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The senate passes first reading of Petroleum Industry and Governance Bill (PIGB), which contains parts of the long overdue Petroleum Industry Bill. The PIGB notably reduces the regulatory and commercial role of the petroleum resources minister. President Muhammadu Buhari (2015- present) secures a \$6 billion loan from China for direct investment in specific infrastructure projects. The state-owned Industrial and Commercial Bank of China Ltd (ICBC) and the Central Bank of Nigeria sign a framework on currency swaps increasing likelihood of Nigeria issuing 'Panda' bonds. Violence disrupts re-run River State's elections in a reminder that – despite the broadly peaceful conduct of the 2015 general election – elections in Nigeria remain high-risk political events.

Senate debates Petroleum Industry and Governance Bill

The senate on 13 April passed the first reading of the **Petroleum Industry and Governance Bill (PIGB)**, which contains parts of the long overdue **Petroleum Industry Bill**.¹ The legislation is the first step towards improving regulation of the oil and gas sector, but the process will be long and subject to setbacks. The senate and the house of representatives together drafted the PIGB after President **Muhammadu Buhari** (2015- present) failed to introduce the Petroleum Industry Bill. The national assembly also accelerated the introduction of the PIGB after **Nigerian National Petroleum Corp (NNPC)** managing director and petroleum resources state minister **Emmanuel Ibe Kachikwu** pledged to restructure the NNPC into seven units outside the framework of the Petroleum Industry Bill:

“Damage control was necessary to handle the fallout of the NNPC managing director’s statement about unbundling, which he doesn’t have the powers to [unilaterally] do in any case.”²

The government had planned to unbundle the Petroleum Industry Bill into less complex pieces of legislation to facilitate its passage through the national assembly. The national assembly-drafted PIGB follows the same strategy, focusing on the institutions that govern the oil and gas sector. The PIGB more clearly defines policy, and the regulatory and commercial roles of oil institutions to mitigate the risk of conflicts of interest that currently exist. The PIGB notably reduces the regulatory and commercial role of the petroleum resources minister, who will solely guide government policy in the sector.

“The petroleum resources minister is the NNPC managing director and he is wearing a policy-setting cap and an operator’s one as well which is an abnormal situation. There has to be a separation for things to work properly. [Kachikwu] is too involved in NNPC’s day to day operations and is bogged down by them.”³

The PIGB provides for a limited liability **National Petroleum Co (NPC)**, a company that will manage the state’s interest in joint ventures. Currently the state is in joint venture with all foreign oil companies and has the majority interest in 60% of these. The PIGB provides for the sale of 40% of the

¹ This Day, 13 Apr 2016,

² Source, NNPC advisor, Lagos

³ Source, NNPC advisor, Lagos

NPC. At its creation, the petroleum ministry will hold 51% of the NPC, and the state-owned **Bureau of Public Enterprise** 49%.⁴ According to the draft PIB, the government will divest 10% of the NPC within five years of its incorporation.⁵ The government may divest up to 40% within 10 years of its incorporation.⁶ Outside investment will encourage greater accountability and transparency than in the opaque state-owned NNPC. The state **Revenue Mobilization Allocation and Fiscal Commission (RMAFC)** has accused the state-owned NNPC of failing to remit 4.9 trillion naira (N) (\$25 billion) to the government between January 2011 and December 2015.⁷

"The problem with the NNPC is lack of transparency, opaqueness and abrasive corruption. Any reform that does not address the issue of transparency will be meaningless."⁸

The PIGB additionally creates a further limited liability company, the **Nigeria Petroleum Assets Management Company (NPAM)** to manage production sharing contracts (PSCs) and service agreements. The NPC and the NPAM will absorb the assets and liabilities of the NNPC. Until then, however,

"The new entities don't have their own balance sheets so can't attract investor capital."⁹

The PIGB reforms the oil sector's regulatory framework. It scraps the petroleum resources ministry and provides for the establishment of the petroleum incorporated ministry. The PIGB also amalgamates regulatory agencies the **Department of Petroleum Resources (DPR)**, **Petroleum Products Pricing and Regulatory Agencies**, and **Petroleum Inspectorate** into the planned **Nigeria Petroleum Regulatory Commission (NPRC)**. Unlike the current DPR, which sits under the petroleum resources ministry, the NPRC will have political independence.

The PIGB contains no local content provisions, undermining the future of the existing **Nigerian Oil & Gas Industry Content Development Act 2010 (Local Content Act)** and the **2015 Nigerian Oil and Gas Industry Content Development (Amendment) Bill**. The Local Content Act sought to increase Nigerians' participation in the country's oil and gas sector through minimum requirements for the use of local services and goods.¹⁰ However, operators complain about its ambiguous provisions and that it increases the risk of doing business with politically exposed persons.¹¹

The PIGB comes amid increased political pressure on Kachikwu due to continuing fuel shortages (see *ARC Briefing Nigeria March 2016*). Fuel shortages have had an immediate effect of increasing local fuel prices, which has had a knock on effect on inflation. In a rare public rebuke of a government minister, **All Progressives Congress (APC)** leader **Bola Tinubu** accused Kachikwu of "flippancy" in his comments about the shortages.¹² The public criticism of Kachikwu suggests that the APC is divided over oil & gas reforms. Tinubu is especially politically powerful as he is a former governor of **Lagos State** and delivered southern Christian supporters to Muslim northerner Buhari before the March 2015 election.

The criticism of Kachikwu is slightly unfair as the fuel shortage is not only the result of policy uncertainty, but also low domestic refinery capacity, industrial action, and foreign exchange shortages that have increased pressure on oil marketers. The low price environment has also made it difficult for the NNPC to swap crude oil for refined products, which would alleviate the shortages. However, the PIGB's clearer division of responsibilities may reduce the risk of fuel shortages in the future:

⁴ Bloomberg, 7 Apr 2016.

⁵ Bloomberg, 7 Apr 2016.

⁶ Bloomberg, 7 Apr 2016.

⁷ Nigeria Guardian, 20 Mar 2016.

⁸ Source, journalist, Lagos

⁹ Source, NNPC advisor, Lagos

¹⁰ Business Day, 26 Jul 2012.

¹¹ Source, oil sector executive, Nigeria

¹² Reuters, 28 Mar 2016.

*“There's been extensive work done on price modulation and subsidy management to a sustainable plan for fuel supply. Other **Organization of the Petroleum Exporting Countries (OPEC)** members have moved beyond fuel supply issues; we're about the only OPEC country importing refined products which is abnormal as well. These structural abnormalities and imbalances need to be addressed. Government should play the role of enforcer rather than operator. It can't combine all these roles concurrently or effectively. Over time the government needs to exit and play more of a regulatory role.”¹³*

The fuel shortage has encouraged popular support for reform of the oil and gas sector.

“Buhari now has to take control of the petroleum ministry to end the continued suffering by ensuring that fuel is available and properly distributed across the country. There's a lot of work to do in this sector, so the president should roll up his sleeves and sort this out before it gets out of hand. Nigerians need a permanent solution to the fuel crisis. Given the country's status among oil producing countries, this government must not fall for the quick fix and the short-termism that characterised the policies of successive governments.”¹⁴

Kachikwu told the senate petroleum committee on 29 March that the government is in talks with international oil majors to rehabilitate the NNPC's four moribund refineries.¹⁵ Kachikwu said the government is in discussions with **United States**-based **Chevron Corp** over the **Warri** refinery, **France**-based **Total SA** over the **Kaduna** refinery, and **Italy**-based **Eni** over the two **Port Harcourt** refineries.¹⁶ Kachikwu confirmed that the government plans to privatise the refineries within 12 months following initial repairs.¹⁷ Kachikwu acknowledged that even once repaired, the refineries will meet less than 50% of domestic demand.¹⁸

“The government doesn't want to subsidise, and yet the refineries are not working. People are spending a whole day at filling stations. There's no electricity; we can't continue to weather this storm. Businesses are not working. The toll on the people is too much. If you don't want to subsidise, then let the refineries work. People are suffering and I think the president should find the balance between what is politically correct and what is economically prudent.”¹⁹

Buhari secures Chinese loan and finance agreements

Buhari secured a \$6 billion loan during a meeting with **Chinese** counterpart **Xi Jinping** (2013-present) on 12 April.²⁰ The loan is for direct investment in specific infrastructure projects so will not directly address the budget deficit (see below). Foreign minister **Geoffrey Onyeama** has said that the Nigerian government is still to identify the infrastructure projects but once it does, it will be able to access the credit without need for a specific agreement. The state-owned **Industrial and Commercial Bank of China Ltd (ICBC)** additionally agreed a \$2 billion loan to **Dangote Cement Plc** to finance two cement plants.²¹

Finance minister **Kemi Adeosun** has said the government is considering a variety of borrowing options to address the \$11 billion budget deficit.²² The government is looking to diversify the economy rather than rely on a rebound in oil prices to ensure growth. Adeosun is considering tapping **Japanese** 'Samurai' yen-denominated bonds and **Chinese** 'Panda' yuan-denominated bonds, saying they offer cheaper alternatives to the **Eurobond** market.²³ The issue is expected early in the third

¹³ Source, NNPC advisor, Lagos

¹⁴ Source, political activist, Lagos

¹⁵ DailyPost Nigeria, 29 Mar 2016.

¹⁶ DailyPost Nigeria, 29 Mar 2016.

¹⁷ DailyPost Nigeria, 29 Mar 2016.

¹⁸ DailyPost Nigeria, 29 Mar 2016.

¹⁹ Source, lawyer, Lagos

²⁰ This Day, 13 Apr 2016.

²¹ This Day, 13 Apr 2016.

²² Financial Times, 10 Apr 2016.

²³ Financial Times, 10 Apr 2016.

quarter.²⁴ Adeosun said if domestic and international borrowing proves insufficient to meet the government's budgetary requirements, the government could withhold \$5 billion in cash calls to finance its share of costs in joint ventures with international and domestic oil companies.²⁵ This would likely force oil companies to bear additional expense, which might lower output and further encourage divestment.²⁶ According to Adeosun, Nigeria will need to run a budget deficit for the next two or three years, and will therefore need a consistent stream of bulk currency.²⁷

During Buhari's visit to China, the ICBC and the **Central Bank of Nigeria (CBN)** signed an agreement for renminbi (yuan) transactions.²⁸ The agreement will facilitate the issue of 'Panda' bonds. According to the Chinese foreign ministry, the yuan will be included in Nigeria's foreign exchange reserves.²⁹ The CBN converted up to a tenth of its reserves into yuan in 2011. The framework on currency swaps will allow Nigeria-based banks to use the yuan, which will facilitate trade between the two countries.³⁰ The CBN, however, did not publish specific details about the structure and duration of the currency swap agreement.

Buhari scrutiny further delays budget

Buhari has ordered all government ministries, departments and agencies to review the budget³¹, raising the risk of further delays to the budget. Buhari wants to avoid any discrepancies in the final document that would undermine his government's fiscal credibility. The national assembly passed the revised 2016 budget on 23 March.³² The revised budget adopts a more conservative fiscal stance than the original draft budget. The revised budget notably reduces,

- the fiscal deficit 0.72% to 2.204 trillion naira (N) (\$11.07 billion);³³
- total expenditure from N6.08 trillion (\$30.52 billion) to N6.06 trillion (\$30.42 billion);³⁴
- recurrent spending from N2.65 trillion (\$13.3 billion) to N2.49 trillion (\$12.5 billion);³⁵
- capital expenditure from N1.8 trillion (\$9.4 billion) to N1.59 (\$7.9 billion);³⁶
- the power, works and housing ministry budget to N422.9 billion (\$2.12 billion) from N433.4 billion (\$2.2 billion); and
- the transportation ministry budget to N188.6 billion (\$947m) from N202 billion (\$1.1 billion).³⁷

The amended budget is predicated on a real GDP growth rate of 2.14% compared to 4.37% in the original draft budget, a benchmark crude oil price of \$38 per barrel, a projected crude oil output of 2.2 million barrels per day, and a fixed official exchange rate of N197 to the dollar.

Violence disrupts Rivers State elections

Violence increased both before and after elections in **Rivers State** on 19 March.³⁸ Rivers State is politically significant as its capital is Port Harcourt, the centre of the majority of Nigeria's oil sector activity. At least 32 people died in clashes between supporters of the APC and the opposition **People's**

²⁴ Reuters, 10 Apr 2016.

²⁵ Financial Times, 10 Apr 2016.

²⁶ Financial Times, 10 Apr 2016.

²⁷ Financial Times, 10 Apr 2016.

²⁸ Reuters, 12 Apr 2016.

²⁹ Reuters, 12 Apr 2016.

³⁰ Reuters, 12 Apr 2016.

³¹ Reuters, 31 Mar 2016.

³² Reuters, 31 Mar 2016.

³³ Reuters, 31 Mar 2016.

³⁴ Vanguard, 29 Mar 2016.

³⁵ Vanguard, 29 Mar 2016.

³⁶ Vanguard, 29 Mar 2016.

³⁷ Vanguard, 29 Mar 2016.

³⁸ Vanguard, 19 Mar 2016.

Democratic Party (PDP) in the run up to the election.³⁹ A member of the **National Youth Service Corps** supporting the **Independent National Electoral Commission (INEC)** also died.⁴⁰ Security forces detained Rivers State government secretary **Kenneth Kobani** and **Cyril Wite**, a special assistant to governor **Nyesom Wike**, on allegations of electoral fraud.⁴¹ The INEC on 20 March announced that the PDP had dominated results in nine state constituencies and one federal constituency in Rivers State, but suspended the electoral process in all other constituencies, saying fresh elections were required due to violence.⁴² Wike defeated APC candidate **Dakuku Peterside** in the 2015 governor election in Rivers State, but Peterside challenged the governor, federal legislative, and state legislative results in the courts. The Supreme Court upheld Wike's victory, but ordered a rerun for Rivers State's three senatorial districts, 11 house of representatives, and 22 state assembly seats.

Implications

The oil and gas sector will welcome the PIGB as a step towards a clear and effective governance and regulatory framework in the absence of any other. However, the legislature's action is a direct challenge to Buhari and the federal government whose role it is to introduce legislation. This may be a ploy by the oil sector's vested interests to undermine Kachikwu's plans to restructure the notoriously corrupt NNPC. It is a bid for the legislature to lay claim to control of the NNPC and thwart Kachikwu's plans to restructure the NNPC outside the framework of the Petroleum Industry Bill and the reach of the legislature. Competing reform efforts will add confusion and further delay the passage of long overdue legislation.

The political and economic elite has decades of experience in manipulating fuel shortages and their immediate inflationary impact on people's pockets to bring to heel reform-minded individuals and governments that challenge their vested interests in the sector. Managing the ongoing fuel shortage is likely to distract Kachikwu from his reform agenda as he is forced into short-term actions to manage supply and demand.

Chinese borrowing will cover the fiscal deficit and facilitate Buhari's efforts at economic diversification, developing power and transportation infrastructure to lessen Nigeria's dependence on the oil and gas sector. It will, however, increase Nigeria's debt servicing obligations and not address the economy's structural issues. Additionally, increased use of the yuan will encourage Chinese consumer imports at a time when Buhari is seeking to develop Nigeria's domestic manufacturing sector.

Buhari is expected to approve the final version of the budget in the next couple of weeks. Any additional delay will undermine effective budget implementation during the next financial year.

The Rivers State violence is a reminder that – despite the broadly peaceful conduct of the 2015 general election – elections remain high-risk political events. While party cadres and supporters are unlikely to target international investors, violent protests can significantly disrupt commercial activity.

³⁹ Premium Times, 20 Mar 2016.

⁴⁰ Premium Times, 20 Mar 2016.

⁴¹ Premium Times, 20 Mar 2016.

⁴² Premium Times, 20 Mar 2016.

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