

**ASHESI UNIVERSITY COLLEGE**

**ASSESSING THE IMPLEMENTATION OF GHANA'S LOCAL  
CONTENT LEGISLATION IN OIL AND GAS**

By

**JENNIFER EMEFA SENOO**

Senior Thesis submitted to the Department of Business Administration,

Ashesi University College

In partial fulfilment of Bachelor of Science degree in Business  
Administration

**APRIL 2014**

I hereby declare that this Senior Thesis is the result of my own original work and that no part of it has been presented for another degree in this university or elsewhere.

Candidate's Signature:.....

Candidate's Name: Jennifer Emefa Senoo

Date:.....

I hereby declare that the preparation and presentation of the Senior Thesis were supervised in accordance with the guidelines on supervision of Senior Thesis laid down by Ashesi University College.

Supervisor's Signature:.....

Supervisor's Name: Dr Stephen E. Armah

Date:.....

## **Acknowledgements**

For constantly reassuring me of His presence and being on my side these past four years and throughout the journey to produce this capstone research paper, to God be the glory.

For always believing in me and teaching me to do the same, I am indebted to first my parents, my warrior grandmother and my family. Thank you for the love, support and the constant prayers that have given me strength.

For guiding every step of this journey with very useful feedback, pushing and prodding in the right direction, I am forever grateful to Dr Stephen Armah. To the companies and individuals who gave me access to interview them for this study, and those who directed and led me on to other people and resources, I am highly appreciative.

For constantly being there and pushing me to work harder and helping where possible, thank you Thierry Gnanih for having my back. For following up on my work and making sure I deliver on time, my own 'Tisha' Edward Opoku, thank you. To my 'thesis sisters', Christele, Rita and Alida, your concern for my progress, pressure and high standards always pushed me to meet Dr Armah's deadlines. To my roommates, friends and the 2014 class, the laughter, tears and sweat were totally worth it. To all the faculty, staff and students, I have encountered over these four years who have impacted my life, especially in the OSCA, ODIP and Career Services Departments, my Ashesi experience would have been impossible without you.

## **Abstract**

Without the much-needed financial and technical resources to exploit the oil and gas resource discovered in 2007 on her own, Ghana sought foreign expertise to develop the Jubilee Field and surrounding fields. To enable locals benefit from the resource through increased employment, transfer of knowledge and technology know-how, supplier developments and various other means, a local content policy was adopted in 2011 and a subsequent Legislative Instrument passed in 2013 to enforce this policy. The question this paper seeks to answer is how effective the implementation of the Local Content Legislation in Ghana's Oil and Gas Sector in fulfilling intended goals and objectives. This research interviewed three key stakeholders from a cross-section of the upstream oil and gas sector, which is directly targeted by the legislation. It also interviewed the body mandated by law to implement this legislation and a private policy expert. Respondents were chosen based on purposive stakeholder sampling, using the snowballing method. The data was analysed along four main themes; the alignment of the main policy content with the intended outcomes, the social, economic and political context of the legislation, the leadership for the implementation and the level of stakeholder involvement in implementation. Findings indicated that despite the fact that the rationale for instituting such legislation is highly laudable, the alignment of the legislation, the social, economic and political context and stakeholder involvement do not support effective implementation. Implementers of the legislation therefore need to ensure that concerns and recommendations are taken into consideration to ensure that Ghana derives the maximum benefits intended.

## **List of Abbreviations**

CSOs – Civil Society Organizations

CSPOG – Civil Society Platform on Oil and Gas

E & P – Exploration and Production

EDC – Enterprise Development Centre

GNPC – Ghana National Petroleum Corporation

IOC – International Oil Company

LC – Local Content

LCP – Local Content Policy

LI – Legislative Instrument

PA – Petroleum Agreement

PC – Petroleum Commission Ghana

SME – Small and Medium scale Enterprise

## **Table of Contents**

<b>Acknowledgements</b> .....	<b>iii</b>
<b>Abstract</b> .....	<b>iv</b>
<b>List of Abbreviations</b> .....	<b>v</b>
<b>Chapter 1: Introduction</b> .....	<b>1</b>
1.1 <i>Background of Study</i> .....	1
1.2 <i>Facts about Ghana’s Oil</i> .....	6
1.3 <i>Ghana’s Local Content Policy Framework and Legislation</i> .....	9
1.4 <i>Problem Statement</i> .....	11
1.5 <i>Research question</i> .....	13
1.6 <i>Research objectives</i> .....	13
1.7 <i>Relevance and Significance of Study</i> .....	14
1.8 <i>Outline of study</i> .....	14
<b>Chapter 2: Literature Review and Analysis</b> .....	<b>16</b>
2.1 <i>Introduction</i> .....	16
2.2 <i>What are Local Content Policies?</i> .....	17
2.3 <i>Why Local Content?</i> .....	21
2.4 <i>Arguments for and against Local Content Polices</i> .....	23
2.5 <i>Summary of Literature</i> .....	27
<b>Chapter 3: Methodology</b> .....	<b>28</b>
3.1 <i>Research Design</i> .....	28
3.2 <i>Research Scope</i> .....	29
3.3 <i>Description of the Sample, Sub-samples and Sub-sample Sizes</i> ....	29
3.4 <i>Data Collection</i> .....	30
3.5 <i>Data Analysis</i> .....	32
3.6 <i>Ethical Considerations</i> .....	33
3.7 <i>Limitations</i> .....	34
<b>Chapter 4: Data Findings, Discussion and Analysis</b> .....	<b>36</b>
4.1 <i>Determining the Alignment of the Local Content Legislation</i> .....	36
4.2 <i>Investigating the Practicality of the Legislation</i> .....	40
4.3 <i>Benefits to the Local Content Legislation</i> .....	53
4.4 <i>Local Content Strategies; The Successes and Challenges</i> .....	54
4.5 <i>Summary of Data</i> .....	58

<b>Chapter 5: Conclusions and Recommendations .....</b>	<b>59</b>
5.1 Conclusions .....	59
5.2 Lessons from Norway and Nigeria .....	60
5.3 Recommendations .....	61
5.4 Recommendations for Further Research .....	64
5.5 Summary of Research .....	64
<b>References .....</b>	<b>65</b>
<b>Appendices .....</b>	<b>70</b>
Appendix 1: Summary of Policy Framework.....	70
Appendix 2: Consent Form .....	77
Appendix 3: Implementers Interview Guide.....	79
Appendix 4: Stakeholders Interview Guide (IOCs).....	81
Appendix 5: Stakeholders Interview Guide (SME).....	83
Appendix 6: Responses of the E&P Forum to Local Content Legislation	86

## **Chapter 1: Introduction**

### **1.1 Background of Study**

The discovery of a natural resource in any country often comes with much excitement and a sense of expectation because of the anticipated windfalls that usually accompany the exploitation of these resources (Armah and Torku, 2014). In nations where there are inadequate resources and the know-how, foreign expertise is sought to exploit these resources. Policymakers scramble to reap the maximum benefits for their nations from these exhaustible resources by instituting appropriate policies to ensure that their citizens also benefit from the resource (Tordo et al, 2013). Some of the strategies include passing a Petroleum Law that governs the how revenue is split between IOCs and Government. This strategy is closely related to a Revenue Management Bill which prescribes how Governments spends the revenues from oil and gas. One of the most commonly adopted strategies is the "Local Content Development Policy" (also known as content requirements) (Ado, 2013). These policies generally aim to create further benefits to the economies of the host nations beyond the direct contribution of the sector but through activities that link to other sectors of the economy (Tordo et al, 2013).

The situation in Ghana was no different, when in 2007, the country discovered commercial quantities of oil off the shores of the southernmost point of Ghana, Cape Three Points (Armah & Torku, 2014). This news was met with widespread euphoria, and with the discovery came a new sense of purpose for Ghanaians as they revelled in the nation's new status as an



oil-producing nation. The then sitting head of state, President Kuffuor, summarized the thoughts and expectations of most Ghanaians when he hailed the discovery as a "shot in the arm" that would give the country the wings it needs to fly and transform Ghana into an "African Tiger" (BBC News, 2007).

Many were the expectations but in one way or the other, everyone expected to see the benefits of the resource reflected in his or her own private life. One major expectation nurtured by many Ghanaians after the discovery was the reduction in prices of petroleum and petroleum products and the development of infrastructure in various sectors of the economy by the expected oil revenue. This expectation was summed up by the Minister of Information at the time, Mr Kwamena Bartels, who asserted that prior to the discovery of oil, the nation had spent over two hundred million dollars annually on the importation of oil and in 2007, when the oil was discovered, the nation had spent even more on the importation of the resource due to an energy crisis (Clottey, 2007). It was therefore the prevalent belief that once the country started the production of oil, less of the resource would be imported, which would cause a significant reduction in the costs to the people and improving the quality of life (Clottey, 2007).

Another major avenue Ghanaians expected to see the oil find affect the standard of living was the expectation that the industry will employ many Ghanaians and as such the revenue will trickle down to families. A testament to this expectation was the almost overnight springing up of

various institutions and courses in already established ones, offering one diploma, certificate or the other in oil and gas management etc.

Indeed, in lay minds, the President and Ghanaians were within their rights to hold such expectations especially with the way the media had covered the discovery and played up hopes of the oil find being the saviour to all economic problems. In theory, natural resource abundance could promote growth as a resource boom boosts economic development through more investments in economic infrastructure and quick human capital development in an occurrence known as the "big push" theory (Iimi, 2006). Essentially, an application of this theory results in discovery of a natural resource becoming an important spur for rapid development in poorer countries (Sachs & Warner, *The Big Push, Natural Resource Booms and Growth*, 1999).

Despite this theory however, Ghanaians and the entire world have been witnesses to the poor standards of living of citizens of countries like Nigeria and Angola in spite of their resource abundance. This phenomenon, known as *the resource curse*, is explained based on extensive studies that have demonstrated that countries with abundant natural resources tend to develop at a slower rate than other resource-poor countries due to a myriad of factors (Sachs & Warner, 1997).

However, after the initial euphoria of the find had died down, one question that had been on the minds of most Ghanaians is how much control did the Government, and in effect, the nation actually have of the resource, especially with the dominance of foreign companies in the industry? In

2011, an extensive nationwide survey jointly conducted by the Youth Network for Human Rights and Democracy and Friedrich-Ebert-Stiftung, a youth capacity building organization and a political not-for-profit organization respectively, showed that a majority of the population believed that non-Ghanaians will profit more from the production of oil than Ghanaians would (Youth Network for Human Rights & Democracy; Friedrich-Ebert-Stiftung, 2011). This belief was compounded by the lack of easy accessibility and apparent mystery which had shrouded the details of contracts awarded to foreign multinationals in the upstream sector (Youth Network for Human Rights & Democracy; Friedrich-Ebert-Stiftung, 2011).

Civil society groups in Ghana began mounting pressure on the government to develop a legal and regulatory framework to protect the interests of the nation and its citizens and publish the full details of agreements between the country and the foreign multinationals exploring the resource (Gyimah-Boadi & Prempeh, 2012).

It however did not take very long for Ghanaians and the Government to realize that the oil and gas industry is a very capital intensive one, which did not employ as many people as expected. Therefore in a bid to ensure that the resource curse is avoided, maximize and extend the benefits of this extractive resource to various sectors of the economy and ensure that Ghanaians benefit from the oil led to the adoption of a "Local Content Policy (LCP)". By definition the local content in the oil and gas industry is the "added value brought to a host nation through the activities of the oil and gas industry" (IPIECA, 2011).

A policy is a set of decisions which outline what a government ministry or agency desires “to achieve and the methods and principles it will use to achieve them”. A policy document in itself is not legislated but will often identify new laws that will be needed to achieve its goals. Laws or legislation on the other hand, are standards and procedures which are guided by policy and must be followed. In other words, policies set out goals and objectives which may make it necessary for laws to be put in place to achieve them.

To enforce Ghana’s policy and lend it more credence, a Legislative Instrument (LI) has been passed into law by Ghana’s Parliament, attempting to gradually increase local control and reap long term benefits of the oil resource. This legislation also includes various regulations that lay out the rules and procedures to follow when implementing programmes to comply with the law.

A note of caution is in order here because an LCP is not necessarily a panacea for solving the ills that can befall a newly oil-rich economy. In the West African sub-region, specifically in Nigeria, despite the existence of a local content policy, many of its citizens still do not enjoy the benefits of this natural resource. What can Ghana do differently to ensure that its citizens actually benefit from its rich oil and gas reserves as the legislation spells out? The point of this paper therefore is to evaluate the local content legislation, talk to various stakeholders implementing<sup>1</sup> the

---

<sup>1</sup> Implementation refers to all of the processes focused on turning the ideas expressed in the policy and the legislation transformed into behaviour and expressed as action.

legislation and access how effective<sup>2</sup> the legislation will be in achieving the purpose for which it was passed.

## **1.2 Facts about Ghana's Oil**

In 2004, the Government of Ghana sold offshore oil exploration and production licences (or blocks) to various international companies (Kastning, 2011). In 2007, a consortium of companies led by Kosmos Energy struck substantial quantities of high-grade, high-quality oil between the Deepwater Tano and West Cape Three Points blocks (Gyimah-Boadi & Prempeh, 2012).

The fields were named the Jubilee Oil Field, and since then, other exploration activities have discovered substantial quantities of the resource also known as "black gold" in other surrounding fields (Kastning, 2011). Overall, the country's current reserves are estimated at about 600 million barrels, contributing about \$20 billion of revenue over the next 20 years, from direct revenue, corporate taxes and royalties; an average of US\$1 billion annually (Gyimah-Boadi & Prempeh, 2012). When oil production began in December 2010, Ghana's economy recorded one of the highest growth rates in the world, at 15%, in 2011 (KPMG, 2013). In 2013, oil and gas had contributed close to \$2 billion Ghana's GDP since 2011 (Ghana Statistical Service, 2013).

---

<sup>2</sup> Effectiveness, for the purposes of this paper, is the outcome expected from the legislation to make the desired impact.

By global and even regional reserves, Ghana's reserves are very modest, as evidenced by Tables 1.1 and 1.2 below (Gyimah-Boadi & Prempeh, 2012). In sub-Saharan Africa, compared to Nigeria's 37.2 billion barrels of oil representing 2.2% of global reserves, and Angola's 12.7 billion barrels, representing 0.8% (BP, 2013), Ghana's find is a tiny fraction. Nevertheless, for country of 25.9 million people with a nominal GDP per capita of US\$1,563, it is a very substantial find (Ghana Statistical Service, 2013) (Gyimah-Boadi & Prempeh, 2012).

**Table 1.1 Top 10 Largest Countries by Proven Oil Reserves<sup>3</sup>**

<b>Country</b>	<b>Number of Barrels (in billions)</b>	<b>Percentage of total world reserves (%)</b>
<b>Venezuela</b>	297.6	17.8
<b>Saudi Arabia</b>	265.9	15.9
<b>Canada</b>	173.9	10.4
<b>Iran</b>	157.0	9.4
<b>Iraq</b>	150.0	9.0
<b>Kuwait</b>	101.5	6.1
<b>United Arab Emirates</b>	97.8	5.9
<b>Russian Federation</b>	87.2	5.2
<b>Libya</b>	48.0	2.9
<b>Nigeria</b>	37.2	2.2

(Source: BP Statistical Review of World Energy, 2013)

<sup>3</sup> Proven oil reserves are generally taken to be those quantities that geological and engineering information indicates with reasonable certainty can be recovered in the future from known reservoirs under existing economic and operating conditions. Reserves include gas condensate and natural gas liquids (NGLs) as well as crude oil.

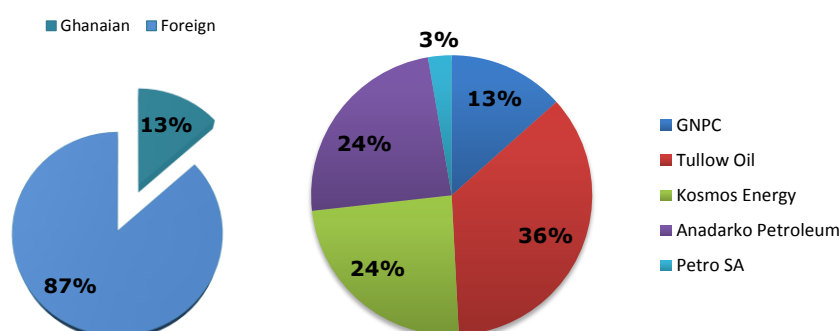
**Table 1.2 Top 5 Largest African Countries by Proven Oil Reserves**

Country	Number of Barrels (in billions)	Percentage of total world reserves (%)
Libya	48.0	2.9
Nigeria	37.2	2.2
Angola	12.7	0.8
Algeria	12.2	0.7
Egypt	4.3	0.3

(Source: BP Statistical Review of World Energy, 2013)

Currently, Ghana’s stakes in the Jubilee Field are held by the Ghana National Petroleum Corporation, holding 13.4% (GNPC, 2014). This is a minority stake compared to Tullow Oil’s 35.78%, Kosmos Energy’s 24.05%, and Anadarko Petroleum’s 24.05% (GNPC, 2014). The other remaining stakes are held by South Africa’s Petro SA at 2.72% (GNPC, 2014)<sup>4</sup>.

**Figure 1: Level and Breakdown of Ghanaian Ownership in the Jubilee Field**



(Source: GNPC, 2014)

<sup>4</sup> Tullow Oil is headquartered in London, UK. Kosmos Energy is an American oil and gas exploration and production company headquartered in Dallas, Texas. Anadarko Petroleum is an American oil and gas firm with headquarters in The Woodlands, Texas. Petro SA is South Africa’s national oil company.

### **1.3 Ghana's Local Content Policy Framework and Legislation**

In July 2013, Ghana's Minister of Energy, Hon Emmanuel Armah-Kofi Buah, laid the Petroleum (Local Content And Local Participation In Petroleum Activities) Regulations, 2013 (LI 2204) before Parliament for legislation, after being approved by cabinet on 6<sup>th</sup> June 2013 (Ministry of Energy, 2013). The framework was put together in 2011 by a team of government policy experts, who drew from the experiences of other producer countries (Ministry of Energy, 2011). The regulations were passed into law in November 2013, and became effective after a three month period in February 2014.

**Table 1.3 A Summary of Ghana's Local Content Expectations from the Start of Effectiveness or start of Petroleum Agreement**

<b>Item</b>	<b>Start</b>	<b>5 years</b>	<b>10 years</b>
1. Goods and services	10%	50%	60%-90%
2. Recruitment and training			
a. Management staff	30%	50%-60%	70%-80%
b. Technical core staff	20%	50%-60%	70%-80%
c. Other staff	80%	90%	100%

(Source: Petroleum (Local Content And Local Participation In Petroleum Activities) Regulations, 2013 (LI 2204))

The policy is expected to drive sustainable development of the oil and gas resource through: "the identification of stakeholders and their roles; adequate capacity building and training; indigenization and transfer of technology; infrastructural development; the creation of a conducive and thriving environment for optimal local participation; and the integration of



the oil and gas sector into the long-term development plan for the country” (Ministry of Energy, 2011).

The main objective of the Government is to use the contributions of the oil and gas resource to accelerate development and industrialisation in the economy as has been done in other producer countries. It is expected that the development of the oil and gas resource will bring “accelerated growth, poverty reduction and general prosperity to the people of Ghana”. This anticipation will need the active participation of Ghanaians in the oil and gas industry, through local content<sup>5</sup> and local participation<sup>6</sup>.

Currently, the amount of local participation in the oil and gas industry is limited in respect of technology, finance and human resources. As a result of these limitations, the involvement of foreigners is necessary to develop the sector (Ministry of Energy, 2011). It is therefore important that measures are put in place to systematically empower locals through the development of the right policies (Ministry of Energy, 2011). According to the Ministry of Energy, the policy is “the most reliable instrument to advance the stake of the people of the nation in the Oil and Gas industry in a sustainable manner” (Ministry of Energy, 2011). A more detailed framework is attached as Appendix 1.

---

<sup>5</sup> Local content as defined by Ghana’s policy framework refers to the quantum/ percentage of locally produced materials, personnel, financing, goods and services rendered to the oil industry and which can be measured in monetary terms.

<sup>6</sup> Local participation refers to the level of Ghanaian Equity Ownership.

## **1.4 Problem Statement**

Policy experts and policy researchers have long asserted that the mere fact that a policy is adopted or that there are regulations to back it does not translate into the successful implementation of that policy (Smith 1973; Love 2004; Calista 1994, as cited in Bhuyan, Jorgensen & Sharman 2010).

According to Love (2004), during program evaluations, the results often show that the policies and programs do not directly achieve their intended outcomes anticipated. This is mainly due to the fact that ideas that may look good on paper may fail in practical application or because they are either not used the way they are intended to be used or not used at all (Love 2004).

Again, many Africans in resource rich nations, specifically oil rich nations, have not seen their nations' oil wealth necessarily translate into the standard of living of the people (Mehlum, Moene, & Torvik, 2006; Iimi, 2006). This is normally attributed to the mismanagement of the oil revenues.

After only recently discovering oil, Ghana may be on the brink of further confirming this theory, following in the paths of fellow African counterparts, Nigeria, Equatorial Guinea, Angola and Gabon, if adequate steps are not taken to ensure that the gains from the resource trickle down to the grassroots and power economic development. Ghana does have some advantages on the afore mentioned African countries being the

only African country with a stable democracy and a vibrant media before finding first oil so the outcome of the oil find is ex ante- unclear.

Despite the fact a local content legislation is in force, history suggests that in most developing nations, passing a legislation does not necessarily translate into implementation (Smith, 1973; Callista, 2004; Love, 2004). Already, history does not support Ghana's implementation record, as Petroleum Law (PNDC Law 84), contains some Local Content Provisions which are not being implemented. According to Smith (1973), government policymakers often tend to develop broad, sweeping policies which lack the capacity for implementation. To confirm this, a quick research will show that most of these other nations like Nigeria which have symptoms of the resource curse already have a local content legislation. If this is the case, why then are they still under the resource curse, and why has the law not been effective in alleviating the poverty of the majority of citizens?

Another cause for concern is that according to the Petroleum Commission of Ghana, between June 2007 and December 2011, only 5% of the US\$16 billion raised for activities in the sector were sourced locally. This makes one wonder if the passage of the Local Content law can help increase the benefits of the oil find to the local population? Clearly if the LCP is to help in this regard, it has to be implemented correctly in order to be effective. The research problem here is to investigate how effectively the legislation can be implemented.

## **1.5 Research question**

Resource rich nations like Norway and Brazil have found ways to properly harness local content laws to the benefits of their oil and gas industries and their economies. Other countries like Nigeria and Angola have had challenges in successfully implementing their policies. Ghana, after recently passing its own local content legislation, is at the threshold of either going the way of the successful nations or the less successful ones. Considering this, the research question for this dissertation is:

1. How effective is the implementation of the Local Content Legislation in Ghana's Oil and Gas Sector in fulfilling intended goals and objectives?

## **1.6 Research objectives**

To help answer the research question, the objectives of this paper are:

1. To evaluate the alignment of the LC legislation with the intended goals and objectives.
2. To determine the practicality of the goals and objectives of the legislation.
3. To investigate how beneficial it will be to Ghanaians and the nation as a whole.
4. To make recommendations to the Government of Ghana and all stakeholders based on findings and lessons drawn from other countries.

## **1.7 Relevance and Significance of Study**

This research is significant in the following ways:

1. Existing literature has mostly focused on the tools and policy directions governments could use to gain value for their citizens. Very few literatures have assessed these tools and their implementation. This presents a gap this research will fill and also contribute to existing literature.
2. The Local Content Law has been recently passed and it is important that it is assessed to correct some shortcomings that might have been overlooked in the formulation and legislation passage stage, before it goes into full force and before some costly mistakes are made.
3. This research will also serve as a reference point for other African and developing countries that have found oil but are yet to pursue local content strategies.
4. It will also provide vital information to policymakers and lawmakers in Ghana and abroad.

## **1.8 Outline of study**

This dissertation is divided into five distinct chapters.

**Chapter 1:** The introductory chapter to this dissertation gives an overview of the research, including the research question and research objectives. It also gives a background of Ghana's oil and a brief overview of Ghana's Local Policy Legislative Instrument.

**Chapter 2:** Chapter 2 of this research explores existing literature on the subject of the local content policies in oil and gas and how beneficial or otherwise they have been to countries that have implemented them.

**Chapter 3:** The third chapter explains the research design and methodology used to collect data and answer the research question.

**Chapter 4:** Chapter 4 will discuss the findings of the data collected, analyses it and draws on links and patterns found.

**Chapter 5:** This dissertation concludes with recommendations drawn from the data analysis to all stakeholders in the oil and gas industry.

## **Chapter 2: Literature Review and Analysis**

### **2.1 Introduction**

The oil and gas resource, like every other resource, is finite. Nations are increasingly becoming preoccupied with improving the chances for local businesses to participate in the exploitation of resources, especially resources in the extractive industries like mining and oil and gas. This is because of a global belief that the resources in these industries drive economic growth and can help lift a nation out of poverty (Esteves & Barclay, 2011). To obtain the greatest benefits for their countries, policymakers design various policies to guard their nations' interests, often themed with increasing local content (Tordo et al., 2013).

The concept of local content is not entirely new, however, local content development in the oil and gas industry is a concept which is attracting a lot of academic attention in recent years (Kazzazi & Nouri, 2012; Ado, 2013). Depending on the point of view of scholars, industry experts, policymakers and commentators, there are varying definitions for the concept of local content. Much debate also exists on the extent to which and ways through which they bring benefits to host nations. There are also some very strong arguments against the use of Local Content Policies (LCPs) to drive sustainable economic growth and development.

The use of incentives and performance standards by developed countries to influence economic growth and nurture various local industries has long been a trend (Tordo et al, 2013; Ado, 2013; Warner, 2011; Veloso, 2006). Several nations such as Canada, in their automobile industry,

Australia, in their automobile and tobacco industries, and several European nations in their automobile and electronics industries have employed the use of policies such as content requirements, or export performance to their advantages (Ado, 2013; Veloso, 2006). Throughout literature, countries like the United Kingdom, Norway, Brazil, Malaysia and Trinidad and Tobago are often touted as local content successes in the oil and gas industry (Tordo et al., 2013; Ado, 2013; Kazzazi & Nouri, 2012; Ovadia, 2012; Ihua et al., 2009; Dawe, 2007). Evidently, the use of these policies and their proper implementation have benefitted these nations and played a role in their industrial growth and economic development. How can Ghana, as a new oil-producing nation, harness its newly passed legislation to the benefit of the nation?

To answer this question, the literature reviewed for this chapter seeks to gain a deeper understanding of the concept of local content policies and why they are used and the extent to which they improve the livelihoods of citizens in countries where they are employed. It will finally look at some arguments that have been made both for and against local content policies.

## **2.2 What are Local Content Policies?**

The history of Local Content Policies (LCPs) in oil and gas is traced to the 1970s, where it was introduced by the United Kingdom to exploit its North Sea resources (Tordo et al, 2011). Since then, LCPs have evolved from focusing on increased local content in a particular industry to trickling down benefits to other sectors of the economy (Tordo et al., 2011: 8).



The work of economist, Gene Grossman (1981), is widely considered as the foundation for 'academic literature in the field of local content' (Veloso, 2006; Kazzazi & Nouri, 2012; Ado, 2013 : 138). His work looked at how content protection and preference affects resource allocation, relating it to market structure and the domestic goods industry. According to Grossman, governments, concerned with the survival of firms in the intermediate sector, place local content requirements to increase the domestic output in that sector (as cited in Veloso, 2006).

Researchers and industry players have various definitions for local content, largely depending on the industry and the context in which it is being referred (Ado, 2013; Tordo et al., 2013; Kazzazi & Nouri, 2012). Local content expert Michael Warner defines local content as the "composite value contributed to the national economy from the purchase on bought-in goods and services" (Warner, 2011:9). Tordo et al. (2013) also define local content as the extent to which production in the extractive industry sector adds value to other industry sectors through its activities.

Wells and Hawkins (2008) suggest that local content can be defined along two main approaches, the enterprise approach, which focuses on the level or percentage of local ownership of a business involved in the production process, where local means national or any geographic and administrative area. The second approach is the value added approach, which focuses on the value added to goods and services in the production process (Wells & Hawkins, 2008). Contrary to this assertion, other studies are of the view that the level of local ownership and the location of a business may mean

two different things, as a business could be based locally but be foreign-owned, or locally based and owned, which in each case, will bring different benefits to the economy (Tordo et al., 2013).

Heum et al (2003), in a study, jointly commissioned by the Nigerian and Norwegian governments, that explored viable policy approaches to a Nigerian Local Content defined local content as value addition activities taking place in Nigeria. They also defined a Nigerian company as one with ownership and/or infrastructure to be able to manufacture and provide services in Nigeria. This definition, clearly suits the enterprise approach. However, their research concluded that, it is more important that local content is seen in terms of the value added in the host country to the local staff, the local materials, and local services and facilities, than in terms of the ownership or location of a company performing those value-added services (Heum et al., 2003). This is because, building capacity of the local people is more sustainable in the long run than quantifying the level of ownership, as this equips the people to do more for themselves (Tordo et al., 2013; Kazzazi & Nouri, 2012).

Kazzazi and Nouri (2012), who also advocate the value-added approach, base their findings on the development of a conceptual model designed to help understand the concept of local content and its development in the oil and gas sector. This model is based on a set of factors related to each other; local policies, local infrastructure, local environment and local capability (Kazzazi & Nouri, 2012). Their findings showed that the promotion of local content varies between countries, depending on the political, economic and social development status of a country. In their

study, public and industrial policies were found to have a direct effect on the local macroeconomic and business and investment environments and local infrastructure; information technology, local companies needs, local standards, social, educational, institutional and business development infrastructure. Local policies were also found to have a causal effect on the capabilities of local companies, on education, on skills and expertise development, research and development capabilities and on technology and know-how transfer capabilities (Kazzazi & Nouri, 2012).

In a study on enhancing the benefits of local content, Esteves and Barclay (2011) underlined the widespread belief that promoting local content has self-seeking benefits for both corporations and communities alike. By drawing on a previous study that designed a good practice local procurement guide for the Australian mining, oil and gas sectors, this impact assessment research showed that, from a corporate perspective, local content is seen as giving the corporation social licence to operate by giving the communities a stake in the project and ensuring that the companies have access to a reliable supplier nearby, thereby increasing their value chain efficiency and giving them a competitive advantage in the eyes of the community and the government (Esteves & Barclay, 2011:1; Warner, 2007:5). For the communities, local content development gives the members of the community the opportunity to participate in the development of a resource they could not have funded otherwise, and permitting the benefits of the resource to flow into the communities (Esteves & Barclay, 2011).

Despite the divergent views on how to define and approach the development of local content, all definitions concur that the successful development of local content should result in some form of value addition to the country. As the Chairman for the Nigerian House of Representatives Committee on Petroleum(Upstream), Tam Brisibe, put it, "local content means different things to different people...the common denominator is value addition in the country" (Ogbodo, 2008; as cited in Ihua et al., 2009).

### **2.3 Why Local Content?**

Developing nations with rich resource reserves are desperate to escape the resource curse phenomenon (Warner, 2011). Governments all over the world have at different points in time employed different interventions and strategies to prevent various economic disasters from occurring and increase the gains of a resource in their countries (Ado, 2013; Esteves et al., 2012; Veloso, 2006). Paramount among them being the desire to escape from the 'resource curse' and market failures (Ado, 2013; Tordo et al., 2013; Ihua et al., 2009).

The oil and gas industry, as a capital intensive industry also does not provide many employment opportunities as compared to other industries. Consequently, the rationale behind adopting local content policies is to create links that enable the profits of the resource to flow to other sectors (Tordo et al 2013). Hirschman (1958, as cited in Tordo et al 2013) identifies three types of sector links the industry could create; backward links, which create demand for the output of one industry to be used as input for another industry; forward links, which supply the output of an

industry as input for another; and financial links, which are taxes paid by the industry to the government and can be saved or spent on other goods and services. Therefore, an increase in the output on one industry can have ripple effects on other industries through an increase in demand for products, or an increase in its output (Hirschman 1958, as cited in Tordo et al 2013).

Closely related to the above, many also argue that governments are concerned with passing LCPs to achieve two main objectives; to increase the value-added to domestically produced goods vis-à-vis imported goods; to stimulate local employment by increased domestic labour (Tordo et al., 2013; Warner, 2011, Esteves & Barclay, 2011; Ihua et al., 2011; Heum, 2008; Veloso, 2006; Heum et al., 2003) . Invariably, these two objectives are linked, as requiring companies to produce domestically will require that that labour is increased and this will most likely be domestic labour (Tordo et al., 2013).

Nevertheless, as Esteves et al., (2012) point out, various stakeholders also have their own interests in seeing the success of LCPs. Oil, Gas and Mining companies also want to be seen as good corporate citizens and in the long run, maximise shareholder returns (Warner, 2007). Civil society organizations are also interested in the success of LCPs so their special interests are protected and to see local economic development (Esteves et al., 2012). International NGOs, who are also a part of civil society may also have their brands to protect and as such, wish to see the success of LCPs (Esteves et al, 2012).

## **2.4 Arguments for and against Local Content Policies**

There is a great divide among many economists and researchers about the benefits of local content policies, with many people taking one side of two extremes. For Veloso (2006), the little empirical evidence available to support both sides of the divide suggest that impact of LCPs are mixed (Veloso, 2006). The main arguments for enacting local content requirements fall under three broad categories; to increase value-added, to correct market failures and externalities and for social reasons (Tordo et al., 2013). On the other hand, arguments against LCPs can be grouped into three categories; the misalignment between policy instruments and objectives; misallocation of resources and or inefficiencies and; international regulations (Tordo et al., 2013).

Protecting infant industries is one of the most important arguments given for introducing local content requirements into various industries (Ado, 2013). Supporters of this position argue that local industries in developing countries are not as mature as their multinational counterparts who may have been in the industry longer and enjoy economies of scale (Warner, 2011). They therefore argue that these domestic companies are given some sort of shield to enable to them catch up and compete effectively with their international competitors (Warner, 2011). As such, LCPs will enable them partner with the bigger companies and learn from them, as is evident in Norway's model (Tordo et al., 2013; Heum, 2008).

Closely related to this argument is the market power argument, which is of the view that big multinational companies usually supply the oil and gas industry and as such, have the market power to put domestic firms at a

disadvantage in the value chain (Tordo et al., 2013). This argument is different from the infant industries argument in the sense that by putting in place local content requirements, the infant industry may be at an advantage, but to check the market power of multinationals, LCPs are specifically introduced to deal with the issue, for example, in the Australian LCP, there is a requirement to demonstrably not disadvantage any domestic suppliers (Warner, 2011).

Another major argument for using LCPs is the argument that they can be used to support social objectives like employment and also be used as social compensation for the communities where the resource is being extracted (Ado, 2013; Tordo et al., 2013). Ogri (2001) argues that the sheer nature of oil and gas extraction activities is prone to social and economic disasters (as cited in Ado, 2013). This is because members of the communities may temporarily or permanently lose their sources of livelihood, and as such need to be adequately compensated through LCPs (Tordo et al., 2013; Warner, 2011). Using LCPs in this way may require companies to give consideration to suppliers who source materials and labour from the local community and may also require that a percentage of locals are given employment (Tordo et al., 2013; Warner, 2011). In this vein, LCPs can be seen as an 'extension of Corporate Social Responsibility (CSR)' (Ado, 2013:6).

It can also be argued for that content requirements could be used to achieve political harmony by bring the interest of the government in line with the interests of the community (Ado, 2013; Warner, 2011). For example, as concluded in Ihua et al. (2011), local content laws are

succeeding in preventing conflicts in the Niger Delta area (Ihua et al., 2011). Warner (2011) also underlines this point by arguing that local content rules are bringing harmony to post-war Liberia and Sierra Leone (Warner, 2011).

On the contrary, many economic arguments consider the use of LCPs as protectionist and decreasing the welfare of citizens in the host nations in the long run. Grossman (1981), the pioneer of LCP literature, in his study established that due to the lack of technological capability, the cost of goods and services produced by a local company will be greater than the international price, unless the local company was sourcing its materials from abroad (Grossman, 1981). The introduction of an LCP to correct this failure, will result in an increase in domestic welfare because of the increase in domestic output. However, this will only last temporarily. The cost of local materials will still be high, causing the price of the final good to be high as well, and decrease the quantity sold, resulting in a decrease in domestic welfare and welfare losses in the long run (as cited in Veloso, 2006). However, as Veloso (2006) argues, this model assumes well-behaved costs in an efficient market, with inefficiencies arising solely from market power. He argues that local content policies are enacted in economies with market conditions far from equilibrium and as such, the model will not hold for many markets (Veloso, 2006).

The misalignment argument against local content policies believes that there may be different ways to tackle externalities and market failures other than using content requirements (Tordo et al., 2013). Policymakers need to first determine if indeed there is an externality and if there are



other ways to correct them before using LCPs. They make this argument based on the fact that if there are externalities due to the inadequate training of locals to work in the industry, a more approach will be to look at that country's educational system to determine shortfalls rather than using policies, because in the long-run, locals will still not have the necessary training, and the policy will be deemed a failure (Tordo et al., 2013). Tordo et al., (2013) suggest that in this case, incentives for training will be a better alternative to LCPs. Also using the misalignment argument to counter the market power argument, Tordo et al., (2013) argue that there may be inadequate market supervision and competition regulation and in this case, content requirements may not be the optimum answer to resolving this market failure. Therefore, regulations should ensure that there is free and fair procurement opportunities for domestic suppliers.

In 1995, the World Trade Organisation put in place the Trade Related Investment Measures (TRIMs), as a response to concerns from some member countries about the interruption in their foreign investments as a result of protectionist measures by developing countries (Ado, 2013). The TRIMs, which apply to all WTO members, prohibit member countries from instituting policies such as local content policies and other protectionist policies (Ado, 2013; Warner, 2011). There are however exceptions to this rule for transitioning and least developed countries. Ghana is considered a developing country. Ado (2013), takes a tough stance on this argument by arguing that the developed countries like the United States who proposed this as a WTO agreement had benefitted from local content

requirements in the past and in fact, relied on it to build their now developed countries (Ado, 2013).

## **2.5 Summary of Literature**

In conclusion, literature on the definition of local content draws varied opinions and answers. However, all experts seem to agree on the fact that the use of LCPs should in one way or the other bring value addition to the country it is being introduced in. Governments also pass content requirements to increase the benefits of a resource to their citizens and avoid the resource curse. The arguments both for local content policies buttress the point that LCPs if properly spelt out could go a long way to benefit a nation. On the other hand, the arguments against local content policies must be considered and measures taken to avoid becoming victim to them. The benefits of LCPs should not be sought for the short term because to reap benefits for future generations, LCPs are strategic policies which need adequate time to mature and bear fruits.

## **Chapter 3: Methodology**

### **3.1 Research Design**

This chapter discusses the research design for this study. Research design is essentially a plan for detailing the methods and procedures for collecting and analysing the required information. A good research design should answer the research question “as unambiguously as possible” (NYU, n.d.: 9). The research question for this paper is an enquiry into how well suited Ghana’s local content legislation in oil and gas is to provide the desired outcomes and make the right impact. This research is therefore a descriptive one to explain and measure the effectiveness of the legislation. It is expected that the insights given will add immeasurably to knowledge and shape the nature of how the legislation is further implemented (NYU, n.d.).

Based on the research type, a cross-sectional design type was chosen as the best method to answer the question. A cross-sectional design is one that involves collecting data from different sources that represent part of a whole to determine patterns (Bryman & Bell, 2007:55). This suited the purposes of this research because the oil and gas industry is fragmented into many different sections that make part of the whole industry. Research is said to have used qualitative methods when data is not recorded numerically (Trochim, 2005). Qualitative data was collected as both primary and secondary data. Primary data was gathered in the form of in-depth one-on-one semi-structured interviews with various stakeholders in the upstream oil and gas industry. Secondary data

gathered was in the form of data collected by other researchers. These methods are explained further below.

## **3.2 Research Scope**

### **3.2.1 Target Population**

The target population for this study are various stakeholders in exploration and production sector, also known as the upstream sector, of the oil and gas industry in Ghana. This is because the local content regulations directly target players in that sector.

### **3.2.2 Description of Study Area**

The study focuses on the oil and gas industry in Ghana. This industry comprises of three sub-sectors; upstream activities, midstream activities and downstream activities. The upstream sector deals with the exploration, development and production of oil and gas from oil or gas fields. The midstream sector involves the transportation of the resource from the fields to a refinery or gas processing plant. Downstream activities focus on the refinement of crude oil and the distribution of the petroleum products to consumers.

## **3.3 Description of the Sample, Sub-samples and Sub-sample Sizes**

The sample area for collecting primary data was Ghana. The sample for secondary data was not limited to any part of the world. The primary sample comprised of the Petroleum Commission of Ghana, as the implementers of the local content legislation and the regulators of the upstream petroleum environment in Ghana, and other stakeholders in the

oil and gas industry. This research focused on the upstream petroleum industry because that sub-sector is the direct target of the legislation.

Because the design type was a cross-sectional one and required a cross-section of players in the sector, the sub-sample included an International Oil Company (IOC), a local SME, a policy expert, a foreign supplier to the industry, and the implementers. The multinational company was chosen based on their current level of activity and stakes in the industry. The local SME was selected because they are one of the few Ghanaian companies providing engineering services in the industry. The foreign supplier was selected based on the kind of supply services they provide to the industry. The policy expert was chosen because of their organization's expertise and outspokenness in oil and gas policy matters in Ghana.

### **3.4 Data Collection**

#### **3.4.1 Research Instruments**

The research instrument used to collect primary data was interviews. Interviews, specifically semi-structured interviews, were chosen because this data collection procedure allowed the flexibility to explore themes that dug deeper to answer the research question. This method also allowed new ideas to be brought up and explored during the interviews. The different sections of the sample required different interview guides to answer the research question. These different guides had similar themes. All interviews lasted for an average of 45 minutes. Samples of the consent form and interview guides are attached in Appendix 2 to Appendix 5 respectively.

### **3.4.2 Data Collection Procedure**

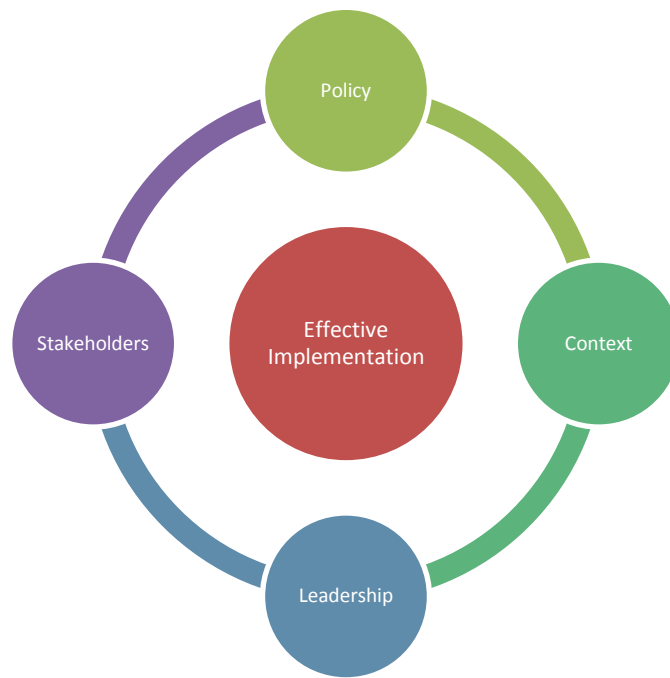
The data collection procedure used for this paper was a combination of purposive stakeholder sampling (primary procedure) and snowballing. A sampling procedure is said to be purposive when one's own judgement is used to select respondents who will best enable the answering of the research question (Jewell & Hardie, 2009:62). In other words, in purposive sampling, "strategic choices" are made about who, where and how to conduct the research (Palys, 2008:697). The specific kind of purposive sampling used in this research was stakeholder sampling. Stakeholder sampling involves "identifying who major stakeholders are who are involved in designing, giving, receiving or administering the programme or service being evaluated, and who might otherwise be affected by it" (Palys, 2008:697). Purposive stakeholder sampling was used for this research because the local content legislation specifically targets the oil and gas industry and being such a closed loop industry, strategic choices had to be made to select companies whose operations are directly affected by the legislation. This sampling procedure is also very useful in policy analysis and evaluation research contexts.

Snowball sampling is used where there are difficulties identifying and contacting members of the research population (Jewell & Hardie, 2009). Even though it was easy to identify members of the population, there was difficulty in contacting them and I had to rely on the first few contacts to recommend and make introductions to other contacts.

### **3.5 Data Analysis**

Data analysis is the process used to interpret data collected and make meaning out of it (LeCompte and Schensul, 1999 as cited in Kawulich, n.d.). According to Patton (1987), there are three stages of analysis: data are organized, data are summarized and categorized and finally patterns and themes are identified and linked (as cited in Kawulich, n.d.). The approach used to analyse the data collected for this research is content analysis. Content analysis is the "systematic analysis of text documents, to identify patterns in text" (Trochim, 2005). Data analysis for this paper was by doing a thematic analysis of text. Data was organized into various themes from field interviews and secondary research, patterns were identified and links were drawn with literature reviewed. The main tool used to identify themes was adopted and modified according to the Policy Implementation Assessment Tool, by Bhuyan, Jorgensen & Sharman (2010), which suggests that effective policy implementation is a relationship between several dimensions. For this research, the themes used in analysis are

- i. The alignment and content;
- ii. Social, political, and economic context;
- iii. Leadership for policy implementation and;
- iv. Stakeholder involvement in policy implementation



### **3.6 Ethical Considerations**

Before the beginning of data collection, a Human Subjects Review application was put through to the Ashesi Human Subjects Review Board and approved. This was to ensure the safety of all human subjects used for the study. A consent form with details of research procedures was presented to all participants and signed before interviews were conducted. Also, to protect the integrity of the data and ensure confidentiality, the identity of the respondent was not attached to the data collected. All primary data was destroyed after analysis.

Validity in research refers to the degree to which the researcher approximates the truth (Trochim, 2005). There are four validity types and each address the certain questions to determine if research is valid. Conclusion validity addresses the question “Is there a relationship between cause and effect”? In this paper, the main variables are the



successful implementation of the legislation and the effectiveness. These represent cause and effect respectively. The second type of validity, internal validity, addresses the question "Is there relationship causal"? Construct validity questions "Can we generalize the constructs"? The final type is external validity, and it addresses the question, "Can we generalize to other populations?" The research answers the first three questions however, a threat to external validity lies in the timing of this research (Trochim, 2005).

This study was done right after the passage of the law, as such; there has not been much time to assess its implementation so far. This study may therefore not be able to generalize to other populations. However, it could provide very useful insights for the future direction of the legislation and provide ways to improve its implementation before some costly mistakes, if any, are made.

Research reliability is the degree to which a research "measure is consistent or dependable, and would give the same results over and over again, all other things being equal" (Trochim 2005). Reliability was ensured in this study by asking particular questions in different ways to elicit similar responses.

### **3.7 Limitations**

Like any study, this research suffered some challenges. A limitation anticipated was the withholding of company information with respect to the ways in which the LCP is being implemented, as this was regarded as confidential information. There were also major challenges in scheduling interviews because of the busy schedules of executives in the sample. The

nature of the analysis of this research required that all data from interviews are transcribed and analysed for themes and trends, however, some respondents were unwilling to be recorded for this study.

## **Chapter 4: Data Findings, Discussion and Analysis**

Undoubtedly, the success of any policy or legislation depends how well it is carried out. With the assumption that policy objectives are in line with their intended outcomes, the weight of the success of the policy rests on the implementation. This chapter presents the findings from data collected from secondary research and primary data collected from interviews with five stakeholders in the oil and gas industry in Ghana. The chapter also identifies common trends in data collected, and analyses it by linking it to literature reviewed. The first part of this chapter assesses the alignment of LI 2204 with intended goals and objectives. The second section determines the practicality of the local content legislation in realizing the desired intended goals and objectives of adding the maximum value to the Ghanaian economy and citizens. The third section addresses the research objective that seeks to investigate how this particular legislation will be of benefit to Ghanaians. The chapter uses secondary data collected to highlight how other nations have implemented their local content strategies. The fourth objective is addressed in Chapter 5.

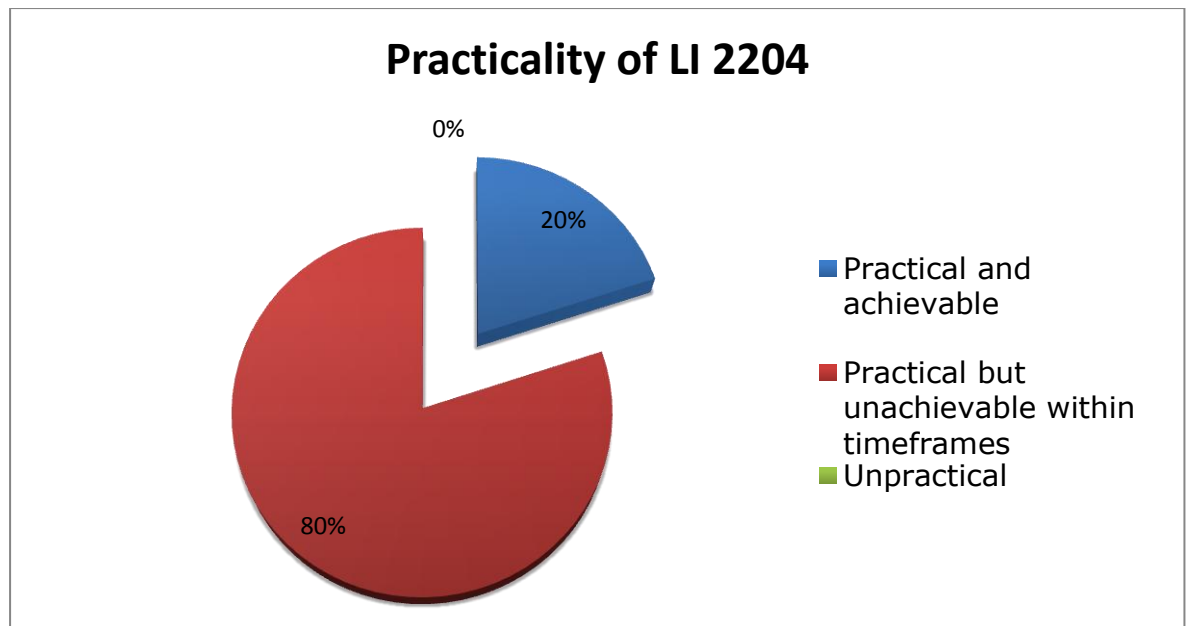
### **4.1 Determining the Alignment of the Local Content Legislation**

In designing local content requirements, governments and policymakers need to ensure that there is indeed a need for content requirements and the strategy chosen to address the shortcoming corrects it adequately (Tordo et al., 2013).

Trends from data gathered indicate that despite the fact that majority of the stakeholders interviewed believe that LI 2204 addresses key local

content issues with measurable outcomes, they expressed less optimism about the targets being achieved within the timeframes specified. A summary of responses are in Figure 4.1 below.

**Figure 4.1: Major trends in responses on alignment of LI 2204 with goals and objectives**



(Source: Field Data, 2014)

As Tordo et al (2013:27) point out; "the imposition of minimum local content targets may not produce the optimal outcome. The problem may be a lack of adequate competition regulation and/or market supervision. Therefore, regulations that try to ensure full, fair, and reasonable access to procurement opportunities for domestic suppliers might generate outcomes that are closer to the optimal solution".

Countries continue to depend on setting "ambitious" local content targets in the upstream petroleum sector, along with requirements of domestic preference of goods and services as a means of developing national

industrial capabilities (Tordo et al., 2013:57). All focus seems to be turned to achieving local content levels, with little regard for how to increase the competitiveness, capabilities and skills of the local industry and promote sustainability (Tordo et al., 2013).

During the data collection process, it was revealed that not all key stakeholders agree on the goals and strategies being used to achieve local content. A better way of measurement would be the measurement of absolute values instead of measurement in percentages. For example in terms of employment, respondents rationalized that being a small industry compared to other oil producing nations like Nigeria and Angola, it would be more meaningful for a country to set an objective to achieve a 100,000 jobs in the industry with 50% local content than to aspire to achieve 100% local content with a total of 50,000 jobs. In other words, the focus should be on creating the largest number of jobs for Ghanaians, rather than on percentages. Tordo et al (2013) point out that setting quantitative targets and quotas for recruitment, training and progress is more consistent with mature upstream regimes. They attributed the setting of quantitative targets by less mature markets as possibly stemming from social pressures and expectations.

There seems to be some disconnect between some of the targets of the legislation and reality which will make it almost impossible to achieve some of the targets. For instance in Schedule 2, Part 2, which specifies the specific targets to be achieved, item 2.8, despite clearly specifying that drilling risers cannot be manufactured in Ghana, at least not yet, specifies that within 10 years, 100% of risers used in the industry should

be locally sourced and made. Though not impossible to achieve, it may take more than 10 years for a local company to specialize and competitively manufacture this equipment. If this happens to be the case, the Government, as the largest financial beneficiary may also be the largest funder of any cost over-runs due to the lack of competitiveness.

Furthermore, Schedule 1, which specifies the targets to achieve in Feed, Detailed Engineering and Other Engineering Services, requires that between 60% to 80% of these services be performed by a local company. Currently, there is only one wholly Ghanaian owned company performing those services. Being such a capital intensive industry, the barriers to the industry are quite high. There are several more such disconnect in the legislation. This makes the aspirations to achieve those targets quite unrealistic but not impossible.

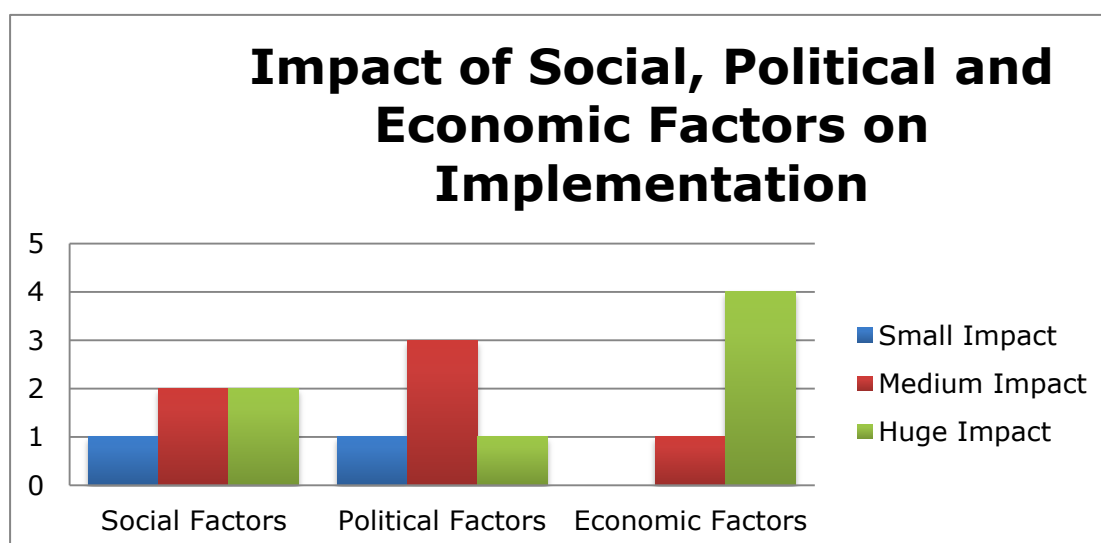
Moreover, the regulations in LI 2204 do not apply to foreign companies already in the industry. This is because Petroleum Agreements previously signed for periods of 20 years have stabilization clauses which make them immune to changes in industry regulations for the duration of their contracts. The laws of Ghana are not retroactive and therefore do not apply to prior agreements. This makes it difficult to enforce the regulations on several companies already in existence. Despite this case, most of these companies are practicing local content strategies with detailed local content plans incorporated within their strategies.

## 4.2 Investigating the Practicality of the Legislation

### 4.2.1 Social, Political and Economic Context

Respondents were of the view that the current social, political and economic context of the country does not support the successful implementation of the local content legislation. Social issues such as unemployment and poverty and political factors such as changes in government and discretionary powers exercised by the acting Minister of Energy in the legislation were identified as potentially affecting the successful implementation of the local content agenda. Economic realities such as the size of Ghana's market compared to other oil and gas producing nations and the competitiveness of local companies were also considered to impact overall legislation outcomes. However, the degrees to which these will have an impact varied from the points of view of the various stakeholders. This is summarized in Figure 4.2.1a.

**Figure 4.2.1a Degrees of Impact of Social, Political and Economic Factors**



(Source: Field Data, 2014)

## **Social Factors**

Total data analysed showed that social factors are moderately likely to affect the implementation of the LC legislation. However, stakeholders did not believe threats from unemployment and poverty could have such a big impact with adequate monitoring. The issues identified as possibly arising are establishment of local companies by locals solely for the purposes of bidding contracts and projects at premium prices because of the allowance of the legislation for a 10% preference ceiling, and in turn passing them off to more competitive companies, thereby making a premium. Another way will be to have a company set up or having individuals present themselves to foreign companies as equity partners and fulfilling that requirement in the legislation. These methods may be employed to escape unemployment and poverty. They could cause some impact to the objective of the legislation to increase local content levels, and affect the effective implementation.

## **Political Factors**

The threats of political factors affecting the implementation of the legislation were deemed to be moderate according to the majority of data collected. Political factors such as change of government were considered as having minimal impact on the implementation to the legislation because of Ghana's democratic credentials over the years and the fact that the body responsible for implementation, the Petroleum Commission, is somewhat independent from the Government. Nevertheless, some stakeholders raised concerns over the seemingly excessive discretionary



powers given to an acting Minister of Energy to waive local content requirements in any case. This situation creates room for the perception of corruption. Also with the lack of transparency in the legislation of what criteria a Minister will use to waive LC requirements, multinationals bound by the Foreign Corrupt Practices Act of the USA and the UK Bribery Act 2010 may be hesitant to use this avenue to waive LC requirements. These acts prohibit US and UK officials respectively from bribery foreign officials or dealing with foreign officials in a manner that may be perceived as committing a bribe or being corrupt.

The World Trade Organization's agreements on Trade Related Investment Measures (TRIMs) and the General Agreements on Trade in Services (GATS), prohibit member countries from instituting local content requirements because these are anti-trade and discriminatory to free trade (Warner, 2010). There are however some exceptions for transitioning, least developed nations (Ado. 2013). As a middle income developing nation, the rules of the TRIMs and GATS apply to Ghana (Suleman, 2012). In spite of this, Ghana's Parliament still went ahead to pass the legislation. A threat to the implementation of the local content legislation in this case will be noncompliance of the legislation by a company using the excuse of Ghana's violation of the agreements (Suleman, 2012).

## **Economic Factors**

The current economic context of the country and the oil and gas industry is one that is not very favourable for local companies that are expected to be at the receiving end of the local legislation, and this may affect the effectiveness of the legislation. Economic factors such as the size of Ghana's market<sup>7</sup>, competitiveness of local companies, the lack of capabilities, technical know-how and lack of capital were discovered to be factors that could potentially hamper the effective implementation of the local content legislation.

The size of a market in a nation instituting local content requirements is a very important factor. Depending on how aggressive and ambitious the target requirements are, this factor determines if it is profitable for a foreign company to remain in a market or attractive enough for a foreign company to enter the market (Warner, 2011). The size of Ghana's market is a fraction compared to other markets like Nigeria and Angola. The requirements of the legislation, if followed to the letter make it obligatory for foreign companies to incorporate various levels of only locally made goods and services. Inabilities to follow the requirements lead to fines and in certain cases, imprisonment for offending companies, according to the legislation. For a company supplying engines and machines to power the oil rigs and drilling wells, this will mean that they have to produce these equipment in Ghana. Taking the case of a multinational company that

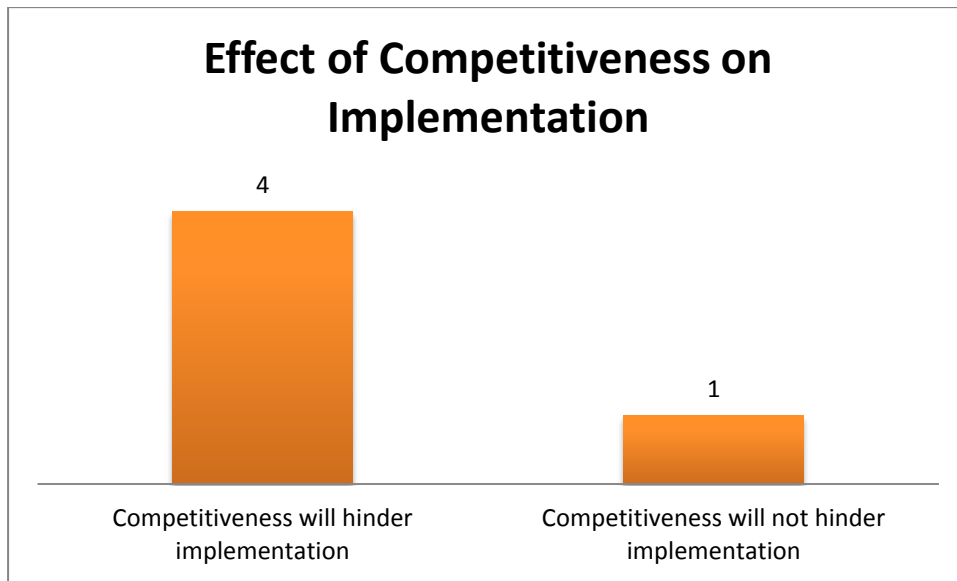
---

<sup>7</sup> Size refers to the overall revenues for service companies, as well as the frequency / predictability of contracts awarded.

produces these machines in only two locations in the world, it will not make business sense to set up a factory in Ghana to solely produce these because of the comparable size of the market. After a cost-benefit analysis, the conclusion may be to seek business in more favourable and attractive markets. With the Jubilee Field currently being the only actively producing field, Ghana does not have the size to mandate requirements as prescriptive as LI 2204. Based on the size of the market, foreign investors do not really favour local content requirements as this may mean an interruption in their investments and their returns (Ado, 2013). This may have an effect on the quality of investors and companies coming to Ghana.

According to Warner (2010), the “golden thread of procurement is the Competitiveness ‘Principle’ Award”, and this rule says that “Give preference to local contractors and locally manufactured materials and equipment so long as their performance, quality and time of delivery are competitive with international performance and prices” (Warner, 2010:5). Data gathered showed that local firms are not competitive enough to meet the demand of foreign companies who are expected to include local content in their operations. Competitiveness is the comparative ability “and performance of a firm or country to sell and supply goods and/or services in a given market” (Warner, 2010:4). Non-competitiveness of local companies places a premium on local goods and services, encouraging consumers to go for more competitive products (Grossman, 1981, as cited in Veloso, 2006).

**Figure 4.2.1b Competitiveness Responses**



(Source: Field Data, 2014)

There are real challenges and barriers to active SME participation and competition in the industry, despite the passage of the local content legislation. As already mentioned, the oil and gas industry is a very capital intensive one, and the lack of availability of funds is a major threat to entry for local companies. For those who are able to scale this wall and enter, they are soon faced with other challenges which threaten their ability to operate viably in technical operations. This places a premium on the goods and services they produce, as pointed out. Content requirements instituted to benefit them may do more harm than good. This is because with a preference for their goods and services, there is the possibility that they become over reliant and lazy and may never become competitive (Grossman, 1981; Veloso, 2006; Tordo et al., 2013). These may also result in overall welfare losses for the entire citizenry as costs incurred by companies are push on to them and they become worse off (Grossman, 1981).

Data also confirmed Esteves and Barclay's (2011) assertion that local content requirements have two-fold benefits for both companies and communities alike. It is in the interest of foreign companies in Ghana to incorporate local content, and most of them already have high levels of local content in terms of staff and suppliers and providers of non-technical goods and services. Data indicated that local capacity and competitiveness, if trained well, becomes cheaper and more cost effective for the buyers in the long run, allowing foreign companies to have easily accessible and cheaper supplies close to their value chain (Veloso, 2006).

Again, the nature of the industry requires highly skilled labour to undertake most jobs and the reality is that many local companies lack the technical know-how and capacity to undertake these projects. Even if able to break into the industry, local companies are unable to continuously fund the sophisticated equipment required to stay in the industry. When a local company is able to break these barriers, they may soon realize that there not enough local talent equipped to man the software and equipment. At some point in the oil and gas value chain, foreign expertise needs to be sought because there is just not enough local know-how and expertise to compete in the industry. This reality brings to bear the failure of the educational system to equip enough locals for the oil and gas industry. The answer to low local participation in the oil and gas industry may not be setting local content requirements but may go beyond that to require adequate training for an unprepared labour force (Tordo et al., 2013). The answer may even lie in making structural changes to a country's educational system to provide optimal outcomes (Tordo et al., 2013).

Despite the challenges, there are indications that, it has not all been bad news. Since discussions of legalising a local content policy began in Ghana, there has been an improvement in industry in terms of the reaction of IOCs toward local SMEs. Whereas before the response from bigger companies when approached for business was a lack of interest, now, there seems to be some consideration and some attention being paid to local companies, according to the personal experiences of the local SME studied for this research. IOCs are now more willing to select credible SMEs to do business with and at times, provide mentorship.

There has been more collaboration between IOCs, subcontractors and local companies and more joint venture partnerships. This may be attributed to the prerequisite in the law that requires foreign companies to have at least 5% local content when entering the market and give preference to local companies in the award of contracts. The SME has seen an increase in the number of staff 4 people to 14 people, including 8 people employed on a contract basis. This is to meet the demand of the many opportunities that have come their way. This finding is closely related to Ihua's (2010) research, which also found that a LC resulted in more contract awards to SMEs in the Nigerian industry. However, as Ihua (2010) points out, more contract awards and number of people employed in already existing SMEs does not necessarily translate into higher SME participation in the industry or solve the issue of low local content and local participation. This could be attributed to the fact that local companies still lack the capacity required to undertake many projects and these are still award to foreign companies (Ihua, 2010). In cases where there are local firms able to perform the contracts, they may still be

awarded to foreign companies because of time and budgetary constraints, as the locals may not be able to deliver within time and budget, and “premiums and delays become the norm” (Warner, 2010:10). These may cost IOCs a lot of money they may not be willing to lose (Calista, 1994; Klein & Knight, 2005, as cited in Bhuyan, Jorgensen & Sharman, 2010).

To address the issue of technical know-how and capability and the Government, with funding from the Jubilee Partners also set up the Enterprise Development Centre (EDC) in Takoradi in 2013, to support SMEs entering the sector to position themselves to take up the rising opportunities. The Jubilee Partners also established the Jubilee Technical Training Centre at Takoradi Polytechnic, to train technicians for the Industry. Also, the GNPC has set up the GNPC Oil and Gas Learning Foundation to ensure the training of citizens of Ghana for the development of national capacity in all aspects of petroleum operations. This foundation provides scholarships to Ghanaians who wish to study oil and gas related courses in Ghana and abroad. It is however a requirement for them to return and work in the Ghanaian industry upon graduation. There is also a Human Resource Development Planning Committee, whose responsibility is to assess the gap between the expertise needed by industry and what is currently available and ensure that Ghanaians are being trained to fill these opportunities.

#### **4.2.2 Leadership for Implementation**

Strong leadership and commitment is important to the effectiveness of the implementation of Ghana’s legislation (Bhuyan, Jorgensen & Sharman,

2010). The policy and legislation were formulated by the Ministry of Energy but handed over to the Petroleum Commission for implementation. As Nakamura and Smallwood (1980) and Stover and Johnston (1999), point out that this is the norm rather than the exception and it is normally done to facilitate decentralization.

To facilitate implementation, the PC is collaborating with the Ghana Immigration Service, responsible for issuing work permits to foreign nationals and foreign companies, to ensure that the companies comply with regulations such as having 5% local equity at commencement. For individuals, the Commission is consulted to ensure that the skills for which they are being employed cannot be fulfilled by a citizen. The potential shortfall in this arrangement however is that inefficient implementation could result in IOCs keeping highly-skilled labour out of Ghana, as modern technology does not always require physical presence of specialist employees.

The PC also has collaborations with the Ghana Revenue Authority to ensure that companies pay the right taxes and also with the Registrar Generals Department to ensure that the companies are credible. There are also collaborations with universities to develop human resource syllabi, curricula and streamline careers to fit the gaps in the education system.

These implementation measures may look very good on paper, but may not be as easy to implement (Love, 2004). It may be difficult to determine the credibility of companies right away, and with the lack of accurate



databases in Ghana, it will be determine which Ghanaians have the right skills to carry out necessary projects.

According to the legislation, local content plans are expected to be submitted to the PC before engagement in any petroleum activity for approval. Long term local content plans are also expected to be submitted and renewed every year to include planned activities to track local content levels. According to the Commission, monitoring and evaluation will be done on a case by case basis, so the same yardsticks are not used to measure companies with different capabilities.

“Effective implementation also requires planning and the efficient mobilization of resources” (Bhuyan, Jorgensen & Sharman, 2010:8). To carry out the successful implementation, the PC needs to be equipped to carry out its activities. In order to monitor the activities of companies, new software and monitoring strategies are required. The software for the monitoring of Ghana’s content is still in development, even though the implementation of the legislation is in full force. The software is modelled using a common qualification system to ensure transparency. A web portal is also in development to allow Ghanaians upload their résumés for jobs. This will create a database of Ghanaian skills available for employment and the transfer of know-how.

The Petroleum Commission is very determined to ensure that the local content legislation is carried out to the letter and have developed various plans and strategies to facilitate implementation. However, data collected and research indicates that to an extent, not all the strategies may be

easy to implement or practical and this may affect implementation of the legislation in the desired time frames.

#### **4.2.3 Stakeholder Involvement**

The successful implementation of a policy also depends on how well various stakeholders work together in ensuring this. This is important because various stakeholders contribute different perspectives, skills and resources that aid successful implementation (Altman & Petkus (1994), as cited in Bhyuan, Jorgensen & Sharman 2010). Support or opposition of stakeholders in the formulation and implementation of a policy could greatly hinder or facilitate implementation. The main stakeholders studied in this research are an IOC, an SME and secondary data on Civil Society Organizations (CSOs) and consortium of E&P companies in relation to the legislation.

Data gathered indicated that, there was not enough stakeholder involvement in the formulation of the legislation. IOCs through the E&P forum, a shared forum of upstream IOCs, expressed their discontent at what seemed to be the lack of dialogue between IOCs and the Government in formulating the policy and subsequently passing it into law. Members of the E&P forum after going through draft regulations were asked to submit response to the Ministry of Energy, which was complied with. Some of the concerns raised were about the mandatory local equity, period for compliance, some of the required targets and the penalties like imprisonment for violations and made alternative recommendations (E & P Forum, 2013). According to them, parts of the regulations will make it difficult for the nation to attract the much-needed foreign capital,

technology and expertise to develop the industry (Larbi, 2013). It was pointed out that despite the size of the markets, the levels of local content achieved in employment in the industry in the space of time were strong achievements. See Appendix 6 for current levels in local content in IOCs and a summary of concerns raised. Also all members of the E&P Forum already had detailed local content plans in their Field Development Plans that were being implemented (E&P Forum, 2013). Despite these concerns, the legislation was passed without feedback on why their concerns were not considered.

Meanwhile, CSOs, who have been advocating for such a legislation to secure the country's oil and gas resources, strongly support the legislation. From a news article gathered on the Civil Society Platform on Oil and Gas (CSPOG), the group has a general distrust toward the concerns of the E&P forum and IOCs (Larbi, 2013). They believe that IOCs "intend to adulterate the content of the bill in a way that would deny Ghanaians opportunities" (Larbi, 2013).

On the other hand, despite the fact that SMEs are elated about the opportunities available in the industry now by virtue of the legislation, they are concerned about their lack of capacity to take up projects regardless of the legislation.

The apparent lack of consultation of companies operating in the industry may have stemmed from the lack of distrust between both policymakers and the foreign companies. However, if the effective implementation of this legislation is expected to materialize, both sides will need to sit down at some point and have objective discussions on the way forward. The

legislation cannot be implemented in isolation without consideration from stakeholders.

### **4.3 Benefits to the Local Content Legislation**

It is important that Ghana obtains as much benefit from her hydrocarbon resources as she can before her reserves run out. Field research highlighted that the petroleum industry, aside being a very capital intensive one is also closed loop that does not have the ability to employ a whole lot of people, or have the ability to create very direct, significant impacts in the life of Ghanaians (Tordo et al., 2013).

This unfortunately means that graduates, from the many schools claiming to award various diplomas in oil and gas related courses that seemed to have sprung up all over the country overnight, and the expectation of many Ghanaians to be directly impacted from the oil and gas revenues may not be realized as they had hoped. There are however several other ways the benefits from the resource will manifest in their lives. The avenues that are evidently being used in the industry now is through backward links and financial links, two of the types of sector links suggested by Hirschman (1958, as cited in Tordo et al., 2013).

Backward links are being created mainly through the supply of non-technical services to employees in the industry. The use of catering services, education facilities and services by dependents of employees in oil and gas companies, real estate services and the like; virtually anything workers of oil and gas companies spend resources on is considered as a backward link of the industry (Warner, 2011). Through taxes paid to the

government and revenue and royalties from exploration and production activities are financial links created by the industry. By making the right choices about what to invest in, like in education and agriculture, the government can ensure that the “big push” theory is fulfilled and the oil and gas effects are trickled down to the grassroots (Iimi, 2006).

Moreover, the gas from the fields could also be used to create a more reliable source of electricity supply for the country, and put an end to the perennial electricity crisis. Also, a more efficient management will result in a lesser need to import crude oil, and reduce the costs at the pump.

#### **4.4 Local Content Strategies; The Successes and Challenges**

Policymakers approach LCPs using different strategies or a combination of strategies to promote local content development (Tordo et al., 2011). Some of the directions LCPs take include setting regulations for procurement procedures and processes, putting in place fiscal incentives, and investing in business-friendly infrastructure (Warner, 2011). LCPs can also focus on investing in a host nation’s human resources by setting regulations for staff recruitment and training and concentrating on the “social investment and community-based supplier development programmes” (Warner, 2011).

According to Tordo et al., (2011), governments can also decide to focus their LCPs on creating regulations to ensure that production companies favour the use of local goods and services through contractual agreements, protectionist measure that domestic companies are favoured in terms of taxation policies and regulations that promote the

transfer of technology from multinational companies to local companies (Tordo et al., 2011). Nations may also choose to grant concessionary and licensing privileges to domestic firms or foreign companies with some level of domestic ownership (Ado, 2013). Other strategies demand the mandatory incorporation of foreign companies and the direct intervention of government in the sector through state-owned enterprises (Tordo et al., 2013). The strategies of one very successful implementer of local content, Norway and Nigeria, which has faced local content challenges are given to under local content policies in more detail.

### **Norway**

Norway has long been hailed as a local content success, as evident by the several mentions it gets in oil and gas local content literature. Norway was the second country after the UK to formally adopt a LCP in 1972 (Ado, 2013; Tehrani, 2006). The Norwegian policy at passage focused on the preference of local goods and services to build up supply industries, the transfer of knowledge to enhance research and development, and the setting of a fund to spend proceeds only from 1992 (Tehrani, 2006).

In a 2008 working paper report to Ghana as documentation on Norway's experience, Heum (2008), explained that Norway had not implemented its strategy any differently from the way other countries have implemented it, however, the success of Norway's local content policy model is as a result of its strategy to build local content through industrial competencies and capabilities that could enable domestic companies compete internationally (Heum, 2008). He however conceded that the country may have benefitted from being a developed and industrial country before

the production of oil and gas started (Ihua, 2009; Heum, 2008). The Norwegians did this by staying dedicated to their basic objective of enhancing local knowledge and gradually transferring technological know-how to competitive levels (Heum, 2008). Instead of rapidly developing its resources by attracting foreign expertise like the UK had done, they chose to develop the sector more slowly to allow their service sector to develop (Tordo et al., 2011).

After the discovery of oil and gas, a structure was determined based on functional responsibilities of policy making, technical control and resource management and commercial participation. Three organizations were then created to cater for each of the functions after Parliamentary approval (Heum, 2008). The policy making function, the Ministry of Petroleum and Energy, drew up a policy that opened oil concessions to both local and foreign companies (Heum, 2008). The policy rather focused on how the companies will incorporate local content in their activities and required that the foreign companies will set up fully operational subsidiaries in Norway and employ locals (Heum et al., 2003). The policy also did not set a local content target but required that local suppliers be selected if they met competitive international standards (Heum et al., 2003). Among others, the players in the sector were allowed to operate with very little government intervention (Heum, 2008).

## **Nigeria**

In what Ihua et al. (2009) call a textbook definition for local content, the Nigerian Local Content is "the quantum composite value added or created in the Nigerian economy through the utilization of Nigerian human and

material resources for the provision of goods and services to the petroleum industry” (Ihua et al., 2009).

Despite the fact that Nigeria discovered oil in 1956 and subsequently began production, all attempts at implementing various local content policies that were passed were futile and ‘mere paperwork’ (Balouga, 2012). It was not until the early 2000s that the country actively started exploring ways to ensure that a local content policy was implemented (Balouga, 2012; Ihua et al., 2009; Adefulu, 2008).

The Nigerian Content Policy passed in the early 2005 (Adefulu, 2008) sought to drive growth through capacity building, sustainable capability, product deliverability systems and comparability and empower indigenous companies (Ihua et al., 2011). One major policy target was to achieve 45% local content by 2007 and 70% by 2010. However, when the Nigerian National Petroleum Corporation (NNPC) reported in 2008 that the policy had achieved some level of success by increasing local content to between 35% and 40%, various Nigeria media refuted the claim, citing evidence that local content was actually between 15% to 20% (Ihua et al., 2011).

Despite this discrepancy in figures, a study conducted by Ihua et al. (2009) among some SMEs concluded that even though the policy created some impact by way of more contract awards, more job creation and partnerships. However, industry guidelines were constantly being changed, as there were two different government agencies, responsible for implementing the policy, creating blurred lines of authority and resulting in some level of instability (Ihua et al., 2009).



In 2010, the government signed into law, a new policy known as the Nigerian Oil and Gas Development Law 2010 (Balouga, 2012). This law, fashioned after the Norwegian model, aimed at ironing out issues within the first model (Balouga, 2012). In this new policy, “exclusive consideration” is given to service companies which demonstrate Nigerian ownership of equipment, personnel and capacity to execute jobs. It also provides a template for measuring local content and spells out duties of the institutions, responsible for the effective implementation of the Nigerian content (Balouga, 2012).

#### **4.5 Summary of Data**

Respondents and secondary data collected recognized that the legislation addressed key issues and objectives, some aspects of the content of the legislation are misaligned with the realities in the social, economic and political environments of the legislation, which could affect the successful realization of the legislation in the desired timeframes. While recognizing that the legislation could have significant benefits for Ghana and trickle down benefits to other sectors, a lot still needs to be done to ensure that this happens.

## **Chapter 5: Conclusions and Recommendations**

### **5.1 Conclusions**

The question that this research sought to answer was how effective the implementation of Ghana's Local Content Legislation will be in fulfilling the intended goals and objectives of directing benefits of the oil and gas resource to the Ghanaian economy and Ghanaians as a whole. The legislation is expected to do this through the creation of jobs, education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes. It is also expected that there will be support for local businesses by patronizing local goods and services competitively and requiring equity participation of indigenous companies in oil and gas operations. Data was collected using four objectives.

There is however a seeming misalignment and disconnect between the instrument and its intended outcomes. Looking at the current context and situation of the Ghanaian industry, it will be almost impossible and impractical to achieve the levels of local content desired in the timeframes specified. This is as a result of the fact that local companies are not strategically positioned to take up the numerous opportunities abounding in the oil and gas industry. They lack the financial and technical know-how and skills to undertake complex projects. Striving to stay in line with local content requirements may be costly for IOCs.

Findings on the monitoring and evaluation strategies and methodology are not clear or entirely in place, and have not been duly communicated to

major stakeholders. Also, there is a lack of proper communication between the Petroleum Commission and various stakeholders and this may affect how successfully the legislation is implemented.

The main conclusion reached from findings and literature is that nature and content of the strategy chosen to implement local content may greatly hinder the success of the legislation, and there is a lot more that can be done to facilitate implementation.

## **5.2 Lessons from Norway and Nigeria**

Studies of local content implementation in Norway indicate that they took a more gradual approach to developing local content. They did not impose local content requirements on companies, when they knew that their capabilities for competitiveness were not developed. Mandating foreign companies to mentor local ones ensured knowledge and technological know-how was transferred to the Norwegian firms. It was only after that did they institute mandatory levels of local content. Nigeria, on the other hand, formalized their local content aspirations a long time after oil production began. By not ensuring that knowledge and know-how were passed to local companies, when they did eventually set-up requirements, the local firms were still not competitive enough, despite being in the industry for a while. In the beginning, the regulations required very ambitious and vague targets for local content and this did more harm than good. It was only until 2010 when they decided to adopt the Norwegian model did they start to see improvements in their industry. This also suited them because by this time, the Nigerian oil industry had matured and could work with the targets set.

Contrary to Ado's (2013) assertion that many industrialized nations used local content requirements in achieving development, and hence should be allowed; a closer look will show that the social, economic and political contexts of these nations were far different from the situation in the developing African nations instituting these policies now. Ghana's legislation resembles the model Norway adopted in maturity, and Nigeria's current model. A better approach for the country to take now would be to avoid setting requirements that are more consistent with mature regimes and ensure that local companies are better positioned to learn and increase competitiveness.

### **5.3 Recommendations**

There is a lot more that can be done to improve the effectiveness of Ghana's local content legislation. Recommendations drawn from the analysis of this research are targeted at the various stakeholders in the industry; the Government of Ghana, through the Petroleum Commission; International Oil Companies and multinational companies and local companies.

#### **The Petroleum Commission**

1. First of all, the Petroleum Commission should claim ownership of LI 2204 and take into consideration the social, political and economic context of the country, of the oil and gas industry, and the concerns of the companies supposed to implement local content and make reforms to the legislation accordingly.

2. The Petroleum Commission should be more open to dialogue and communication with stakeholders in the industry. A healthy relationship will facilitate a more effective implementation.
3. Closely related to the above, the Commission should communicate the various implementation and monitoring and evaluation strategies to all stakeholders to ensure that they comply accordingly and leave no room for excuses.
4. IOCs and other companies whose agreements are not affected by the legislation should be incentivized to apply the legislation. For example, through tax breaks for various levels of local content.
5. The discretionary ministerial powers to waive local content requirements, spelt out in the law should be made more transparent or better still transferred to the Commission to ensure transparency and perceptions of corruption.
6. A key finding of this research was the inability of locals to meet the skills and expertise required by the industry. The Commission needs to build stronger collaborations with educational institutions and make necessary structural changes in the system to ensure that locals can meet the demand for technical skills and know-how.
7. Despite the existence of the EDC, considerations need to be made to create a more favourable financial climate for SMEs, for example the creation of special loan or funding packages to grow their businesses and the availability of tax concessions, similar to what IOCs enjoy.
8. Also a more practical way to ensure technology and skills transfer is through the establishment of a mentorship programme in

collaboration with IOCs and multinationals so local companies may learn quicker.

9. Finally, the Government, through the Petroleum Commission, needs to manage the expectations of Ghanaians and provide public education on the extent and ways through which the oil revenue could be of benefit to avoid agitations and unrest in the future because of high expectations not being met.

### **IOCs**

1. IOCs should press for better communication and dialogue with the Petroleum Commission and raise legitimate concerns where necessary for reform of impractical and unrealistic requirements.
2. They should also strive for greater collaborations with SMEs and local companies to provide mentorship to transfer knowledge, technology and skills at their own pace.

### **SMEs**

1. Despite the fact that funds are not readily available, SMEs should be prepared to raise funds to invest and reinvest in the training and development of personnel, technology and skills needed, so as to be more attractive business partners. This may however be risky because unpredictability of contract awards.
2. Opportunities abound in the industry. Local companies should focus on building credibility and living up to the highest ethical standards to be more attractive.
3. They should also thoroughly investigate the background of potential partners so as not to be taken advantage of.

#### **5.4 Recommendations for Further Research**

As a legislation that was recently passed into enforcement, there are several areas to explore in further research. Individuals or groups interested in exploring the subject of local content in the oil and gas industry could conduct an impact assessment study after 5 years to study the effects of the policy. Also, during this research, there was little literature found on the effects and impact of social and political contexts on local content implementation, even though there was countless literature on the economic effects and impacts. Research into those areas will make meaningful contributions to literature.

#### **5.5 Summary of Research**

The conclusions reached from analysing findings show that the rationale behind instituting Ghana's local content requirements is commendable. However, implementing them in the current social, economic and political context of the petroleum industry will not be very effective. Implementers of the legislation need to take current industrial conditions, legitimate concerns and recommendations into consideration and engaging stakeholders on all fronts in ensuring that Ghana comes out tops in managing the oil and gas resource.

## References

1. Adefulu, A. (2008). *Nigerian/Local Content Policy*. Lagos: Odujinrin & Adefulu.
2. Ado, R. (2013). Local Content Policy and the WTO Rules of Trade-Related Investment Measures (TRIMS): The Pros and Cons. *International Journal of Business and Management Studies*, 137-146.
3. Armah, S., & Torku, D. (2014). Are Ghana's Current Policies Sufficient to Avoid the Occurrence of the Resource Curse? In N. Apt, *Position Ghana in the Global Context (Forthcoming)*. Nigeria:IFRA Publishers.
4. Balouga, J. (2012). Nigerian Local Content: Challenges and Prospects. *International Association for Energy Economics*, 23-26.
5. BBC News. (2007, June 19). *Ghana 'will be an African tiger'*. Retrieved October 8, 2013, from BBC News: <http://news.bbc.co.uk/2/hi/africa/6766527.stm>
6. BP. (2013, June). *BP Statistical Review of World Energy*. Retrieved December 6, 2013, from [http://www.bp.com/content/dam/bp/pdf/statistical-review/statistical\\_review\\_of\\_world\\_energy\\_2013.pdf](http://www.bp.com/content/dam/bp/pdf/statistical-review/statistical_review_of_world_energy_2013.pdf)
7. Clotey, P. (2007, June 19). *Ghanaians Jubilant Over A Noteworthy Discovery Of Oil*. Retrieved November 28, 2013, from Voice of America: <http://www.voanews.com/content/a-13-2007-06-19-voa3-66717152/560242.html>
8. Cochran, C. L., & Malone, E. F. (1999). *Public Policy: Perspectives and Choices*. McGraw-Hill College.
9. Dawe, R. A. (2007). Developing Sustainability During the Oil and Gas Era For When the Hydrocarbon Resource Is Exhausted: The Example of the Republic of Trinidad and Tobago. *Energy Sources, Part B: Economics, Planning and Policy*, 3(1), pp. 76-88.
10. DiCaprio, A., & Gallagher, K. (2006). The WTO and the Shrinking of Development Space: How Big is the Bite? *The Journal of World Investment and Trade*, 75, 781-803.
11. E & P Forum. (2013, October 31). Local Content Presentation to Parliament. Accra: E&P Forum.
12. Esteves, A. M., & Barclay, M.-A. (2011). Enhancing the Benefits of Local Content: Integrating Social and Economic Impact Assessment into Procurement Strategies. *Impact Assessment and Project Appraisal*, 29(3), 205-215.



13. Esteves, A. M., Coyne, B., & Moreno, A. (2012). *Local Content in the Oil, Gas and Mining Sectors: Enhancing the Benefits at the Sub-National Level*. Revenue Watch Institute.
14. ETU. (n.d.). *The Policy and Law-Making Process*. Retrieved March 31, 2014, from Education & Training Unit: <http://www.etu.org.za/toolbox/docs/govern/policy.html>
15. Ghana Statistical Service. (2013). *Ghana at a Glance, 2012*. Retrieved December 6, 2013, from [http://www.statsghana.gov.gh/docfiles/GDP/Ghana\\_At\\_Glance\\_2012\\_v5.pdf](http://www.statsghana.gov.gh/docfiles/GDP/Ghana_At_Glance_2012_v5.pdf)
16. Ghana Statistical Service. (2013). *Provisional Gross Domestic Product 2013*. Accra: Ghana Statistical Service.
17. Grossman, G. (1981). The Theory of Domestic Content Protection and Content Preference. *The Quarterly Journal of Economics*, 583-603.
18. Gyimah-Boadi, E., & Prempeh, K. A. (2012, July). Oil, Politics and Ghana's Democracy. *Journal of Democracy*, 94-108.
19. Heum, P. (2008). *Local Content Development: Experiences from Oil and Gas Activities in Norway*. Bergen: Institute for Research in Economics and Business Administration.
20. Heum, P., Quale, C., Karlsen, J. E., Kragha, M., & Osahon, G. (2003). *Enhancement of Local Content In The Upstream Oil and Gas Industry In Nigeria*. Bergen/Stavanger/Lagos: SNF- Institute for Research in Economics and Business Administration.
21. Ihua, U. B. (2010). Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience. *International Journal of Business and Management*, 5(5), 3-13.
22. Ihua, U. B., Ajayi, C., & Eloji, K. N. (2009). Nigerian Content Policy in the Oil and Gas Industry: Implications for Small to Medium-Sized Oil Service Companies. In S. Sigué (Ed.), *Repositioning African Business and Development for the 21st Century: Proceedings of the 10th Annual Conference - IAABD* (pp. 163-170). Kampala: International Academy of African Business and Development.
23. Ihua, U. B., Olabowale, O. A., Eloji, K. N., & Ajayi, C. (2011). Entrepreneurial Implications of Nigeria's Oil Industry Local Content Policy; Perceptions from the Niger Delta Region. *Journal of Enterprising Communities: People and Places in the Global Economy*, 5(3), 223-241.
24. Iimi, A. (2006). *Did Botswana Escape from the Resource Curse?* African Department. IMF Working Paper WP/06/138.
25. Iimi, A. (2006). *Did Botswana Escape from the Resource Curse?* International Monetary Fund.

26. IPIECA. (2011). *Local Content Strategy: A Guidance Document for the Oil and Gas Industry*. London: International Petroleum Industry Environmental Conservation Association.
27. IPIECA. (2011). *Local Content Strategy: A Guidance Document for the Oil and Gas Industry*. London: International Petroleum Industry Environmental Conservation Association.
28. Jewell, S., & Hardie, M. (2009). *How to Write a Research Proposal*. Boston: Coventry University.
29. Kastning, T. (2011). *Basic Overview of Ghana's Emerging Oil Industry*. Friedrich Ebert Stiftung.
30. Kawulich, B. B. (n.d.). *Data Analysis Techniques in Qualitative Research*. State University of West Georgia.
31. Kazzazi, A., & Nouri, B. (2012). A Conceptual Model for Local Content Development in the Petroleum Industry. *Management Science Letters*, 2165-2174.
32. KPMG. (2013). *Monitoring African Sovereign Risk: Ghanaian Snapshot - 2013 Quarter 2*. Accra: KPMG.
33. Larbi, C. (2013, November 10). *Stay Off Local Content Bill - Civil Society Warns Oil Companies*. Retrieved March 17, 2014, from MyJoyOnline:  
[http://www.myjoyonline.com/business/2013/November-10th/stay-off-local-content-bill-civil-society-warns-oil-companies.php?cmtx\\_sort=1](http://www.myjoyonline.com/business/2013/November-10th/stay-off-local-content-bill-civil-society-warns-oil-companies.php?cmtx_sort=1)
34. Love, A. J. (2004). Chapter 3: Implementation Evaluation. In J. Wholey, H. Hatry, & K. Newcomer (Eds.), *The Handbook of Practical Program Evaluation* (2nd ed., pp. 63-97). San Francisco, CA: Jossey-Bass, Inc.
35. Mehlum, H., Moene, K., & Torvik, R. (2006). Institutions and the Resource Curse. *The Economic Journal*.
36. Ministry of Energy. (2011). *Local Content and Local Participation in Petroleum Activities - Policy Framework*. Accra: Ministry of Energy, The Republic of Ghana.
37. Ministry of Energy. (2013, July 12). *Minister Lays Petroleum Regulation in Parliament*. Retrieved December 6, 2013, from <http://www.ghana.gov.gh/index.php/2012-02-08-08-32-47/general-news/1642-minister-lays-petroleum-regulation-in-parliament>
38. Nakamura, R. T., & Smallwood, G. (1980). *The Politics of Policy Implementation*. New York: St. Martin's.
39. NYU. (n.d.). *What is Research Design?* Retrieved February 2014, from NYU Website:  
<http://www.nyu.edu/classes/bkg/methods/005847ch1.pdf>

40. Ovadia, J. S. (2012). The Dual Nature of Local Content in Angola's Oil and Gas Industry: Development vs Elite Accumulation. *Journal of Contemporary African Studies*, 395-417.
41. Palys, T. (2008). Purposive Sampling. In L. M. Given (Ed.), *The Sage Encyclopedia of Qualitative Research Methods* (Vol. 2, pp. 697-698). California: Thousand Oaks.
42. Sachs, J. D., & Warner, A. M. (1997). *Natural Resource Abundance and Economic Growth*. Harvard University. Cambridge: Center for International Development and Harvard Institute for International Development.
43. Sachs, J. D., & Warner, A. M. (1999). The Big Push, Natural Resource Booms and Growth. *Journal of Development Economics*, 59, 43-76.
44. Smith, T. B. (1973). The Policy Implementation Process. *Policy Sciences*, 4, 197-209.
45. Stover, J., & Johnston, A. (1999). The Art of Policy Formulation: Experiences from Africa in Developing National HIV/AIDS Policies. *POLICY Occasional Paper Series No. 3*. Washington DC: Futures Group.
46. Suleman, M. (2012, February 6). *Ghana: Local Content Policy Offends WTO Rules*. Retrieved April 9, 2014, from allAfrica: <http://allafrica.com/stories/201202062305.html>
47. Tehrani, F. (2006). Norwegian Petroleum Local Content and the Relevance to Iran. *Global Local Content Summit for Oil and Gas 2006*. Alfa Development and Engineering AS.
48. Tordo, S., Tracy, B. S., & Arfaa, N. (2011). *National Oil Companies and Value Creation*. Washington, D.C: The World Bank: World Bank Working Paper No. 218.
49. Tordo, S., Warner, M., Manzano, O. E., & Anouti, Y. (2013). *Local Content Policies in the Oil and Gas Sector*. Washington, D.C: The World Bank.
50. Trochim, W. M. (2005). *Research Methods: The Concise Knowledge Base*. Mason, OH: Thompson.
51. Veloso, F. M. (2006). Understanding Local Content Decision: Economic Analysis and an Application to the Automotive Industry. *Journal of Regional Science*, 46(4), 747-772.
52. Warner, M. (2007). *Community Content: The Interface of Community Investment Programmes With Local Content Practices in the Oil and Gas Sector*. London: Briefing Note 9: Overseas Development Institute.

53. Warner, M. (2011). *Local Content in Procurement: Creating Local Jobs and Competitive Domestic Industries in Supply Chains*. Sheffield: Greenleaf Publishing.
54. Wells, J., & Hawkins, J. (2008). *Increasing Local Content in the Procurement of Infrastructure Projects in Low Income Countries*. Institution of Civil Engineers.
55. Youth Network for Human Rights & Democracy; Friedrich-Ebert-Stiftung. (2011, December). A Nationwide Survey on the Expectations and Participation of the Youth in Ghana's Oil and Gas Industry. *Youth and Oil and Gas Governance In Ghana*. Friedrich-Ebert-Stiftung.

## Appendices

### **Appendix 1: Summary of Policy Framework**

The policy is expected to drive sustainable development of the oil and gas resource through; “the identification of stakeholders and their roles; adequate capacity building and training; indigenization and transfer of technology; infrastructural development; the creation of a conducive and thriving environment for optimal local participation; and the integration of the oil and gas sector into the long-term development plan for the country” (Ministry of Energy, 2011).

Currently, the amount of local participation in the oil and gas industry is limited in respect of technology, finance and human resources. As a result of these limitations, the involvement of foreigners is necessary to develop the sector (Ministry of Energy, 2011). It is therefore important that measures are put in place to systematically empower locals through the development of the right policies (Ministry of Energy, 2011). According to the Ministry of Energy, the policy is “the most reliable instrument to advance the stake of the people of the nation in the Oil and Gas industry in a sustainable manner” (Ministry of Energy, 2011). The policy framework is divided into five parts; the policy context, policy goals, vision, policy objectives and policy directions.

#### **Policy Context**

The policy context explores the development of oil and gas in Ghana, the Government’s Development Agenda and the challenges in pursuing this agenda.

The expectation of Ghanaians as to the potential impact of the nation’s oil and gas has grown significantly since the discovery of oil in the “Jubilee Field”. However, due to the risky nature of the deep-water exploration sector and the high levels of capital and technology required for the upstream environment, coupled with the uncertainty of the definite size of Ghana’s reserves and the uncertainty of future field developments, it is in

the best interest of the nation to derive as much benefit from the present as possible (Ministry of Energy, 2011).

The main objective of the Government is to use the contributions of the oil and gas resource to accelerate development and industrialisation in the economy as has been done in other producer countries. It is expected that the development of the oil and gas will bring “accelerated growth, poverty reduction and general prosperity to the people of Ghana”. This anticipation will need the active participation of Ghanaians in the oil and gas industry, through local content and local participation.

### **Policy Goals**

Taking into account the challenges above, the policy is committed to;

1. Sustainable exploitation of Ghana’s oil and gas endowment;
2. Judicious management of oil and gas revenue for the overall benefit and welfare of all Ghanaians, including future generations;
3. Attracting increased local value-added investments in the oil and gas sector;
4. Creating job opportunities in the oil and gas and related industries;
5. Indigenizing knowledge, expertise and technology in the oil and gas and related industries; and
6. Facilitating the transfer of technology and know-how from oil and gas to other economic sectors.

### **Vision**

The Government’s vision is to deploy an effective local content, develop capacity<sup>8</sup> and local participation as a means of achieving participation of

---

<sup>8</sup> Capacity development is defined as activities which strengthen the knowledge, ability, skills, and behaviour of individuals and improve institutional structures and processes such that the organization

“Ghanaian citizens in all roles, at all levels and in all activities relating to the oil and gas value chain”.

These activities refer to those carried out in the:

1. Operations of petroleum licences, permits and/or contracts to win and/or process, store, transport, market, distribute or otherwise create or obtain value from the oil and gas produced in Ghana;
2. Provision of supplies and services, directly or indirectly, to the operator of any license, permit of contract, whether such supplies or services are provided inside or outside Ghana.

Within 10 years from the start of a specific project<sup>9</sup>, the level of Local Content will target a minimum of 90% for such supplies and services identifies by the Local Content Committee (LCC)<sup>10</sup> as being of priority to Ghana. The LCC shall set appropriate levels of Local Content for all other supplies and services. The Government shall provide an enabling environment for the participation of Ghanaians in the ownership, operations, control and management of businesses in the sector.

Local Participation by the Ghanaian private sector will be at least 5% equity for petroleum license

### **Policy Objectives**

The Local Content policy will seek to:

1. Maximize the value-addition and job creation, through the use of local expertise, goods and services, businesses and financing in the

---

can efficiently meet its mission and goals in a sustainable way. In this context however, the principles that govern community capacity building will be seriously put into consideration.

<sup>9</sup> Project refers to any defined set of operational activities in the Oil and Gas industry

<sup>10</sup> The Local Content Committee will supervise, co-ordinate, administer, monitor and manage the development of local content in the oil and gas industry. It will also implement the provisions in the local content regulations.

oil and gas industry value chain and the retention of benefits within Ghana;

2. Develop local capability in all aspects of the oil and gas value chain through education, skills and expertise development, transfer of technology and know-how and an active research and development portfolio;
3. Achieve at least 90% local employment and in-country spending in the oil and gas industry value chain within a decade of the start of every petroleum license or contract, in the provision of such supplies and services that are determined by the LCC to be of high priority to Ghana;
4. Increase capabilities and international competitiveness of domestic businesses<sup>11</sup> and industrial sectors;
5. Create oil and gas and related supportive industries that will sustain economic development;
6. Achieve and maintain a degree of influence or control by Ghanaians over development initiatives for local/domestic stakeholders; and
7. Provide a rigorous and transparent monitoring and reporting system to ensure delivery of the Policy Goals.

### **Policy Directions**

#### **1. Mandatory Local Content in Oil and Gas Development**

- a. All operators, contractors, sub-contractors and all entities involved in Ghana's oil and gas industry shall incorporate local content in their project development and management philosophy. Every project, operation, activity or transaction must have or form part of a Local Content Plan.

---

<sup>11</sup> Ghanaian businesses, facilities and institutions will provide hubs for capacity development and provision of goods and services for West Africa. Ghana will collaborate with its neighbours in the Region to ensure that, through aggregation of demand and supply, synergies will be created that will increase the Region's collective competitiveness, so that as much as possible, the value of the Region's oil and gas resources remain in and benefit the people of the Region.



2. Interest of a citizen of Ghana in Petroleum Exploration, Development and Production

- a. First consideration must be given to Ghanaian independent operators in the award of oil blocks, oil lifting licenses and projects for which contracts are to be awarded in the industry.
- b. In the case of non-Ghanaian ownership, the entity shall provide at least 5% in E&P, storage, transportation and processing activities under petroleum licenses for the participation of a Ghanaian citizen.

3. Provision of goods and services by Ghanaian Companies

- a. All Operators shall give preference to goods and services provided in Ghana over foreign goods and services. Operators shall give priority to Ghanaian goods and services that are competitive. Where a foreign entity is to provide the goods and services, it shall operate from Ghana and partner a Ghanaian owned and registered company.
- b. At the start of any Petroleum operation, Local Content in provision of goods and services shall be at least 10%. This shall increase to 20% in the second year and by at least 10% each year thereafter.

4. Technology Transfer

- a. An Operator shall prepare and implement plans for the transfer of technology and technological know-how relating to petroleum operations to Ghanaians.

5. Employment and training of citizens of Ghana

- a. All Operators shall ensure that employment opportunities are given Ghanaians with the requisite expertise and qualifications.

b. All Operators within 12 months after the grant of a license shall submit for approval a detailed Annual Recruitment and Training Programme. This shall include targets to ensure that;

i. At least 50% of management staff are Ghanaians at the start of petroleum operations and at least 80% within 5 years.

ii. At least 30% of core technical staff are Ghanaians at the start of petroleum activities and shall increase to at least 80% within 5 years, and 90% within 10 years of operations.

iii. 100% of other staff are Ghanaians

#### 6. Gender in Oil and Gas

a. Participation of women in the oil and gas industry will be actively encouraged, facilitated and promoted. All Operators shall maintain a gender balance in their Annual Recruitment and Training Programmes

#### 7. Local Capability Development

a. Local training and technical institutions will be supported by the Government of Ghana, its Development Partners and Petroleum Operators to develop the requisite capacity to international standards to be able to train Ghanaians to comparable high levels in all areas of expertise.

b. Transparent fiscal incentives and rewards will be provided for Operators who exceed goals in their Annual Local Content Plans and Annual Recruitment and Training Programmes.

#### 8. Legislation of Local Content & Local Participation and Implementation

a. These policy directions will be legislated by Regulations and other such legal instrument and in Contracts and Licenses. A

Local Content Committee will be established and will comprise of public and private sector stakeholders.

9. Oil and Gas Business Development and Local Content Fund

- a. A fund will be established to support local capability development aspects of the policy.
- b. This fund will be used primarily for the education, training, R&D in oil and gas, and also to provide capital to SMEs to support their participation in the industry.
- c. Sources of the fund will include contributions from Licensed Operators, GoG budgetary support, levies, grants and other support from Ghana's Development Partners.

## **Appendix 2: Consent Form**

### **Introduction**

**Research Topic:** Assessing the Effective Implementation of Ghana's Local Content Legislation on Oil and Gas

**Purpose of the research:** I am interviewing policymakers and stakeholders regarding the implementation of Ghana's Local Content Policy Framework and the *Petroleum (Local Content and Local Participation) Regulations, 2013(LI 2204)*.

By effectiveness, I mean the impact and success of the legislation. By implementation, I mean the activities and operations of various stakeholders toward achieving the goals and objectives articulated in the legislation.

The purpose of this assessment is to analyse how the legislation is perceived among stakeholders and how it is being/will be implemented and how successful it will be in achieving its goals and objectives. The results of the interviews can be used by policymakers and stakeholders to clarify guidelines and directives, address barriers to implementation, update implementation plans, or advocate for legislation reform. This interview comprises mainly of open ended questions. Participation is anticipated to take approximately one hour.

**What you will do in this research:** The research method will require that you partake in an interview to find out your company's position on the legislation and implementation strategies. This will be semi-structured interview and questions below are only to serve as a guide and the line of questioning may deviate during the actual interview as and when appropriate to get an in-depth understanding of a subject.

**Risks** There are no anticipated risks associated with participating in this study.

**Benefits:** At the end of the study, a copy of the research will be made available for your organization, on request. If you will want a copy of the findings, please insert your e-mail address here [\_\_\_\_\_].

## CONSENT

**Please be assured that all your responses will be held in strict confidence and your identity will not be stored with the data; responses will be destroyed immediately after the data has been analyzed and no statements used in the report will be attributed directly to you. Your participation is voluntary, and you may decline to answer any question or end the interview at any point. Do you agree to continue?**

\_\_\_Yes

\_\_\_No

\_\_\_\_\_Interviewer's Initials

**To Contact the Researcher:** If you have questions about this research, please contact Jennifer Emefa Senoo, 020 819 7038, [jennifer.senoo@ashesi.edu.gh](mailto:jennifer.senoo@ashesi.edu.gh) or [emefa.senoo@gmail.com](mailto:emefa.senoo@gmail.com). You may also contact the faculty member supervising this work: Dr Stephen Armah. E-mail: [searmah@ashesi.edu.gh](mailto:searmah@ashesi.edu.gh)

*"This research protocol has been reviewed and approved by the Ashesi University Human Subjects Review Committee. If you have questions about the approval process, please contact Chair, Ashesi University HSCR, ([adafla@ashesi.edu.gh](mailto:adafla@ashesi.edu.gh)).*

### **Appendix 3: Implementers Interview Guide**

1. Please explain how the Commission defines local content.
2. Could you briefly touch on the difference between the local content policy and the legislation?
3. How is the local content legislation expected to affect the oil and gas industry?
4. What is the role of the Petroleum Commission in ensuring this?
5. What is the role of the companies in ensuring the success of the legislation?
6. To what extent do you think the goals and objectives of the legislation address the key issues outlined? Why? Please explain.
7. To what extent do you think the legislation addresses the needs of Ghanaians and their wellbeing? Why? Please explain.
8. In your opinion, are the goals and objectives achievable within the timeframe set out in the legislation?
9. How extensive was the involvement of various stakeholders during the process of formulating the legislation?
10. In your opinion, how has this degree of involvement in policy formulation affected implementation?
11. In your opinion, how do political factors facilitate or hinder the process of implementing this legislation? (For example changes in government and the WTO Trade Agreements)
12. Currently, is there support or opposition among opinion leaders or influential institutions from any sector for implementing this legislation?
13. How did or how are you dealing with the opposition?
14. In your understanding, what is the lead institution for implementing the legislation?
15. How effective is this institution's leadership in implementing the legislation?
16. Apart from the plan outlined in the legislation, what other strategies do you have to implement it?
17. To what extent are different sectors within the government and other stakeholders involved in implementing the legislation?

18. In your opinion, how effective is the coordination among the various organizations that are implementing strategies designed to achieve the legislation's goals?
19. Are you aware of any barriers to implementing this legislation? If yes, what are they?
20. Considering that most big organizations in the oil and gas industry in Ghana are multinationals, in your opinion, do the organizations have the flexibility to adapt strategies and activities to respond to their local needs?
21. Are you receiving feedback on how this legislation is being implemented overall?
22. Are you receiving feedback on how this legislation is being implemented overall?
23. What methodology is being used to monitor the implementation of this legislation?
24. What indicators are used to monitor the implementation of the legislation?
25. Are you beginning to see positive changes as a result of implementing the legislation? If yes, what are they? If no, why do you think this is so?
26. In addition to what you have already mentioned above, do you have any additional suggestions that would improve implementation of this legislation? Please describe.

#### **Appendix 4: Stakeholders Interview Guide (IOCs)**

1. To what extent do you think the goals and objectives of the legislation address the key issues outlined? Why? Please explain.
2. To what extent do you think the law addresses the needs of Ghanaians and their wellbeing? Why? Please explain.
3. In your opinion, are the goals and objectives achievable within the timeframe set out in the legislation?
4. To what extent was your organization involved during the process of formulating the law?
5. In your opinion, how has this degree of involvement in legislation formulation affected your role in implementation?
6. In your opinion, how well was the law disseminated to the public?
7. In your opinion, how do political factors facilitate or hinder your or your organization's ability to implement this legislation? (For example changes in government, the Foreign Corrupt Practices Law, the UK Bribery Act)
8. In your opinion, how do economic factors—at either local or national levels— facilitate or hinder your or your organization's ability to implement this legislation? (For example unemployment, poverty etc.)
9. Currently, is there support or opposition among opinion leaders or influential institutions from any sector for implementing this law?
10. Are groups in civil society advocating for this legislation to be implemented?
11. What, if any, other institutions could be involved in order to improve implementation of the legislation?
12. Please identify institutions and explain why their participation would foster implementation.
13. Please identify your organization's primary areas of roles and responsibilities that support the implementation of this legislation.
14. How would you describe the scope and complexity of the changes that this legislation requires of your organization?
15. How well is your organization adapting to the changes required by the legislation?



16. How prepared is your organization in terms of human and material resources to fulfil its roles and responsibilities under the legislation. Please describe the difficulties, challenges, or consequences arising from any insufficiencies.
17. In your opinion, how effective is the coordination among the various organizations that are implementing strategies designed to achieve the legislation's goals?
18. In implementing this legislation, are you experiencing or are you aware of any new barriers or challenges to providing services?
19. In implementing this legislation, have there been positive changes related to your operations?
20. In implementing this legislation, have there been negative changes related to your operations?
21. In your opinion, does your organization have the flexibility it needs to adapt legislation implementation strategies and activities to respond to local needs?
22. What methodology is being used to monitor the implementation of this legislation?
23. What indicators are used to monitor the implementation of the legislation?
24. How helpful is the overall reporting process of this legislation (local content plans) and its frequency to you and your organization?
25. Overall, how well do you think the legislation is being implemented?
26. Are you beginning to see positive changes as a result of implementing this legislation?
27. In addition to what you have already mentioned above, do you have any additional suggestions that would improve implementation of this legislation? Please describe.

## **Appendix 5: Stakeholders Interview Guide (SME)**

### **Conditions of business before legislation**

1. Briefly describe the nature of your business.
2. How long has your company been in existence?
3. How many employees did your company have before the legislation?
4. What were some of the attitudes of multinationals in the industry before? When you approached for business? Did they approach you?
5. How many JV partnerships did you have before the legislation?
6. What were some of the challenges this company was facing prior to the legislation?
7. How were you overcoming these challenges?

### **Conditions of business after the legislation**

8. How has the introduction of the legislation affected your business?
9. Are there more opportunities now than before?
10. How is the participation of SMEs in the industry, as opposed to the award of contracts?
11. Describe the conditions of entry into the industry for SMEs
12. Are they improved?
13. How many employees do you have now?
14. What factors account for the increase in employees? (if any)
15. How has the legislation impacted your future plans of recruitment?  
(If number has not increased since legislation)
16. How many JVs have you had since the legislation? Has this number increased?
17. What factors account for the increase if any?

### **Legislation Assessment**

18. To what extent do you think the goals and objectives of the legislation address the key issues outlined? Why? Please explain.

19. To what extent do you think the law addresses the needs of Ghanaians and their wellbeing? Why? Please explain.
20. In your opinion, are the goals and objectives achievable within the timeframe set out in the legislation?
21. To what extent was your organization involved during the process of formulating the law?
22. In your opinion, how has this degree of involvement in legislation formulation affected your role in implementation?
23. In your opinion, how well was the law disseminated to the public?
24. In your opinion, how do political factors facilitate or hinder the implementation of the policy? How will these factors affect your organization?
25. In your opinion, how do economic factors—at either local or national levels— facilitate or hinder the implementation of the policy? (For example unemployment, poverty etc). How do they affect your organization?
26. Currently, is there support or opposition among opinion leaders or influential institutions from any sector for implementing this law?
27. Are groups in civil society advocating for this legislation to be implemented?
28. What, if any, other institutions could be involved in order to improve implementation of the legislation?
29. Please identify institutions and explain why their participation would foster implementation.
30. Please identify your organization's primary areas of roles and responsibilities that support the implementation of this legislation.
31. In your opinion, how effective is the coordination among the various organizations that are implementing strategies designed to achieve the legislation's goals?
32. With the passage of this legislation, have there been positive changes related to your operations?
33. With the passage of this legislation, have there been negative changes related to your operations?
34. What methods are being used in the transfer of knowledge, technology and skills?

35. Are they helpful?

**Miscellaneous**

36. How helpful is the education system to the industry? In terms of equipping students with technical capabilities etc.

37. What more can be done?

38. Are there areas you think this policy should focus on that it hasn't? What areas are these?

39. What effects do you see this policy having in 10 years?

40. Overall, how well do you think the legislation is being implemented?

41. Are you beginning to see positive changes in the industry as a whole as a result of implementing this legislation?

42. In addition to what you have already mentioned above, do you have any additional suggestions that would improve implementation of this legislation? Please describe.

## **Appendix 6: Responses of the E&P Forum to Local Content Legislation**

### **2013 Levels of Local Content in IOCs**

1. **Production stage company:** 389 staff employed (258 Ghanaians / 131 Expats) – 66% Ghanaians employed. This figure per the POD is expected to increase to approx. 90% in 2016, and in 10 years, increasing seniority of Ghanaians.
2. **Appraisal stage company:** 52 staff employed (51 Ghanaians / 1 Expat) – 98% Ghanaians employed. Senior Management of 5 Directors, of which 4 Ghanaians – 80% Ghanaians employed at Management level.
3. **Hi-tech Service Company:** Has entered into joint venture with GNPC (30% share), to develop local capabilities and to transfer knowledge / know-how. 32 staff, 85% Ghanaians (all highly qualified). Recognized Engineering Company of the year, by Africa Oil and Gas awards 2013.

## Suggested Areas for Improvement by E&P Forum

Article	Summary	Recommendation
48	Industry shall comply with the Regulations within 3 months of commencement	We recommend not to allow for a unilateral amendment of existing Petroleum Agreements (PA), this contrary to the stability clauses in the PA, and the 1992 Constitution of Ghana, which prohibits the unilateral variation of contractual rights
4(2)(3)	Mandatory 5% equity participation by an indigenous Ghanaian company (other than GNPC), with waiver to be provided by Minister	We propose to roll this into GNPC participation, which benefits all Ghanaians.  We seek clarification of the conditions under which the Minister would grant waivers.
4(6)	Non-indigenous service providers must have JV's with at least 10% equity participation by an indigenous Ghanaian company.	We propose an exception for specialist service providers working with operating companies, who do not have enough work in Ghana to operate continuously.
First Schedule	Minimum Ghana Content in Goods and Services, specified in detailed table (which uses generic targets – not adapted to Ghana)	We welcome measurable targets, but they should be agreed with Industry and linked to our Ghana's specific circumstances
12(3)	An indigenous company's bid not exceeding the lowest bid by 10% <u>shall be</u> awarded to that indigenous Ghanaian company	We suggest to steer clear of such a provision, which will incentivize a costly uncompetitive local industry

13	The Petroleum Commission must be informed of all potential contracts and purchase orders greater than US\$ 100,000	We suggest to use existing provisions under existing Petroleum Agreements, which are working well. This is an impractical threshold.
46	Up to 5 years imprisonment and monetary penalties up to 5% of value of Petroleum activity (or US\$ 5 Million)	<p>We suggest not to impose criminal penalties for Business offences</p> <p>Proposed fines and sentences are a unilateral variation of our rights under existing Petroleum Agreements</p>