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THE NIGERIAN EXPERIENCE IN OIL CARTELS AND GLOBALIZATION

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Abstract

In the 2020s Nigeria has started to reach breaking points in insurgency, banditry and self-determination agitations all being informed by mineral resources control. The oil cartels have not shown obvious impact or interest in these issues except OPEC which has since its inception been in the vanguard of regulating prices. The emergence of heightened globalization has equally seen the activities of both the eastern and western countries in the surge to control the Nigerian oil business space. There are emerging evidence that the current insecurities in the country have some connection with natural resources. This paper which employs the doctrinal method surveys the existence of the various oil cartels and their influence on the Nigerian oil business vis-à-vis the emerging influence of globalization. It finds that OPEC is the main cartel influencing oil and gas issues in Nigeria and that the influence of globalization is emerging and urgent. It therefore calls for attention be focused on the dynamics of competition for Nigeria's immense mineral and strategic resources before it gives way to a spring.

***Keywords**: Oil Cartels, Globalization, OPEC, Oil Refiners Association.*

Introduction

Cartels are not regulated by laws whether municipal or international. Organization of Petroleum Exporting Countries, OPEC, is a permanent, intergovernmental organization created at the Baghdad Conference of September 10-14, 1960 by Iran, Iraq, Kuwait, Saudi Arabia and Venezuela. The five founding members were later joined by nine other members: Qatar (1961); Indonesia (1962); Socialist People's Libyan Arab Jamahiriya (1962); United Arab Emirates (1967); Algeria(1969); Nigeria (1971); Ecuador (1973); Gabon (1975) and Angola (2007). However, Ecuador and Gabon resigned their memberships in 1992 and 1994 respectively (Aderibigbe, 2007)[162].

OPEC had its headquarters in Geneva, Switzerland in the first five years of its existence before it was moved to Vienna, Austria on September 1, 1965. The principal objectives of the organization are to coordinate and unify the petroleum policies of its member countries, determine the best means to protect

[162] Yinka Aderibigbe, OPEC: When Americans Dare a Cartel for the Price of Oil, The Guardian, Wednesday 4th July, 2007 at 15.

the interests of member countries individually and collectively, devise ways and means of stabilizing prices in international oil markets in order to reduce detrimental fluctuations and give regard to the interest of producing countries and their need for a steady income, ensure that consuming countries secure an efficient, reliable and economic supply of petroleum, and ensure a fair return of capital on investment in the oil industry (Asala, 2006)[163].

Its governing objective being centered on price stabilization, OPEC member countries are mainly third world countries, relatively dependent on oil revenue with oil as a major economic and political tool. A major cartel, its members jointly hold about 2/3 or 75% of the world's proved oil reserves and currently, they produce about 40% of world's crude oil. Most of these reserves are the cheapest and technically accessible.

OPEC's main strategy is to control the market forces by restricting output below what it should have been by fixing production quotas for its member countries. Restriction of supply ensures that prices are higher and that more firms enter the industry thereby increasing competition. Adequate price will also ensure that more fields can be profitably exploited. Production quotas are fixed for member countries based on factors such as reserve base, production capacity, population etc.

OPEC has been said to have been formed as a protest against the behaviour of the multinational oil companies which dominated the industry to the detriment of the exporting host countries. The multinationals had dictated how much oil was extracted, how much it was sold, who it was to be sold and the price at which it was to be sold. The host countries did not only receive insignificant revenue from their resources, they had no serious say in the industry as no taxes were initially paid and the royalties were symbolical and paltry, based on the weight and volume rather than on price. For the learned author, OPEC has not only played an important role in the development of international oil policies, it has played a key role in the emergence and development of national oil companies in the process of the realization of the United Nations Resolution of permanent sovereignty over national natural resources (Omorogbe, 2003)[164].

Over the years, OPEC has become very strong in its functions of coordinating and unifying petroleum policies among member countries in order to secure fair and stable prices for petroleum producers, efficient, economic and regular supply of petroleum to consuming nations and a fair return on capital to those investing in the industry (Aderibigbe, 2007).[165] Aderibigbe was making this evaluation against the background of the *No Oil Producing and Exporting Cartel Act* 2007 passed by the American Congress to tackle headlong, the ever increasing prices of oil, 'a price fixing conspiracy' which was causing uncomfortable heat to the American economy and aiding local inflation by

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[163] Ayo Asala, SAN, International Minerals Cartels, Seminar Paper presented for the LL.M Degree Programme, Delta State University, Oleh Campus, 2006, at 3. Credit is given to this paper.
[164] Yinka Omorogbe, Oil and Gas Law in Nigeria, (Lagos: Malthouse: 2003) at 80-81.
[165] Yinka Aderibigbe, Loc. Cit.

unfairly driving up the prices of crude oil and gasoline.
With a wide margin of 345 to 72 votes, the bill holds as illegal, any attempt by member countries to act collectively or in combination with any other foreign state or any other person, whether by cartel or in any other association or firm of cooperation or joint action to limit the production, or distribution of oil, natural gas or any other petroleum product or set or maintain the price of petroleum or to otherwise take any action in restraint of trade or petroleum when such action has a direct substantial and reasonable effect on the market, supply, price, or distribution of petroleum products in the United States of America. The bill also denied a foreign state engaging in such conduct, sovereign immunity from the jurisdiction or judgments of the US court in any action brought to enforce the Act. Proponents of the bill had argued that the bill was American's answer to the all-powerful OPEC and its might in manipulating prices to the detriment of consumer nations.
Although the bill moved to the Senate where it was said to have a rising hope of unanimous endorsement, the Whitehouse had canvassed that the Bush Administration would be advised to veto the bill as suits could spawn retaliatory measures and lead to oil supply disruptions and an escalation in the price of gasoline, natural gas and global oil production as OPEC producers could just decide not to sell oil to the US any longer or could reciprocate and sue the US in their courts. Through its President, Mohammed bin Dha'en AlHamili, OPEC had characterized the bill as a 'dangerous step' which it was ready to fight headlong having successfully done so previously on two occasions canvassing that decisions taken by the group were non-binding.
According to Salaimon Salau,[166] OPEC had projected to require 450 billion dollars as total investment to further boost global refining capacity by 2020 in order to meet the world's growing energy needs in the nearest future as global demand for oil would rise from 83 million bpd by 2030. OPEC's World Oil Outlook according to its Secretary General, Salem El-Badri, is a demonstration of the organisation's commitment to a secure, sound and stable oil industry today, tomorrow and in the future. In other words, OPEC does not hold out any of the outlook scenarios as forecasts of an energy future, rather they are indicators as to how the organisation views the possible evolving energy landscape. It is a means of further opening up of the channels for extending dialogue and cooperation, something on which OPEC places much credence. In recent times however, at lot of competing organizations have been propped up outside OPEC making its control of world oil prices in recent times euphemistic.[167]
The real reason for the second Gulf or Iraq war was America's desire to install a malleable Iraqi government through which the US could exercise control over Iraqi oil supplies and destroy OPEC solidarity so as to force and keep oil prices

[166] Salaimon salau, OPEC Requires 450 billion dollars Investment for Refinery Expansion by 2020, The Guardian, Wednesday 4th July, 2007 at 59.
[167] Yinka Omorogbe, Op. Cit., at 94.

down for as long as it pleases the west.[168]

African Petroleum Producer's Association (APPA)

On the invitation of the Federal Government of Nigeria, a conference of Ministers of African Oil Producers Association was held on the 26th and 27th of January, 1987. It was at this meeting that a resolution was passed establishing the APPA. The association was established to provide a forum for consultation and cooperation among member countries for the development of their hydrocarbon resources and for promoting the economic well-being of the people of the continent. Member nations are Nigeria, Algeria, Egypt, Gabon, Cameroon, Tunisia Libya and Angola (Asala, 2006).[169]

The American Gas Association (AGA)

The American Gas association has approximately 6,000 members made up of individuals, distributors, and pipeline companies in the natural gas, manufactured gas and mixed gas distribution and pipeline segments. The AGA provides information on all phases of gas transmission and distribution.[170]

The American Petroleum Institute (API)

The American Petroleum Institute is the largest and probably the best known association in the industry. It has more than 7,500 members representing producers, refiners, marketers and transporters of oil, gas and allied products. The API promotes cooperation between government and industry, provides extensive information services for government, industry and the public. It conducts research in many areas of the industry and publishes booklets and other informative items about the industry.[171] Its members run fuel and gas banks from which they draw in period of scarcity.

The American Petroleum Refiners Association (APRA)

The American Petroleum Refiners Association has about 70 members representing refiners with less than 50,000 bpd capacity. It seeks to provide a common approach for small refiners in meeting the problems of the industry and government regulation. It has been noted that the natural disaster called the Hurricane Katrina brought down a number of refineries in the US, it has equally been noted that for the past 20 years, new refineries have not been built in the USA and Nigeria.[172]

The Association of Oil Pipeline Companies

This Association of Oil Pipelines has approximately 100 members all of which

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[168] See Between the United State and OPEC, The Editorial, The Guardian, Monday July 23, 2007 at 18.
[169] See Ayo Asala, Op. Cit. at 4.
[170] Id., at 5.
[171] Id.
[172] Id., at 6.

are oil pipeline companies and most of which are regulated common carriers. The use of a pipeline may not be restricted to an owner. It can be hired out. The Association assembles data and information on the industry for presentation to the American Congress, to regulate agencies and the public.[173]

The Independent Refiners Association of America
This Association has approximately 40 member firms. T disseminates information about refinery business and represents the interests of the industry in the American Congress, before Federal agencies, etc.[174]

Mid-Continent Oil and Gas Association
This Association has roughly 7,500 members representing oil and gas producers, royalty owners, refiners, gasoline manufacturers, transporters, drilling contractors, etc. The Association is composed solely of individuals. It engages in various informational activities for its members and represents them to the public in various ways.[175]

National Petroleum Refiners Association (NPRA)
The NPRA's activities are directed towards informing and assisting its members on such topics as computers, fire and accident prevention, fuel and lubricants, analysis, etc. It has about 150 members consisting of companies in the petroleum, petrochemical and refinery segments.[176]

Council of Petroleum Accountants Societies (COPAS)
The Council of Petroleum Accountants Societies has about 6,000 members representing accountants in 24 chapters throughout the USA who are involved in petroleum activities. COPAS publish bulletins and interpretations relating to accounting for petroleum operations, conduct research in industry-accounting problem areas. It sponsors seminars and instructional schools on petroleum operations, accounting and taxation.[177]

Gas Processors Association (GPA)
Composed of almost 150 member firms involved in producing, processing and handling natural gas and other hydrocarbons at processing plants, the association develops product standards, testing procedures and other technical information about the industry's activities.[178]

The Independent Petroleum Association (IPAA)
The IPAA is probably the most important national organisation of independent

[173] Id.
[174] Id.
[175] Id., at 7
[176] Id.
[177] Id.
[178] Id., at 8.

oil producers and other small entities in the industry. It has more than 5,000 members representing oil and gas operators and others involved in the production of crude oil and gas. The Association represents small oil and gas producers in legislative and regulatory areas at the federal level. It publishes the Petroleum Independent, a bi-monthly magazine with articles and data of interest to small producers. It also publishes annually, the Oil and Gas Producing Industry in Your State, a book of information about the oil and gas production industry in each state.[179]

Lifters of Nigerian Oil as at 1999

As at 1999, 16 crude oil lifters were approved by the Federal Government. They were grouped into three: Government to Government deal; International Traders and NNPC Joint Venture Partners.

Government to Government Deal	
South Africa	55,000 bpd
National Oil Corporation of Kenya	30,000 bpd
Ghana National Oil Corporation	30,000 bpd
International Traders	
North Atlantic Refinery of Canada	50,000 bpd
Kyukuto Pet Industry of Tokyo	100,000 bpd
Addax Nigeria Limited	90,000 bpd
Clencore Int. A.G	90,000 bpd
Total International Firm	50,000 bpd
Vitol S.A.	60,000 bpd
Attock Oil International	60,000 bpd
Prefigure Beheer Amsterdam	60,000 bpd
Arcadi London	100,000 bpd
Itochu Japan	20,000 bpd
NNPC Joint Venture Partners	
Carlson of Bermuda	30,000 bpd
Duke Oil Services	20,000 bpd
Napoil Limited	20,000 bpd
Total …………………………………	865,000 bpd.

Globalization and the Nigerian Oil Sector

The collapse of the Berlin Wall in 1989 terminated the cold war, bringing to an end, a world divided into ideological blocs. A world dominated or influenced by Eastern Marxist Socialism and Western Liberal Capitalism (Ehusani,

[179] Id.

2007).[180] For Oghogho Obayuwana,[181] summiteers at an International summit on globalisation and the new scramble for African seemed to have come to the common consensus that the new scramble for African oil reserves arose after the failed socialist experiment and the enduring triumph of the commercial spirit of capitalism (Obayuwana, 2007). The end also marked the intensification of the processes of globalization; processes that were largely influenced by science, information and communication technology. The processes of globalization were hailed as capable of ushering in global justice and equity; an end to regional conflicts; greater human interactions across borders; interdependence; greater unity, peace, security and prosperity.

Globalization is anchored on democratization, transparent governance, and liberalized economy. It entails opening up oil reserves to international trade and competition with minimal government interference, drastic reduction in government expenditure even on basic infrastructure and wholesale privatization of public utilities including refineries and crude oil reserves. As it was put by Donald Johnson, (Obayuwana, 2007)[182] globalization is a new global age where all societies have the potentials of participating actively in the world trade and investment could flow to all peoples and where misery and poverty of the much of the developing world could become a closed chapter of sad history, no longer a reality of the present.

Yet, with weak institutions of state, corruption, non-existent social infrastructure, industrial and technological base, Nigeria cannot withstand international finance capital and the multinationals thus leaving her oil and gas industry and its vast reserves recklessly exploited and shipped away easily leaving the multitude of its local inhabitants a whole lot poorer, more socially dislocated and more politically destabilised and restive. By 2000 after its currency had been devalued, trade barriers removed, markets opened up and oil and gas reserves released to multinational oil corporations, and after wholesale privatization of its public utilities including the refineries, Nigeria and most sub-Saharan African countries became poorer than they were a decade earlier and their economies had all but collapsed and could not compete with those of others elsewhere in the world (Ehusani, 2007).[183]

Thus, while the industrial economies were celebrating the gains of globalization, including the emergence of a world without frontiers, where capital and investment move freely to all the corners of the globe, and big corporations find cheap labour and cheap reserves to produce, Nigeria and it sub-Saharan colleagues were under excruciating debt burden, high unemployment, social dislocation and infrastructural decay. The scramble was

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[180] Rev. Fr. George Ehusani, The G8 Summit and the African Predicament, The Guardian, Thursday May 3, 2007 at 15.
[181] Oghogho Obayuwana, Africa and the Threats of Globalization, The Guardian, Monday May 7, 2007 at 15.
[182] Donald Johnson, Former Secretary General of the Organisation for Economic Cooperation and Development, Cited, Rev. Fr. George Ehusani, Loc. Cit.
[183] Id.

thus, taking place at a time when Africa was least equipped to deal with it and it tended to take away the very last treasure from Africa, its mineral resources while dominating its huge market.

There is therefore, what has been properly termed the new scramble for African. It is the attention drawn to the dynamics of competition for Africa's immense mineral and strategic resources and markets by China and the emerging economies of Asia on the one hand and Europe and America on the other. The attention is that the time for an African awakening has come and has to be now lest it sinks under the weight of globalization which, unlike the first scramble, now has a combined force of the old and the new powers which desperately seek in Africa, a sphere of influence that is totally dominated and subservient to both the West and the East. What then is the way out of the conundrum? For Osita Eze, (Obayuwana, 2007)[184] one fundamental way of coming out of the morass associated with globalisation is the subordination of external relations and interests to the logic of internal development. For Joy Ogwu, (Obayuwana, 2007)[185] considering that the fact that the globalization phenomenon presents certain challenges to African countries, particularly the pressure to liberalise its economies, care must be taken to ensure that as we open up to the global pressures, we also try to protect our interests. According to President Olusegun Obasanjo, (Obayuwana, 2007)[186] if African leaders are to meaningfully maximize the benefit of a global economy and save the continent from becoming a victim and casualty of yet another scramble for Africa, they must minimally guarantee and entrench good governance and leadership and evolve those policies which would drive economic growth and development. This way, African would be able to ensure that this new scramble signals the resurgence of Africa as a major and influential player in the evolving global architecture.

For W.O. Ali, (Obayuwana, 2007)[187] China-African relations and increasing competition for access to Africa's natural resources was in tandem with the Chinese President's claim that Africa is the natural partner of China which had through China National Overseas Oil Company Ltd, won a 45% state in OPL 246 worth 2.7 billion dollars in Nigeria's offshore deep water oil field operated by Total. However, great apathy was shown by many multinational operators in the exercise designed to sell 45 oil blocks in six basins before the Obasanjo Administration was wound up. Apart from the fact that the exercise was besmeared with credibility as it was being done in the twilight of the Administration like the Abdulsalam Administration did 8 years previously and which said exercise was revoked by the Obasanjo Administration, the atmosphere of the Niger Delta had not been auspicious at all for the exercise as the region was tensed enough that it had affected operations negatively with

[184] Professor Osita Eze, Cited, Oghogho Obayuwana, Loc. Cit.
[185] Professor Joy Ogwu, Cited, Oghogho Obayuwana, Id.
[186]Olusegun Obasanjo, Cited, Oghogho Obayuwana, Id.
[187] Professor W.O. Ali, Cited, Oghogho Obayuwana, Id.

many multinationals rejecting jobs in Nigeria and life of workers being at risk amidst daily kidnapping and intimidation making multinationals not to take Government seriously on the bidding rounds of the oil reserves.[188]

Yet, no country in history has owed its development largely to investment by foreigners. Brazil, China and India which are the emerging giants did not attain a significant measure of their economic success on the wings and platter of direct foreign investment. In Nigeria, impediments to rapid development and sustained growth do not include inadequate foreign direct investment. The bulk of foreign investment inflows go to oil exploration and production even with rising youth restiveness in the area of operation. But investment in the oil sector has, for over 50 years, not led to appreciable national development. It is necessary, therefore, to point to the fact that annual dollar receipts from oil dwarf annual direct foreign investment in the oil sector and to stress most emphatically that it only requires proper and knowledgeable management of the ample oil earnings by way of correct fiscal and monetary measures to create conducive conditions for transforming government dollar receipts into huge domestic private investments. Such domestic private investments do not require repatriation of initial funding and profits, they offer superior economic benefits to any contribution derivable from foreign direct investment. In such a situation, foreign direct investors merely supplement domestic private investment. This explains why industrialized and advanced nations do not accede to the argument that Nigeria is a poor nation but a mismanaged nation.[189]

Conclusion and Recommendation

The influence of cartels in the oil business of Nigeria which is run by the NNPC is not obviously being felt apart from OPEC. The influence of globalization appears to be stronger than that the cartels in Nigeria. In fact, the seven sisters, as the multi-national oil companies are sometimes referred to, are far more influential than the cartels in Nigeria. The bottom line is that there are no concerted connections between the cartels, the multi-nationals, the NNPC and the influences of globalization except that oil business is an international one and to a large extent OPEC is involved in the fixture of prices of oil. The functions of OPEC such as to coordinate and unify the petroleum policies of its member countries, determine the best means to protect the interests of member countries individually and collectively are pronounced in Nigeria. But that it devises ways and means of stabilizing prices in international oil markets in order to reduce detrimental fluctuations and give regard to the interest of producing countries and their need for a steady income are not pronounced. Therefore its governing objective being centered on price stabilization is about the only function still in good standing. The crises of indebtedness and insecurity which Nigeria has been facing arising from the fall of oil prices do

[188] See Yakubu Lawal, Government, Operators Join Issues on 2007 Oil Block Bid Round, The Guardian, Thursday May 3, 2007 at 17 – 18.
[189] G8: Lessons for Nigeria, Editorial, The Guardian, Tuesday June 9, 2007 at 20.

not seem to concern OPEC, that is perhaps the internal bane of a member.
In view of the new global scramble for minerals space, it is recommended that attention be focused on the dynamics of competition for Nigeria's immense mineral and strategic resources. China and the emerging economies of Asia on the one hand and Europe and America on the other are seeking new ways to exploit these resources. The time for awakening has come lest Nigeria sinks under the weight of globalization. The current insurgencies, banditry, self-determination issues in the 2020s are subtle hands of the influences globalization in the sub-continent and may implode Nigeria into a spring.

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