AFRICA FOR RESULTS INITIATIVE

LOCAL CONTENT IN GHANA'S PETROLEUM INDUSTRY: Solid policy undermined by capacity gaps

From the African Community of Practice on Managing for Development Results at the African Capacity Building Foundation (ACBF)

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SYNOPSIS

In 2011, Ghana passed the Petroleum Commission Act and a Local Content and Local Participation in Petroleum Activities Policy Framework. In 2013 it released the Petroleum Regulations. Together, these documents provide a comprehensive legal framework for local content. This paper analyzes implementation of the framework, highlighting the first positive results, as well as challenges in implementation.

Among the key finding: Local human capacity and technological skills areinadequate to ensure meaningful participation of local business. Lack of financial capacity is another factor: High interest rates on loans (averaging 20–30 percent) penalize businesses and local investment.

The main conclusion: The private sector should be incentivized to help support local content policies—design and implementation. Businesses that develop talent, procure inputs, and market goods and services locally should be able to develop better operating margins and protect long-term operating licenses.

The key lesson: Ghana's local content policy in the petroleum industry shows that, if aligned with the national development strategy and supported by capacity development efforts, local content requirements can have a positive role in driving economic transformation.

The main recommendations: Capacity should be built to encourage local specialized firms to merge and apply for jobs in the sector, instead of operating alone with fewer chances to succeed. The Ghanaian local content framework is an excellent tool for this purpose, but implementation must be supported by capacity-building initiatives targeting financial gaps, human capital deficits, and environmental problems. Thelocal content framework must also ensure that the policy is revised and adapted to the local context and its changes over time.

Introduction

Primary commodities still dominate African exports. Countries have failed to realize the promise of gains from value addition and jobs from processing, and have lost competitiveness in global markets for more than basic products. Notably, the continent's share in world manufacturing value addition remains very low, at only 1.5 percent, and even down from 1.9 percent in 1980 (UNECA 2014).

Yet intra-African trade is more diversified than extra-African trade, with manufactured goods traded within the continent hitting 40 percent in 2011 (UNECA 2014). This presents market opportunities, including that for intra-industry trade, for Africa's mining sector. But here, too, local beneficiation and value addition are concentrated more in forward linkages, while side and backward linkages are those that need to be strengthened.

A key objective of the Africa Mining Vision (AMV), as endorsed by African Union (AU) Heads of State and Government in 2009, is greater fiscal space and responsive taxation to allow African countries to optimize extractive-industry rents for development. Another is to add value through beneficiation, including a multisectoral approach to mineral development that catalyzes economic structural transformation, while mitigating negative effects.

Specific and directed research (and associated action) is required to achieve the AMV Action Plan's goal of appropriate and meaningful use of natural resources to catalyze broad-based growth and development. The creation of public–private partnerships; knowledge networks; and niches involving academia, industry, government, and other actors is critical (AU 2009: 4). For downstream and upstream value addition, the AMV argues that good governance is vital to ensuring that a minimum of local content is guaranteed under resource contracts and licenses, and to ensuring continued investment in human and technological development (AU 2009: 14).

More than half the 54 countries in Africa are endowed with nonrenewable natural resources that play a vital role in their economies. But despite the enormous potential this endowment gives for fast-tracking inclusive economic growth and social development, some African countries are among the world's poorest, most unequal, and most conflict ridden. Indeed, hydrocarbon-producing African states are confronted by a paradox of poverty, largely due to weak forward and backward linkages of the oil and gas industry. This translates into the sector's small contribution to gross domestic product in resource-rich countries.

Ghana, for instance, earned US$1.4 billion from the commercial production and export of oil from 2011 to June 2013. But of the 77 million barrels of oil produced, only about 13 million went to the Ghana National Petroleum Corporation as Ghana's share (Acquah-Sam 2014). Foreign multinationals have the largest share, leaving few benefits to companies owned by nationals who can provide local content.

"Local content" describes the range of benefits the oil and gas industry can bring to the areas where it operates, including:

- Employing and training local people.
- Buying supplies and services to enhance the capacity of local suppliers.
- Supporting community development work (IPIECA 2011).

In simple terms, local content refers to the use of local skills and materials in constructing or maintaining an asset or service.

The negative effects of oil and gas exploitation may have larger effects, destabilizing the entire economic system. In Nigeria, overreliance on oil production and its management have led to a contraction of the agriculture sector. This is a risk for Ghana, where the cocoa industry and the services sector, with the mining sector, have been the foundation of the economy for many years.

Policies related to the extractive sector are therefore crucial for African countries endowed with large natural resource reserves, especially minerals, oil, and natural gas. These resources have a weighty impact on local economies, foreign investment, and trade. Thus how to leverage Africa's extractive sector for inclusive structural transformation then becomes a central question.

As for other resource-rich countries, requirements for local content (or "local content provisions"), properly inserted into legal frameworks, regulate contracts and bidding practices in a way that is conducive to building a competitive local workforce, boosting the domestic private sector, and ultimately leading to job creation. Local content provisions are thus key to translating resource investments into sustainable benefits for local populations, but targets and objectives need to be carefully quantified to be realistic. They must be collaborative and well adapted to local content.

Experiences in other countries around the globe—such as Brazil, Indonesia, Norway, and Venezuela—have shown that local content policies can improve matters (Tordo and others 2013). For example, local content policies have enhanced national value creation along the oil and gas value chain by creating jobs, adding value, facilitating access to technology and knowledge, and encouraging foreign direct investment—all key drivers of economic transformation. For this reason, local content is critical to creating linkages between national economies and the global hydrocarbon value chain.

Countries that have successfully implemented local content requirements have paid particular attention to four main inputs: human capital, procurement of goods and services, equity participation, and project finance. A focus on these inputs has allowed them to enhance their economies, build capacities and skills domestically, and increase technology transfer, while substantially augmenting the use of local workers through industrialization.

With such benefits, local content policies have become popular in the oil and gas sector in developing countries, especially in Africa, where discoveries of substantial oil and gas fields and improved business environments are helping to attract foreign direct investment. Little is known about the implementation and capacity challenges of local content policies in Africa, however, and even less is known about how investors respond to these policies. This case study on Ghana is a bid to increase the body of this literature, on both the scientific and policy sides.

A continent-wide shift to local content policies

Resource-rich governments across the continent have expressed a strong desire to derive more local benefits linked to mining operations. Despite recent lower global commodity prices, the continent's mining and hydrocarbon industries continue to make a strong contribution to Africa's economic growth with the development of an inclusive local supply chain that provides goods and services to mining companies.

New laws, policies, and frameworks in dozens of African states now require mineral rights holders to procure goods and services of local origin to the maximum extent possible. Increasingly, African countries are dictating the terms of engagement with multinational mining corporations. Requiring foreign investors to develop local content often constitutes a key point in the negotiations of mining contracts. In line with the AMV, country mining visions (CMVs), and domestication of the AMV at the national level, the continental objectives are clear: the transfer of knowledge and value to the local economy and indigenous companies.

The goal of a CMV is to expand and broaden local ownership, participation, and control in the mineral resource sector through mineral beneficiation, value addition, and local content policies. This process at the national level is essential for lending political legitimacy to the continental drive. Defining a CMV requires an intense political process of broad-based multi-stakeholder consultations, where different views about mining will have to be accommodated and aligned in a long-lasting social contract. Such compacts would have to outlive political and electoral cycles.

African governments have voiced their support for "structural transformation of African economies and a long term strategy rooted in the utilization of the continent's significant resource assets" (UNECA 2011: 1) as the surest way to overcome the historical, structural deficiencies of the mining industry. Achieving structural change advocated by the AMV through domestically owned and generated strategies requires participatory processes leading to the design and formulation of a domestically driven CMV.

The AMV and national CMVs are increasingly the basic framework that should underpin negotiations with investors in the extractive sector. Their key elements are anchored on a broader understanding of benefits (beyond revenue), value addition, resource-driven industrialization, local content, and optimization of resource-based infrastructure—especially in resource and development corridors. They also hinge on environmental and material stewardship, respect for human rights and social considerations, and on broader linkages between the extractive and local economy sectors. These tenets should be applied to all mining companies with interests in Africa, whether from China or elsewhere.

Nevertheless, it is becoming more apparent that the private sector should be incentivized to help support local content policies—design and implementation. Businesses that develop talent, procure inputs, and market goods and services locally should be able to develop better operating margins and protect long-term operating licenses.

Industry analysts and development practitioners, however, have often complained that African local content policies and mining regulations are not entirely appropriate or adequate, and that bottlenecks and other shortcomings of implementation remain due to capacity gaps. The private sector has responded with some degree of restraint, and has often sought to circumvent or avoid these policies and regulations. The result is a complex, varied local content landscape across the continent that is hard to navigate.

Local content in Ghana's petroleum industry

Ghana's record in striving to leverage the extractive value chain and promote local content is more recognized than the efforts of most other resource-rich African states. Challenges remain of course, particularly in policy coherence, implementation gaps, and capacity constraints.

Although commercial quantities of offshore oil reserves were discovered back in the 1970s, Ghana became an oil- and gas-producing country only in December 2010, when deepwater drilling allowed its exploitation and the Jubilee Field was inaugurated (Hanson and others 2014). Hydrocarbon exploration continues, and production is expected to increase.

Having learned from other African countries like Nigeria, with decades of experience in the petroleum industry, Ghana has shown from the beginning a real determination to implement appropriate laws and regulations for the sector. These have allowed the country to socially and economically benefit as much as possible from oil and gas exploitation.

Since 1994, the Ghanaian government has, for instance, put in place an environmental legislation framework, the Environmental Protection Act (Act 490), which is committed to progressively enhancing national environmental governance of the oil and gas sector. Civil society organizations are also engaged in national policy dialogue on oil and gas. For example, the creation of the Ghana Civil Society Platform on Oil and Gas testifies to the involvement of local and external stakeholders aiming toward greater transparency and accountability (Ibid. 2014).

Ghana has not only a long tradition of an active civil society, but also an extensive experience with national regulatory frameworks for gold extraction. This expertise goes back to the 1986 substantial reform made through the Minerals and Mining Law (Besada and others 2015), especially targeting greater transparency and accountability in the sector. Even if numerous challenges and weaknesses remain in gold mining, the legal frameworks have created a fertile policy environment and awareness on key issues for natural resource governance, as well as a background of capacities in this domain.

On that basis, Ghana is one of the few but rapidly growing number of African countries with a dedicated local content regulation for the petroleum industry.

Absorbing lessons from other African countries with longer experience in the petroleum industry, like Nigeria, Ghana passed a Petroleum Commission Act and a Local Content and Local Participation in Petroleum Activities Policy Framework in 2011. In 2013 it released its Petroleum Regulations. These provide a comprehensive legal framework for local content.

The 2011 framework gave a strong role to the government for its implementation as it established the Local Content Committee (LCC) to oversee, coordinate, and manage the overall implementation process. The LCC has to include public and private sector stakeholders from government ministries, agencies, and departments, nongovernmental organizations, as well as representatives of operators, contractors, and subcontractors.

A minimum of 5 percent equity for local petroleum license, permits, and contract operators—and at least 10 percent equity for local providers of supplies and services—tries to ensure local participation by the Ghanaian private sector (Ministry of Energy and Petroleum 2013). The aim is to maximize value addition using local expertise, goods, and services, creating jobs and skills to be retained in the country. The 2010 Petroleum Exploration and Production Bill stated that the country should have an initial interest of at least 10 percent carried through exploration and development.

Ghana's local content policies emphasize "the promotion of maximization value-addition and job creation, through the use of local expertise, goods and services, businesses and financing in the petroleum industry value chain and the retention of benefits within Ghana" (Ibid. 2013).

Making local content mandatory means that every stakeholder in oil and gas must have an annual local content plan for its projects, activities, operations, and transactions. The government commits to providing fiscal incentives and rewards to stakeholders who exceed the plan's goals.

The regulation underlines the capacity dimension, explicitly indicating that one of its main goals is to build the individual capacities of national labor in all the aspects of the petroleum value chain through education, technology transfer, and constantly updated research and development (R&D). The framework also extends to the need to build institutional and organizational capacities for increased competitiveness of local businesses and industries tied to the petroleum sector to sustain the country's economic transformation (Ibid. 2013).

To support this capacity-building dimension, the policy indicates the establishment of a dedicated Oil and Gas Business Development and Local Content Fund. The Fund's jurisdiction falls under the Ministry of Energy that oversees the disbursements for utilization in education, training, and R&D. The official document also includes precise indications on how the fund should be financed and maintained.

Outcomes and overall assessment

According to Kazzazi and Nouri (2012), local content development depends on four interrelated factors: capacities, infrastructure, environment, and policies at local level. On these measures Ghanaian local content has moved in the right direction (table 1), setting in place and improving local policies.

Table 1. Policy environment for monitoring local content in Ghana

Oil and gas (LCPPF 2010)	Mining (MMA 2006 and DMP 2010)	MMGR 2012	Oil and gas (LCPPF 2010)
Sets specific national goals for local content	Yes	No	Yes
Requires approval of local content plans submitted by companies	Yes	No	Yes
Preference conditional on price, quality, and timely availability	Yes	Yes	Yes
Specific targets of local employment	Yes	No	Yes
Specific provisions on training	Yes	No	Yes
Specific provisions on technological know-how and skills	Yes	No	Yes
Fiscal incentives and rewards in connection to local content and training plans	Yes	No	No

Note: LCPPF is 2010 Local Content and Participation Policy Framework in petroleum activities of Ghana. MMA is Minerals and Mining Act. DMP is Department of Mines and Petroleum. MMGR is Minerals and Mining General Regulations.

Table 1 shows that the 2012 regulations are a comprehensive local content policy, with more specific provisions and targets in several domains. Compared to previous frameworks, only the fiscal incentives and rewards introduced in the 2010 policy have not been maintained.

But the 2012 policy does not include a comprehensive plan for meeting its targets, representing an implementation gap. Specialists consequently provided advice on how to modify the policy to set targets for different segments of the oil sector to make it more realistic. Such modifications would also make it easier to monitor results and identify challenges in various areas within the industry. This could be the way forward in the implementation process, or at least one of the options.

Sound, detailed and realistic institutional frameworks for the implementation of the local content policy are then needed, as they have to be capable of providing effective oversight, closely monitoring compliance and performance of the requirements. This is what successful experiences of local content requirements have done previously. Despite the absence of a precise implementation plan, it is expected that Ghana will achieve 60 percent of its local content law in 2015–2016 (Kunateh 2014).

Ghanaian local content regulations should then be gradually implemented in phases, aided by capacity building in place or with new ones conceived for the sector. Capacities should be built to encourage local specialized firms to merge and be able to jointly apply for jobs in the sector, for example, instead of operating alone with fewer chances to succeed. To this extent, capacities must be built to ensure sustained growth of local service providers in the sector. The Enterprise Development Centre was created in May 2013 to help Ghanaian companies take advantage of business opportunities arising in the oil and gas sector, building capacities through training and other business services.

Implementation challenges in Ghana are not predominantly related to policy gaps, but more to deficient capacities, including the ones penalizing the country's business environment, which the Enterprise Development Centre helps to address (Kazzazi and Nouri 2012). Local human capacity and technological skills are insufficient to ensure a meaningful participation of local business and other stakeholders. To this must be added a lack of financial capacity in the country: high loan interest rates (averaging 20–30 percent) penalize businesses and local investment. The business environment is therefore unable to sustain or encourage positive outcomes.

It is part of the government's responsibility to provide an environment in which businesses can thrive alongside local service providers. Fiscal advantages could be a feasible solution, possibly coupled with an improved access to finance. The local content regulation points out, for example, that the crucial role of the service sector is for it to function as a key and central sector for the oil and gas industry; offering a wide range of services ranging from the basic ones (like driving and catering) to the most specialized (like procurement, drilling, and freight). Specific capacity building initiatives should target the related hydrocarbon services sector.

In 2014, the Minister of Energy and Petroleum made a public announcement that about US$580 million had been generated through the local content policy. He added that 152 local companies provide direct or indirect services to operators in the upstream petroleum industry. In December 2013, 6,929 personnel were employed in the petroleum upstream sector, out of whom 5,589 were Ghanaian (Larbi 2014). Encouraging, but more could perhaps have been achieved.

Ghana has to be mindful that neighboring countries in the Gulf of Guinea, like Liberia and Sierra Leone, are also having similar experiences in the petroleum sector, adopting similar local content requirements. Ghana is more advanced, however, and has, unlike Liberia, the advantage of a dedicated fund to finance its local content strategy.

Conclusions and lessons learned

The local content framework is ultimately an excellent tool, but its implementation must be supported by capacity building initiatives that target financial gaps, human capital deficits, and environmental problems. These initiatives must also ensure that the policy is revised and adapted to the current context, and to local and external changes over time.

The framework for the oil and gas sector faces two main sets of challenges. The first is "internal," relating to the policy itself, and pertains to the absence of precise directions for policy implementation. The major revision needed is to adapt the requirements to each segment of the petroleum industry, to better mirror local conditions and capacities of local businesses and avoiding being unrealistic. The second set is "external," linked to the environment in which the policy is implemented (not just Ghana, but West Africa more generally).

To address the challenges, Ghana needs a sound business environment for the policy to be properly implemented. It can be obtained only with twin-track actions: government efforts to establish broad-based policies to encourage a business-friendly environment and a proactive private sector ready to use the opportunities offered. This may be done through tax incentives, fostering local entrepreneurship, and encouraging international companies to invest in Ghana. The government could also provide more opportunities for domestic companies to match with international ones.

Short-term investments are necessary to develop capacities, especially in services, which could become an important source of employment and income for many low-skill workers.

Longer-term investments would later make it possible to train a skilled, technical local labor force. Sector-specific and general training (on issues like health, safety, and environmental protection) could raise the standards of local firms to make them viable service providers for international companies. This could be done in partnership with the government, oil companies, and other investors and donors. Staff at Ghanaian firms could train abroad with high-level technical workers and return to Ghana: a similar experience offered by Tullow could be scaled up while other, similar initiatives could be encouraged.

Knowledge, R&D, and academic research are fundamental to ensuring that policies produce results. The generation of new, locally driven knowledge and the improved analysis of existing information on local content on the entire value chain can inform the design and deployment of governance programs at national and regional levels in West Africa.

Ghana's local content policy in the petroleum industry shows that, if aligned with the national development strategy and supported by capacity development efforts, local content requirements can have a positive role in driving economic transformation.

Ghana offers strong evidence that commitment and expenditure on local content can contribute to increasing employment, allowing the country to better benefit from oil and gas exploitation. The next step will be to strengthen skills and develop more competitive local small and medium enterprises (including through technology transfer and more accessible local capital), while improving local infrastructure.

Ghana's record in striving to leverage the extractive value chain and promote local content to help generate sustained and inclusive growth is a model that other countries appear set to emulate. The remaining challenges—particularly in policy coherence, implementation gaps, and capacity constraints—Ghana is well placed to overcome.

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