

## AFRICA RISK CONSULTING

### Nigeria Monthly Briefing December 2016

---

#### Nigeria Summary 1 December 2016

*The Petroleum Industry Governance Bill (PIGB) passes its second senate reading. However, government holds a draft National Oil Policy 2016 consultation period based on the competing Petroleum Industry Reform Bill (PIRB). The relationship between the two frameworks is unclear, prolonging regulatory uncertainty in the oil sector. The government reaches a \$5.1 billion settlement with international oil companies. Ruling All Progressives Congress (APC) candidate Oluwarotimi Odunayo Akeredolu (Rotimi Akeredolu) wins the Ondo State governorship election. The economy contracts 2.2% year-on-year in the third quarter as Nigeria fails to exit recession. The African Development Bank (AfDB) approves a \$600m loan for Nigeria.*

---

#### Senate passes second reading of Petroleum Industry Governance Bill

The **Petroleum Industry Governance Bill (PIGB)**, part of the now unbundled **Petroleum Industry Bill**, passed its second senate reading on 3 November.<sup>1</sup> Despite the passage of the PIGB, reform of the oil and gas sector remains at risk of institutional confusion and turf wars between different political factions. Senate petroleum resources committee chairman senator **Tayo Alasoadura** described the PIGB as providing a “*slim, focused yet robust framework*”.<sup>2</sup> The PIGB provides for the division of the state-owned **Nigerian National Petroleum Corp (NNPC)** into two limited liability commercial entities: the **National Petroleum Co (NPC)** to manage the state’s interest in joint ventures, and the **Nigeria Petroleum Assets Management Company (NPAM)** to manage production sharing contracts (PSCs) and service agreements.<sup>3</sup> The NPC and the NPAM will absorb the assets and liabilities of the NNPC.

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 **Department of Petroleum Resources (DPR)**, **Petroleum Products Pricing and Regulatory Agencies**, and **Petroleum Inspectorate** into the planned **Nigeria Petroleum Regulatory Commission (NPRC)**.<sup>4</sup> There is concern that this will increase the powers of the petroleum resources minister at the expense of politically independent oversight.

*“Scrapping these existing regulatory bodies and putting them under one umbrella to be known as the NPRC will be too cumbersome and make the petroleum minister too powerful.”<sup>5</sup>*

The PIGB does not provide details about fiscal terms and revenue management. Separate bills will cover these subjects, which are likely to prove more contentious and therefore at greater risk of delay. There is no timeframe for the introduction of these bills.

There is also a risk that political turf wars will further slow the reform process. Petroleum state minister **Emmanuel Ibe Kachikwu** on 21 October launched the separate **7 Big Wins** roadmap, which sets out the government’s reform of the oil and gas sector. The roadmap proposes two pieces of legislation to overhaul the oil sector’s policy and regulation: a **Petroleum Industry Reform Bill**

---

<sup>1</sup> Punch, 3 Nov 2016.

<sup>2</sup> Punch, 3 Nov 2016.

<sup>3</sup> Punch, 3 Nov 2016.

<sup>4</sup> Punch, 3 Nov 2016.

<sup>5</sup> Source, labour union leader, Abuja

**(PIRB)** and a **Petroleum Fiscal Reform Bill (PFRB)**.<sup>6</sup> It is unclear if the PIGB and the PIRB are the same legislation as they cover the same governance and operational territory. One possible explanation is that the PIRB is president **Muhammadu Buhari** (2015- present) looking to re-establish his control over the reform process. The national assembly drafted the PIGB in frustration at Buhari's slow pace of reform. Presidential approval of the PIGB is therefore uncertain. The 7 Big Wins roadmap calls for the passage of the PIRB and the PFRB before the end of December 2016 or in the first quarter of 2017.<sup>7</sup>

As part of the roadmap, the government held consultation periods for the draft **National Oil Policy 2016** and draft **National Gas Policy 2016**. Both closed in November.<sup>8</sup> The National Oil Policy is predicated on a future oil price of \$45 per barrel, but notes that Nigeria – at \$29 – has one of the highest extractive costs globally. The National Oil Policy therefore prioritises:

- decreasing the cost of production;
- diversifying the economy away from the oil sector;
- creating a market-driven sector;
- maximising production and processing;
- ensuring cost efficient storage, transportation and distribution for petroleum products;
- minimising the environmental impact of oil exploration and production; and
- managing the balance between depleting oil resources vs renewable energy.<sup>9</sup>

The draft National Oil Policy is based on the PIRB, which may or may not be the same as the PIGB.<sup>10</sup> The PIRB provides for the establishment of a new institutional framework, with a **National Petroleum Policy Directorate** responsible for assisting the petroleum minister in the formulation and implementation of petroleum policies.<sup>11</sup> The draft policy also establishes a new regulatory framework, with the NPRC – as in the PIGB – assuming all regulatory responsibilities. A **Nigerian National Oil Co (NNOC)** will succeed the NNPC and manage all government petroleum assets, with its equity listed on local and international markets. The NNOC will have no role in policy making which will become solely the responsibility of the petroleum ministry.

During the consultation process, international oil companies discussed regulatory reform as a precursor to new investment.

*"We cannot be running a business that is not viable and be talking about expansion. If all the issues we have been talking about are addressed then we will venture to downstream business."*<sup>12</sup>

However, the oil sector is concerned about the number of implementation risks involved in the process.

*"Everything policy takes time; how do we ensure implementation is consistent not haphazard? Monitoring the implementation is essential."*<sup>13</sup>

According to a second source,

*"I think they're going in the general right direction; it is about the details – the policy is not explicit about grandfathering of previous investments; guarding against political interference. Some of what's been said by the petroleum resource ministry representatives is not reflected in the documents."*<sup>14</sup>

<sup>6</sup> Vanguard, 21 Oct 2016.

<sup>7</sup> Vanguard, 21 Oct 2016.

<sup>8</sup> This Day, 14 Nov 2016.

<sup>9</sup> Draft National Oil Policy.

<sup>10</sup> This Day, 14 Nov 2016.

<sup>11</sup> This Day, 14 Nov 2016.

<sup>12</sup> Source, oil sector executive, Lagos

<sup>13</sup> Source, CEO domestic exploration company, Lagos

<sup>14</sup> Source, lawyer, Lagos

The effectiveness of the new framework will depend on improving management within government ministries, departments and agencies.

*"The success or failure of the ongoing reforms will depend on the implementers. Here is where Buhari and his advisers need to learn to follow due process. The idea of political balancing to manage a complex business structure that the oil and gas industry represents is ludicrous. Let the filling of key positions be head-hunted and competitive."<sup>15</sup>*

The government is looking to reassure international oil companies that it recognises the challenges facing the sector. Kachikwu announced on 17 November that the government has reached a \$5.1 billion settlement with joint venture partners.<sup>16</sup> The settlement could potentially unlock additional oil sector investment, but this will depend on security, regulatory reform, and the currency and international oil price context. The NNPC accrued the debt through cash calls, which it is obliged to pay under joint ventures with international oil companies. The relevant companies include **United Kingdom (UK)-based Royal Dutch Shell Plc, Italy-based Eni SpA, United States (US)-based Exxon Mobil Corp and Chevron Corp, and France-based Total SA.**<sup>17</sup> The government will settle the interest free balance through crude oil sales over five years. The crude oil cargoes will only take place when production exceeds 2.2 million barrels per day.<sup>18</sup> Kachikwu claimed that the deal structure meant the oil companies agreed to reduce the balance owed from a previous total of \$6.8 billion.<sup>19</sup> The debts were incurred between 2010 and 2015, and do not include the estimated \$2.6 billion the government owes from operations this year.<sup>20</sup>

However, in a reminder of the operating challenges that international oil companies continue to face, the **Niger Delta Avengers (NDA)** on 16 November claimed responsibility for a sabotage attack the previous day on the **Nembe Creek Trunk Line** pipeline in **Bayelsa State**.<sup>21</sup> The NDA will probably continue attacks, even as negotiations with the government continue, as it looks to extract concessions. The NDA attacked the Nembe 1, 2 and 3 trunk lines that lead to the **Bonny** export terminal.<sup>22</sup> According to the NDA, the attack will result in a supply loss of 300,000 barrels per day.<sup>23</sup> The pipeline's operators are Eni subsidiary **Nigerian Azienda Generale Italiana Petroli (Agip), Oando Plc**, and Shell-subsiary **Shell Nigeria Exploration and Production Co.**<sup>24</sup> The NDA said the attack was in response to the **Nigerian Navy's Operation Sharkbite**, a military deployment that aims to combat militancy and piracy in the **Niger Delta**.<sup>25</sup> Niger Delta regional leaders prioritised the withdrawal of military forces from the region during a meeting with Buhari on 1 November. Buhari's failure to act following the meeting, saying he would only revisit the situation once he had received additionally military reports, is probably the reason behind the subsequent resumption in NDA attacks on oil and gas infrastructure.

### APC wins key Ondo State governorship elections

Ruling **All Progressives Congress (APC)** candidate **Oluwarotimi Odunayo Akeredolu (Rotimi Akeredolu)** won the 26 November **Ondo State** governorship election.<sup>26</sup> Akeredolu's victory was significant as it was the most serious test of APC popularity in the face of the ongoing recession. Akeredolu secured 244,842 votes, with opposition **People's Democratic Party (PDP)**

<sup>15</sup> Source, energy professor, Abuja

<sup>16</sup> Bloomberg, 18 Nov 2016.

<sup>17</sup> Bloomberg, 18 Nov 2016.

<sup>18</sup> Reuters, 17 Nov 2016.

<sup>19</sup> Bloomberg, 18 Nov 2016.

<sup>20</sup> Bloomberg, 18 Nov 2016.

<sup>21</sup> Nigeria Guardian, 16 Nov 2016.

<sup>22</sup> Nigeria Guardian, 16 Nov 2016.

<sup>23</sup> Nigeria Guardian, 16 Nov 2016.

<sup>24</sup> Nigeria Guardian, 16 Nov 2016.

<sup>25</sup> Nigeria Guardian, 16 Nov 2016.

<sup>26</sup> Premium Times, 27 Nov 2016.

candidate **Eyitayo Jegede** winning 150,380.<sup>27</sup> Outgoing governor **Olusegun Mimiko** is a member of the PDP, and voters appear to have punished Jegede for Mimiko's failure to pay civil servants on time due to the government's revenue challenges.<sup>28</sup> Additionally, the **Independent National Electoral Commission** only confirmed Jegede's candidacy three days before the election.

Despite the APC victory, the election campaign highlighted increased divisions in the party. Senior APC godfathers including former **Lagos State** governor **Bola Tinubu** and current Lagos State governor **Akinwunmi Ambode** refused to campaign for Akeredolu.<sup>29</sup> Despite Tinubu backing Akeredolu in his failed 2012 governorship election challenge, the relationship between the two subsequently deteriorated. Tinubu backed **Olusegun Abraham** during the primaries to determine the APC governorship candidate.<sup>30</sup> Another defeated APC primary candidate, **Olusola Alexander Oke**, defected to the **Alliance for Democracy**, finishing third with 126,889 votes.<sup>31</sup> Oke appears to have benefited from Tinubu's and Ambode's support.<sup>32</sup> Akeredolu is managing partner of **Olujinmi & Akeredolu** law firm, and former president of the **Nigerian Bar Association**.<sup>33</sup>

### Recession continues in third quarter

The **National Bureau of Statistics (NBS)** published data on 22 November showing that gross domestic product (GDP) contracted 2.2% year-on-year in the third quarter.<sup>34</sup> Depressed oil production and foreign exchange shortages continue to curb growth. The NBS third quarter growth data compares to 2.1% contraction in the second quarter and 0.36% contraction in the first quarter.<sup>35</sup> The oil sector – which contributed 8% to GDP in the third quarter – contracted 22.01%, compared to 17.48% in the second quarter, and 1.89% in the first quarter. The NBS noted that crude oil production decreased for the fourth consecutive quarter, from 1.69 million barrels per day (bpd) in the second quarter to 1.63 million bpd.<sup>36</sup> The non-oil sector, however, increased 0.03% in the third quarter, following two consecutive contractions.<sup>37</sup> Third quarter growth was largely on the back of 4.5% growth in the agriculture sector.<sup>38</sup> This overshadowed continuing manufacturing sector struggles. Factory output decreased for third consecutive quarter, contracting 4.4%.<sup>39</sup> Construction decreased for fifth consecutive quarter, contracting 6.1%.<sup>40</sup> The NBS cited the impact of currency depreciation on import costs. The NBS data contributed to the **Central Bank of Nigeria (CBN)** retaining its benchmark rate at 14% on 22 November.<sup>41</sup>

Separate NBS data, however, appears to indicate improved investor sentiment following the CBN's adoption of a more flexible foreign exchange market in June. The NBS published **Nigerian Capital Importation, Quarter Three 2016** data on 10 November showing estimated quarterly capital inflows of \$1.82 billion.<sup>42</sup> The NBS data is indicative of improved investor sentiment but inflows will remain below optimum until Nigeria obtains macro-economic stability. This third quarter inflows represent a 74.8% increase compared to revised figures for the second quarter (see below), but a 33.7% year-on-year decrease on the \$2.75 billion recorded in the corresponding period in 2015.<sup>43</sup>

<sup>27</sup> Premium Times, 27 Nov 2016.

<sup>28</sup> Vanguard, 27 Nov 2016.

<sup>29</sup> The Cable, 27 Nov 2016.

<sup>30</sup> The Cable, 27 Nov 2016.

<sup>31</sup> The Cable, 27 Nov 2016.

<sup>32</sup> Africa Confidential, 28 Nov 2016.

<sup>33</sup> Premium Times, 27 Nov 2016.

<sup>34</sup> Bloomberg, 22 Nov 2016.

<sup>35</sup> Bloomberg, 22 Nov 2016.

<sup>36</sup> Bloomberg, 22 Nov 2016.

<sup>37</sup> Bloomberg, 22 Nov 2016.

<sup>38</sup> Bloomberg, 22 Nov 2016.

<sup>39</sup> Bloomberg, 22 Nov 2016.

<sup>40</sup> Bloomberg, 22 Nov 2016.

<sup>41</sup> Bloomberg, 22 Nov 2016.

<sup>42</sup> www.nigerianstat.gov.ng.

<sup>43</sup> www.nigerianstat.gov.ng.

Portfolio investments, including investment in bonds and money market instruments, accounted for 50.5% of total inflows, with a value of \$920.3m.<sup>44</sup> Debt accounted for approximately 85% of portfolio investments, suggesting **Nigerian Stock Exchange** investor appetite remains low, as tight monetary policy has made yields more favourable. Other investments accounted for 30.8% of total inflows, with a value of \$340.6m.<sup>45</sup> Foreign direct investment accounted for 18.7% of total inflows, with a value of \$340.6m.<sup>46</sup> All three investment types increased quarter-on-quarter: 172.8% for portfolio flows (valued in second quarter at \$337m), 84.8% for foreign direct investment (valued in second quarter at \$184m), and 7.8% other investment (valued in second quarter at \$269m).<sup>47</sup> However, all three investment types decreased year-on-year in the third quarter: 52.5% for foreign direct investment, 45.1% for other investments, and 8.8% for portfolio investment.<sup>48</sup>

By sector, the largest third quarter recipients of capital inflows were banking (\$555m), telecommunications (\$245m), oil and gas (\$172m) and manufacturing (\$68m).<sup>49</sup> By country, the largest sources of capital were the UK, which accounted for 60.2% of the total (\$1.01 billion), the US, which accounted for 23.4% of the total (\$427m), and **The Netherlands** which accounted for 5.2% of the total (\$94.4m).<sup>50</sup> The three leading countries combined therefore accounted for approximately nine-tenths of total capital inflows.

The NBS additionally published revised capital import data for the second quarter. The revised data values total second quarter inflows at \$1.04 billion, 61% higher than the provisional second quarter figure of \$647m.<sup>51</sup> This represents a 46.6% increase from the first quarter of 2016, compared to the 8.98% contraction initially reported, and a 60.9% decrease from the second quarter of 2015, compared to the 75.7% decrease previously reported. Total capital imports have therefore increased by value across two consecutive quarters after decreasing to \$711m in the first quarter 2016, the lowest since the NBS began to publish quarterly data in 2007.<sup>52</sup> This compares to the peak of \$6.54 billion reached in the third quarter of 2014 prior to the collapse of international oil prices.

### AfDB extends \$600m loan

The **African Development Bank (AfDB)** approved a \$600m loan for Nigeria on 2 November.<sup>53</sup> The Buhari administration expected to receive a greater proportion of a \$1 billion AfDB financial package, and the shortfall in external financing will increase pressure on the government's budget deficit. The loan is the first tranche of the **Economic Governance, Diversification and Competitiveness Support Program (EGDCSP)** financial package.<sup>54</sup> The EGDCSP's four main objectives are: to strengthen public finance management, fiscal performance and accountability; to increase energy market competitiveness; to improve agricultural sector policies and institutions; and to promote social inclusion for poor and vulnerable groups.<sup>55</sup> The AfDB plans to release the remaining \$400m in 2017, possibly early in the year, but this is conditional on the Buhari administration's implementation of key economic policies and structural reforms. These conditions are reportedly tied to Nigerian government fiscal reform pledges including broadening the tax base, improving public financial

<sup>44</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>45</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>46</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>47</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>48</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>49</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>50</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>51</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>52</sup> [www.nigerianstat.gov.ng](http://www.nigerianstat.gov.ng)

<sup>53</sup> Financial Times, 3 Nov 2016.

<sup>54</sup> Financial Times, 3 Nov 2016.

<sup>55</sup> Financial Times, 3 Nov 2016.

management efficiency, and curbing corruption.<sup>56</sup> Additionally, the AfDB wants Nigeria to reform its monetary policies, especially its exchange rate management.<sup>57</sup>

### Implications

The relationship between the PIGB and PIRB is confusing. It is unclear if they are the same legislation or if their contents will be merged. The confusion is, however, indicative of continued politicisation of the oil sector which will continue to slow reform efforts and deter investment. Continued regulatory uncertainty and insecurity will continue to exert downward pressure on production, meaning the problem of government arrears will persist.

Akeredolu's victory should not distract from the damage that Nigeria's recession has caused to Buhari's political authority. The private sector, especially in commercial capital and Tinubu stronghold **Lagos**, is concerned about Buhari's inability to resume growth. Should Buhari lose the support of the APC's godfathers in Nigeria's southwest, the APC will be increasingly labelled a vehicle solely for northern interests. Tinubu himself retains presidential ambitions and may be positioning himself to take advantage of any fractures within the APC coalition.

The NBS growth data shows some positive longer-term economic trends, notably the growth in agriculture which is central to government economic diversification efforts. However, more pressing is the manufacturing contraction which is indicative of the structural damage that the CBN's mismanagement of the foreign exchange markets is causing. As long as foreign exchange controls continue to increase operating costs, the economy will remain over-reliant on the oil sector. The NBS capital import data, covering the period after the CBN's adoption of a more flexible foreign exchange market, shows the potential investment that full liberalisation of the foreign exchange markets, would encourage.

The \$600m loan is significant as it is indicative of Nigeria's strong relationship with the AfDB under its president, **Akinwumi Adesina**, who earned a positive reformer reputation as agriculture minister under former president **Goodluck Jonathan** (2010-2015). Nevertheless, it will not significantly ease pressure on the budget deficit. Nigeria will continue to look to the **World Bank** and **China** for concessional loans, and to the international markets for a Eurobond expected in the first quarter 2017.

---

<sup>56</sup> Reuters, 3 Oct 2016.

<sup>57</sup> Reuters, 3 Oct 2016.

### About Africa Risk Consulting:

**Africa Risk Consulting (ARC)** is a pan-African consulting company that provides timely, relevant information and advice that enables its clients to take informed investment decisions and to safeguard their reputations.

**ARC's** core consulting services include integrity due diligence and corporate investigations, political advisory and country assessments, opportunity monitoring and reputation risk management. Most relevant to private equity firms is ARC's integrity due diligence and corporate investigations capability. Specifically, ARC offers pre-deal integrity checks to highlight red flags before negotiations start; full detailed multi-jurisdictional reputation due diligence; and supplier and senior hire vetting and repeat due diligence for compliance programmes. ARC is unique in that it offers a 10-day delivery for a routine integrity due diligence. ARC also offers a suite of corporate investigations services from immediate investigation, evidence gathering, e-discovery, forensic accounting and whistleblower support on one end to crisis media management and regular monitoring on the other.

[www.africariskconsulting.com](http://www.africariskconsulting.com)

### About ARC Briefing:

**ARC Briefing** is ARC's essential online business information service.

Companies at any stage in their Africa expansion, whether building or communicating an Africa strategy, investing directly, expanding current operations, financing other investors, doing the legal leg-work or researching the Africa growth trend, need ARC Briefing.

**ARC Briefing** is an online information service keeping you:

- Up to date with Country Chronologies of business-critical events
- In the know via Country Briefings on political, economic, business and operating trends. Written in-country, ARC experts analyse and comment
- Ahead with Country Planner which details future elections, budgets, regulatory changes etc.

[www.briefing.africariskconsulting.com](http://www.briefing.africariskconsulting.com)

### Getting in touch

Please contact us by email [info@africariskconsulting.com](mailto:info@africariskconsulting.com) or call + 44 (0) 20 7078 4080

Follow us on Twitter: [@ARCBriefing](https://twitter.com/ARCBriefing)