

# The Issues Around Crude Oil Theft in Nigeria and Plausible Options to Reducing Same



## Introduction

Many oil and gas exploration & production companies in Nigeria, are struggling with oil theft along the gas pipeline network, prior to reaching the export terminal. It is reportedly, as bad as 80%- 90% of the injected crude being, allegedly, stolen and or lost. Thus, many of these oil and gas exploration & production companies are looking at alternative arrangements for the transportation of their hydrocarbons to the relevant export terminals.

A lot of the crude handling arrangements (under Crude Handling Agreements/Crude Evacuation Agreements) especially with some of Nigeria's major International Oil Companies (IOCs) are now in issue, as the counterparties suffer major crude oil losses. These counterparties are now looking to alternative, but more expensive alternatives of transporting their crude for export. Some commentators have stated that the indigenous players who bought assets, (especially onshore and swamp related assets) from some of the departing IOCs, should have done their due diligence and forged out a clear plan to deal with "bunkering" across the relevant pipeline network or have alternative plans. Thus, many argue that the theft issue isn't new but has only got worse and any buyers of these assets should be ready to deal with bunkering and hydrocarbons theft.

## Policy & Policy Implementation

The poor implementation of some brilliant ideas in the petroleum (oil & gas) sector is holding down the industry. Certain questions become pertinent, and they include- where is the federal government with the gas flare monetization programme for instance? Is that program dead or just going on quietly? There is a need for a strategic and clear path to replacing the IOCs leaving and a thorough understanding of why they are leaving together with what should be done to prevent the same issues from running the independents/ junior oil companies, replacing these departing IOCs, out of business.

It is germane to note, nonetheless, that a number of gas monetization efforts seem to be progressing well with the private sector, in Nigeria, taking the lead. Indorama has been connected to gas supply and several other power stations have gas supply arrangements. Although, in a number of cases, those contracts are on 'reasonable endeavours' bases and see some nearly regular default in either taking gas or making payment.

## The Niger Delta

It appears that the restiveness in the Niger Delta has reduced substantially, as indigenes of those places appear to have found alternatives to fighting, arson, kidnapping etc. It, is now 'bunkering',- stealing oil & illegally refining same. Question though, is there an opportunity to legalize some of these activities and have a win-win situation rather than run them out of business and start another round of crises in that region? Oh, you wonder why leading businessman, Tony O Elumelu was complaining on social media? It appears his company had been losing a substantial portion of its crude before same reaches the export point- alot of it is stolen/ 'lost', as the case may be. Almost everyone who is not offshore (deep offshore) seems affected by this same situation.

## The Role of the Petroleum Industry Act (PIA)

The PIA, a reasonably good law, had a protracted passage, which led to a lot of uncertainty. No investors will invest in an uncertain regime (legal & fiscal, in particular), as they need to know, for certain, how to monetize their investment & make returns. Many would prefer clear and certain laws even if quite unfriendly, than uncertainty. That said, we do have the PIA, which is a reasonably good law. It is, however, arguable that the PIA is coming a bit too late, as issues around net-zero, decarbonization and energy transition take center-stage. Although, as stated elsewhere in this piece, gas will continue to play a role in the energy mix and will be Nigeria's transition fuel.



As good example, the Nigeria LNG Ltd., in the Year 2020 and at the peak of the Covid-19, signed a remarkable US\$3 billion corporate loan to finance the construction of its seventh liquefied natural gas (LNG) train. The Nigeria LNG Train 7 project (Train 7).

Personally, though, I think oil & gas- especially gas will continue to play a central role in the World's energy mix. Germany, for example, very recently started to consider having coal-fired plants play a more critical role in the energy mix considering the effects of the Russia/Ukraine war on security of energy supply, to the World and Europe in particular. The PIA, also barely deals with energy transition. I think it mentions energy transition, only once and does not really address issues relating to same.

### The Year 2020 Marginal Fields Bid Round

Some key aspects of the Year 2020 marginal fields bid round were quite opaque (in my view) and not good for a country already losing foreign investors/investments. With where we find ourselves, we shouldn't be having such an opaque process with many bidders complaining about the process and the list of successful bidders not made public as should be.

### Viable Options

One option oil exploration and production companies need to explore is using virtual pipeline systems by whatever nomenclature to transport their crude. Additionally, arrangements may be created for the local refining through these indigenous people to refine some of the oil, provided there is a market and sufficient demand for same such that new business ventures can be created with some of those currently illegal operations may be legalized in a sort of win-win arrangement for everyone. It may also be pertinent to use more technologically friendly security system where a combination of drones and more specialized remote monitoring systems are used. In certain circumstances, collaboration arrangements may be forged between those host communities and transit communities where those transit communities are obliged to protect the pipeline system whilst they get a reasonable fee in return where the crude reaches the export terminal without the any problems.

Separately, independents/ junior oil companies, need to be more creative in raising financing now, as it is increasingly more difficult to raise financing for oil projects, in particular. Even entities you don't expect to struggle, now do struggle to raise financing for oil now- even gas is a collateral damage, so to speak!

We need to, at least, increase production, add value to/refine our base oil & natural gas to really see substantial value, because, as an oil and gas producing country selling base resources & buying back finished products, we will consistently be in a deficit in both our balance of trade and balance of payment.

The foregoing, will be the case, because we would always end up spending more to import finished products than the revenue the country makes from selling crude. That's where many of the new modular refineries and petrochemical projects, such as the Indorama Project come to the fore; projects, such as the Dangote refinery are also important in improving Nigeria's balance of trade and payment.

Despite my views on oil and gas (gas in particular) still being relevant for a long time, Nigeria needs to begin to think outside oil or about a World without oil playing any substantial role, as the Memo is out already and we must not miss it. Yes, I see challenges, but I also see huge opportunities in connection with the energy sector in Nigeria, generally.

For more information please contact



Dr Ayodele Oni  
Partner

ayodele.oni@bloomfield-law.com

or your usual contact at Bloomfield LP.



© 2022 All rights reserved www.bloomfield-law.com

DISCLAIMER

This is a publication of Bloomfield LP and is for general information only. It should not be construed as legal advice under any circumstance and Bloomfield LP shall bear no liability for any reliance on this publication. For further information about the Firm, its practice areas, publications and details of seminars/events, please visit: [www.bloomfield-law.com](http://www.bloomfield-law.com).

