercial banks via a National Bank such as UDB to provide project financing for projects at attractive interest rates to plug the gap of financing and insurance challenges. In short Government should be the guarantor for the local companies.
8. The PPDA guidelines and evaluation criteria of all PDEs should encourage local-local consortiums and provide a competitive advantage for these consortiums against foreign firms.
9. Going forward, the submissions from International providers should include the submission of the proposed local subcontractors showing the proposed rates [including rate build-ups], proposed scope and ultimate package Amounts which should be audited for fairness and authenticity before award.

10. To enforce the above, the PPDA via the proposed technical auditing unit should build-up and develop a range of “fair” market prices for common works in its database against which they can evaluate the local content submissions.
11. In the long-run, foreign companies should only be allowed to participate as management contractors but fully utilise local companies to execute all the works as opposed to directly executing works.
12. To enhance knowledge transfer and project management skilling, the bids could have a training component priced in as a lump sum in which a mentor [say a technical management consultancy expert] would be posted to these local contractors to oversee, audit and advise local companies management on key aspects such as planning, reporting and maintaining systems in order to improve the culture of proper management skills and avoid collapse due to diversion of funds and other poor management decisions.

INTERVIEWEE FOUR

MANAGING DIRECTOR OF AN OIL & GAS CONSULTANCY COMPANY

Specialty is aiding international companies intending to invest in Uganda get established. Her work has inevitably led her into the area of local content.

Experience so far

- International Banks are slow in loan processes approval
- Local companies are brought in as local representation but have less negotiating power on their stake in the contract
- Lack of experience is a major hindrance for example environmental assessment companies are face with the challenge of lack of experience in environment assessment specific to the oil and gas sector.

Possible Solutions

- A policy on affordable finance tailor made for companies operating in the oil and gas sector. They should find a way for the contracts to act as collateral.
- The issue of work experience should be studied among the different stakeholders in the industry with the aim of getting a workable solution.

APPENDIX III - QUESTION GUIDE FOR BANKS

1. Do local companies approach Stanbic Bank for financing of oil and gas related projects?
 - a) If yes, what is your experience with them?
2. What are the challenges faced by local companies in accessing finance?
3. What can be improved? Ugandan companies and Bank

BANK OFFICIAL

SECTOR HEAD OIL & GAS.

The Bank has extended finance to a number of local companies for projects related to the oil and gas sector and is looking forward to doing more

Experience

- Local companies are required to raise huge amounts of capital for which they cannot raise adequate collateral.
- The contracts in oil and gas related projects usually require that the companies mobilise funds quickly and therefore they always require a quick response from the bank.
- The companies have usually invested money over time and so usually their balance sheets are weak
- The business character or reputation is a crucial and factored in to determine whether the Bank can extend credit to a company.
- The usual banking requirements for extending credit, if applied, would lead to a rejection of majority of the applications for finance. A very small percentage would succeed at acquiring financing.
- Majority of local companies have weak company profiles.
- The bank while carrying out enhanced due diligence on a company considers the component of environment, health and safety.

Possible Solutions

The bank has come up with a specific solution for local companies participating in the oil and gas sector. Its incubation enterprise model focuses on training local SMEs in business development and it has also developed structured financing specific to local companies that require financing.

What is structured financing?

The bank will consider a local company for financing as long as the company has a contract or LPO, with the key players in the industry that is Total or CNOOC or EACCOP or UNOC. The Bank will consider contract financing or invoice discounting.

The bank mindful of the time element will confirm extension of credit facility after studying the terms of contract and performing an enhanced due diligence. After studying the Contract or LPO and confirming that the terms and conditions favour financing, the loan request is ring fenced and within 45 days after enhanced due diligence, finance will be extended.

The bank has reduced the pricing proposals for this particular category

Structured financing helps companies mobilise quickly because they have easier access to funds as long as they have an LPO or contract with the key players in the oil and gas industry in Ugandan

**APPENDIX IV - QUESTIONNAIRE FOR NATIONAL/LOCAL CONTENT
SPECIALIST**

1. What have been the achievements of the local Content?
2. What are the challenges faced in implementation of the policy?
3. What are the recommendations to adjust the policy?

LOCAL CONTENT SPECIALIST UNOC

1. Since the announcement of the Final Investment Decision (FID) for Uganda's first Oil Project on 1st February 2022, the country has seen a sharp increase in investments to a tune of \$6 billion in terms of foreign direct investment.
 2. The FID marked the launch of Uganda's oil and gas projects, and paved way for the approval and award of the main Engineering, Procurement and Construction (EPC) contracts. The award of these contracts has opened substantial opportunities for Ugandans and Ugandan companies to provide goods and services for the Engineering, Production and Construction phase which will last for up to four years, and in which phase national content is maximized.
- Between 2017 and 2020, USD 52m out of the USD 147m spent by the licensed oil companies on procurement, was on local entities owned by Ugandans; this represents 35.75% of the total procurement spend by the IOCs. In addition, 1,700 Small and Medium Enterprises (SMEs) had their capacity built in the areas of health, safety, and environment, bid management, financing, corporate governance, among others.
 - 546 entities registered on the NSD have so far been contracted in the country's oil and gas sector. Out of these 498 (91%) were Ugandan entities while 48 (9%) were non-Ugandan.
 - Ugandan nationals directly employed by the oil companies as of September 2021 stand at 81%, with 59% at management, 75% technical and 100% of their support staff.
 - 4,435 Ugandans have been trained by the Oil companies in various technical disciplines to competitively participate in the oil and gas sector.
 - The companies are creating many spin-offs in areas such as employment and secondary industrial services. This has created direct benefits to the economy through generating tax revenues and improvement of infrastructure, such as roads, leading to a decrease in the cost of doing business in the country.
 - Oil & Gas investment is expected to increase due to further field development and exploration, joint ventures and farm-in arrangements in existing licenses, the production and processing of the crude oil, transportation facilitates, and services related to this field (engineering, pipelines, storages facilities and refinery construction).

- The impact created by oil companies is on a growth trajectory and we believe the companies are contributing to the alleviation of poverty in the country by providing employment that pays higher than a living wage, improving the standards of living for many Ugandans and impacting the indirect and induced sectors of the economy like Agriculture, education, tourism, to mention but a few. All these are achieving National Content on a direct, indirect, and induced aspects of the Oil& Gas value chain.

Challenges faced by local Supply market in general

- To date, Uganda does not have comprehensive Oil & Gas Standards for the Oil & Gas industry and education to match the required international standards. This will limit local participation
- Uganda, to date, not have a unified agreed position on how Ugandans will be certified to be able to work on the Oil & Gas fields. This will lead to massive importation of labour by contractors if not addresses now.
- The complex and hazardous nature of the industry demands the highest level of performance in terms of quality, technical integrity, health, safety & environmental standards. Uganda has a laxity in complying with these standards and has not synchronised all the industry required standards to the Ugandan standards especially in areas of education and goods required specifically for the O&G Sector that are new requirements in the country.
- Inadequate quality of local educational systems, arcane regulatory environments, poor access to finance, and deficient local infrastructure all limit or increase cost of production for local suppliers and as such limits their participation.
- Limited national content capacity- local enterprises are not competitive in price/quality/technical competence and in many areas are non-existent.
- Most local firms lack financial track record required to be contracted by the operators.
- Reluctance by investors to assist local companies especially in areas of technology transfer.
- Perception that national content participation is based on short-term commission, not as a long-term value adding activity.

- i. Lack of financial capacity to acquire technological capabilities and QHSE standards required of the Oil and Gas Industry.
- j. Reluctance of suppliers towards responding to bulky bid documents. They miss out on deadlines and this in turn reduces their chances of being contracted hence not being utilized at all.
- k. Financing Challenges
 - Limited local funding capacity
 - High cost of borrowing
 - Limited access to international financing

Proposed Way Forward

The past experiences of NOCs in markets ranging from Brazil and Indonesia to Kazakhstan, Malaysia and Nigeria suggest that a well-defined, holistic and effective method can help achieve the full economic potential of National content. Such a strategy must answer questions along two fundamental dimensions: the optimization of National Content targets and the definition of strategic enablers.

- a. **National Content Targets:** The first dimension – the optimization of national content target setting – requires a quantitative analysis of planned project expenditure, and the assessment of domestic supplier capabilities to identify a reference baseline scenario for local content. Targets are then defined by cost category, aggregated and bottomed-up into long-term objectives, and then prioritized and sequenced to produce year-on-year results.
- b. **Strategic Enablers:** The second dimension – the definition of local content enablers – requires putting in place the prerequisites of an effective local content strategy in areas such as:
 1. **Education and training:** Multi-stakeholder partnerships between NOCs, international suppliers, local private companies and domestic institutions can help attune education to the requirements of the job market. A multi-stakeholder environment led and hosted by the NOC can close the feedback loop between industry and academia and expedite the development of skills that would allow nationals to assume more value-added, analytical and decision-making roles in the Oil & Gas value chain. UNOC needs a specific budget for capacity building to

achieve its mandate of Developing Oil & Gas expertise in the country, as relying on training programs by IOCs will only achieve compliance with the NC Regulations but will not produce the impact required to create a fundamental change in Ugandan participation in the sector.

2. Private sector incentives framework: Local small and medium enterprises (SMEs) often have limited access to finance, infrastructure, and capabilities. To help them overcome such challenges, NOCs can either work with specialized government agencies that provide direct funding through specialized financing schemes or indirect support through advance/prompt payment policies and long-term visibility on planned expenditures. Infrastructure challenges, however, can be overcome by creating serviced zones or parks where local industries can benefit from this shared venture and other cluster effects.

Concluding thoughts:

There is a need for Ugandan Government to fully understand demand-side requirements, the supply-side capabilities, and any barriers that limit local participation in order to address and identify strategic and commercial reasons for investing in National Content. Specific funds should be set up to support Ugandan Enterprises to borrow money at reduced rates and a training and capacity building fund should be set up at UNOC to ensure the development of Oil & Gas expertise in the country.

APPENDIX V: NEWSPAPER ADVERTISEMENTS

Job opp

COOEC-CPECC Joint Venture consisting of COOEC INTERNATIONAL CO., LIMITED and CHINA PETROL ENGINEERING & CONSTRUCTION CORPORATION (CPECC) UGANDA LIMITED is a CNOOC Uganda Contractor for Kingfisher Oil Field Development Package-3, and the scope of work includes four pads production facilities, central processing plant (CPF), infield Flow Lines, water intake pump station, temporary camp, etc. If you are an experienced professional who possesses major project experience with an oil and gas operator or top tier contractors, then we are looking for YOU!

JOB DESCRIPTION

Deputy project manager (Schedule and business)

- Accountable for Tenders & Subcontracts.
- Lead the signing of main contract, joint venture agreements, and bridging agreements and manage work order placement.
- Responsible for main contract variations and supplement agreements.
- Plan and lead the Project Tax Planning (Uganda & Domestic).
- Responsible for national content compliance management.
- Ensure the tendering process comply with Uganda Law and Rules.
- Prepare and review official correspondence to Client and Subcontractors.
- Prepare claim requests (Cost and EOT) and assist with resolution of claims and disputes from or against Client and/or Subcontractors.
- Manage the issues relating to Bonds, Insurances and Taxes required.
- Provide assistance and support to project team members in respect of interpretation of the Contract obligations, and the commercial/contractual impact of any failure to achieve these obligations.
- Ensure strict controls are implemented in relation to change orders, variations, claims, etc. include the assessment of fee claims and advising on dispute resolution.
- Coordinate with accounting/invoicing groups.
- Develop Project Subcontract Strategy and Plans for Management & Client approval in line with project specifics & requirements.
- Negotiation of terms and conditions for Subcontract and Subcontract amendment (if any).
- Prepare and submit the subcontracting documents (PQ, SOW, TBE & Unpriced Purchase Order) for Client approval per the project requirement.
- Develop the Change Management Procedure for Contract and Subcontracts; Audit Subcontractors / bidders in accordance with corporate policy and provide feedback/advice areas for improvement to the Company.
- Bachelor's degree or higher in Oil and gas engineering, Legal or Project Management.
- At Least 10 years experience in the commercial aspect of the Oil and Gas industry in a Multi-national company is highly desired.
- Knowledge and experience of Contract Management, Claim, Tendering & Subcontract Management, Cost Control, Cost Estimation and Quantity Survey.
- Fluent spoken and written English and Chinese are a must

Logistics & Storage Department Deputy Manager

- Organize logistics team to implement logistics warehouse plan and supervise the implementation effect



JOB ADVERT-February 2023

Commercial Negotiator – Req: 69971BR

Main Duties and Responsibilities

- Set up and running of commercial operations in the upstream.
- Support the marketing and commercialization of Tilenga crude oil through.
 - o Participation in preparation and negotiation of key documents to take project to first oil including, common development and cost allocation agreement, crude supply agreement, operations coordination and lifting agreement among others.
 - o Participation in commercialization process for Kingfisher and Tilenga projects.
- Support other departments in ongoing commercial negotiations.

Qualifications Experience

- Bachelor's Degree required – additional oil and gas qualifications advantageous but not essential. An appropriate professional qualification (individuals may have formal legal training / qualifications (but this is not essential), or may have wider background project commercial experience
- 10-12 years working experience with at least 3 years relevant exposure to commercial operations for oil and gas, mining, petrochemicals, or energy related field.
- A good all-round understanding of the oil and gas contracting environment
- Hands on experience negotiating high value contracts, and licensing for oil and gas projects
- Experience managing project commercial issues in the oil and gas or petrochemicals contracting environments
- A sound working knowledge of key terms within oil and gas head contracts
- Good working knowledge and experience of commercial administration and procedures and exposure to key contracting concepts and principles
- Experience in drafting and interpretation of contractual documentation

All applications should be sent through the TotalEnergies EP Uganda careers website at <https://careers.totalenergies.com>.
ONLY APPLICATIONS RECEIVED ON THE STATED WEBSITE WILL BE CONSIDERED.

Deadline is 4th March 2023
Shortlisting will begin immediately. Only short-listed candidates will be contacted.