TAXATION AS A REFORM TOOL IN NIGERIA'S OIL AND GAS SECTOR: LESSONS FROM THE CANADIAN EXPERIENCE*

Abstract

The oil and gas sector is Nigeria's major source of revenue. By virtue of this Nigeria economy is more of a monolithic one. Aside Nigeria's direct involvement in exploration and exploitation of her mineral resources through the NNPC the revenue majorly come from the various tax regimes in the sector. The taxation in the sector has been undergoing serious challenges and malfunctioning of the system leaves little or nothing to be desired as the effect is as devastating as it is cancerous to the Nigerian economy. Consequently, there are serious calls from several stakeholders in Nigeria's oil and gas industry pointing towards the necessity of having petroleum sector reforms, particularly as it regards the tax system. In carrying out this research, the researcher employed the doctrinal method of research wherein the comparative, descriptive and analytical approaches were adopted. Also the primary sources of legislation, books and judicial authorities as well as secondary sources of journal articles, publications etc were used. It was found out that there are certain industry inefficiencies in the Nigeria's petroleum sector that has bedeviled the sector. During the research, it was also discovered that Canada being reputed to have one of the best oil and gas regimes in the world has certain tax measures that have considerable potential for addressing those inefficiencies and challenges in the sector. Thus a detailed comparison was carried out between Nigeria and Canada in order to explore the possibility of using Canada as a test case. The researcher concluded in line as asserted above. Recommendations were made which suits the different phases of the challenges and inefficiencies.

Keywords: Tax, Oil, Gas, Tool, Reform, Canada, Sector

1. Introduction

Nigeria declared the discovery of oil in commercial quantity in late 1950's[1]. Since that declaration, less and less attention has been given to other forms of renewable and non renewable resources with which the vast territory of Nigeria has been blessed; including cocoa, groundnut, palm produce, rubber, gold, iron ore, petroleum, lead, limestone to mention a few[2]. Since that discovery, crude oil (commonly known as petroleum) has been the most dominant of Nigeria's natural resources in terms of revenue generation[3]. Current statistics indicate that Nigeria is Sub-Saharan Africa's largest oil producer and is among the top five exporters of Liquefied Natural Gas (LNG) in the world[4]. The income generated from crude oil accounts for about seventy-five percent (75%) of government

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[1]The precise date of discovery of oil in Nigeria has been a subject of argument among scholars. For instance, Schätzl, *ibid* at 4 cites 1956; Godfrey Etikerentse, *Nigerian Petroleum Law* (London: Macmillan, 1985) at 2 cites 1956; Emmanuel I Kachikwu, 'Legal Issues in the Oil and Gas Industry' (1989) 2:9 *GRBPL* 33 cites 1957 and Yinka Omorogbe, 'The Legal Framework for the Production of Petroleum in Nigeria' (1987) 5 *J Energy Nat Resources L* 273 at 274 cites 1958. However, there is a consensus among these commentators that the first oil discovery was made at Oloibiri village.

[2] Ludwig Schätzl, *Petroleum in Nigeria*(Ibadan: Oxford University Press, 1969) at 152; Nigerian Federal Ministry of Information, 'Investment Opportunities in Nigeria', online: Federal Ministry of Information Retrieved from http://fmi.gov.ng. Assessed on 15.10.2016. Note that the usage of the term 'petroleum' in Nigeria includes both oil and gas. See Petroleum Act, LFN 2004, Cap P.10, s15 (1) [Petroleum Act]. This legislation is the primary statute that regulates the exploration and production of oil and gas in Nigeria.

[3]Chris Ehinomen, Babatunde Afolabi& Samuel Ogundare, 'The Restructuring of the Nigerian Economy and the Nigerian Oil Sector Earnings Nexus', (2014) *SSRN* 1 at 3.

[4]AFDB/OECD/UNDP, *African Economic Outlook* 2015: Regional Development and Spatial Inclusion, OECD Development Centre, (Paris: OECD Publishing, 2015) at 27; Independent Statistics & Analysis, Nigeria: Country Analysis Brief Overview, online: U.S. Energy Information Administration Retrieved from http://www.eia.gov. Assessed on 16.10.2016.

revenue[5], thirty-five percent (35%) of the country's gross domestic product and over ninety percent (90%) of total export revenue for the country[6].

Looking at the industry from an international stand point, the Independent Statistics and Analysis (ISA) conducted by the United States Energy Information Administration notes that there are certain issues limiting the growth of the Nigerian petroleum industry[7]. However, Canada's petroleum industry is reputed to be a 'strong global player on the oil and gas stage'[8]. Considering that crude oil is 'Nigeria's single biggest source of income'[9], there is an urgent and compelling case for petroleum sector reforms so that Nigeria can fully realize the benefits of its abundant oil resources. It is our intention that this study should achieve the following objectives: (a) Examine critically taxation of oil and gas corporation with special emphasis on the provisions of the Petroleum Profit Tax Act[10]; (b) Examine taxation of oil and gas corporations in Canada; (c) Outline the criticisms and challenges of the Canadian petroleum, industry; (d) Analyze the role of taxation in the economy; (e) Compare the oil and gas sector of Nigeria bringing out the similarities and differences in the oil regime of both countries; (f) Explore the need and challenges that necessitated the oil and gas sector reforms in Nigeria; (g) Provide a justification for selecting Canada as a comparator; and (h) Make recommendations towards curbing the challenges identified in this research paper.

2. Discussions

In Nigeria, the ownership of mineral rights is vested in the Federal Government by virtue of the Constitution of the Federal Republic of Nigeria[11]; and only companies incorporated under the Companies and Allied Matters Act are allowed to engage in the exploration or production of petroleum in the Nigerian petroleum industry[12]. This is a contrast to the position in Canada where diversity exists regarding the type of Business entities engaged in the industry. Section 2 of Nigeria's Petroleum Act[13] provides that, 'a licence or lease … may be granted only to a company incorporated in Nigeria under the Companies and Allied Matters Act or any corresponding law'[14]. Under the Petroleum Act, there are three major types of interests that can be granted to oil companies, namely: exploration, prospecting and production. Specifically, oil exploration licenses (OEL) are non-exclusive licenses which are granted for the conduct of preliminary exploration surveys[15]. An oil prospecting license (OPL), on the other hand, is an exclusive license granted for more extensive exploration surveys and includes the right to take away and dispose of oil discovered while prospecting[16]. The third type of interest is the oil mining lease (OML) which is a lease that allows for full scale commercial production once oil is discovered in merchantable quantities in the specified

[5]International Monetary Fund, Nigeria: 2013 Article IV Consultation-Staff Report; Press Release and Statement by the Executive Director for Nigeria, *IMF Country Report* No. 14/103, online: Retrieved from http://www.imf.org. Assessed on 16.10.2016.

[6]Organization of Petroleum Exporting Countries (OPEC), 'Nigeria: Facts and Figures', *OPEC Annual Statistical Bulletin* 2014 at 58, online: Retrieved from http://www.opec.org. Assessed on 16.10.2016

[7]AFDB/OECD/UNDP, *African Economic Outlook 2015*: Regional Development and Spatial Inclusion, OECD Development Centre, *op cit.*

[8]PricewaterhouseCoopers, 'Unlocking Canada's Oil and Gas Industry – Is Canada Becoming an Energy Superpower?', (7 May 2013) PWC Energy Vision Report at 2, online: Retrieved from http://www.pwc.com. Assessed on 17.10.2016.

[9]Goddey Wilson, *op cit* at 70; Emeka Chiakwelu, 'Nigeria: Naira's Dithering - Nollywood and Agriculture Can Aid Ebbing Nigerian Currency', *Daily Independent* (13 November 2014), online: Retrieved from http://dailyindependentnig.com

[10] Cap P13 Laws of the Federation of Nigeria, 2004.

[11]Constitution of the Federal Republic of Nigeria 1999, LFN 2004, Cap C23, s 44(3) [1999 Constitution]. Specifically, the Constitution provides that, 'the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation.'

[12]Companies and Allied Matters Act, LFN 2004, c C20, s 54 [CAMA].

[13]Petroleum Act, LFN 2004, Cap P10, s 2 [Petroleum Act].

[14]*Ibid.*

[15]*Ibid*, s.2(1) (a).

[16]*Ibid*, s.2(1) (b).

acreage[17]. As mentioned earlier, these concessions can only be granted to companies incorporated under Nigerian law[18].

The principal statutes dealing with the management of oil and gas resources in Nigeria include the Petroleum Act[19], Petroleum Profits Tax Act (PPTA)[20], Oil Pipelines Act[21], Nigeria Liquefied Natural Gas (LNG) Act[22] and the Environmental Impact Assessment Act[23]. Apart from the PPTA, other tax regulations which are also applicable to corporations in the Nigerian oil and gas industry include the Companies Income Tax Act (CITA)[24], Capital Gains Tax Act[25] and Value Added Tax Act[26]. Among these, the Statutes that govern major oil and gas corporation taxes are the PPTA and the CITA is more general as it embraces general corporate income tax regulation. Nigeria's oil and gas corporations are taxed under the Petroleum Profit Tax Act (PPTA) or the Companies Income Tax Act (CITA) depending on the particular sector of the petroleum industry in which the corporation operates. The three major sectors of petroleum operations in Nigeria are upstream, downstream and service sectors[27]. The upstream sector relates to exploration and production of crude oil and gas and the companies in this sector are taxed under the PPTA[28]. However, profits derived by an upstream company which are not related to 'petroleum operations'[29] are liable to tax separately under the CITA[30]. The downstream sector involves the processing of petroleum collected in the upstream stage into finished products[31]. This stage also includes the distribution and marketing of petroleum products to consumers.

Companies operating in the downstream sector are taxed under the CITA[32]. Companies in the services sector provide support services to the upstream and downstream sectors[33]. Examples of these support services are seismic data acquisition, drilling services, production support services, refinery maintenance, banking, catering and related services[34].The PPTA[35] is the tax legislation governing the taxation of companies engaged in 'petroleum operations' in Nigeria. Section 2 of the *PPTA* defines petroleum operations as:

> The winning or obtaining and transportation of petroleum or chargeable oil in Nigeria by or on behalf of a company for its own account by any drilling, mining, extracting or other like operations or process, not including refining at a refinery, in the course of a business carried by the company engaged in such operations, and all operations incidental thereto and sale of or any disposal of chargeable oil by or on behalf of the company.

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[17]*Ibid*, s.2(1) (c).
[18]*Ibid*, s.2(2).
[19]Petroleum Act, *op cit.*
[20]Petroleum Profits Tax Act, LFN 2004, Cap P13 [PPTA].
[21]Oil Pipelines Act, LFN 2004, Cap O7.
[22]Nigeria Liquefied Natural Gas (LNG) Act, LFN 2004, cap N87.
[23]Environmental Impact Assessment Act LFN 2004, c. E12.
[24]Companies Income Tax Act LFN 2004, Cap. C21 [CITA].
[25]Capital Gains Tax Act LFN 2004, Cap. C1.
[26]Value Added Tax Act LFN 2004, Cap. V1 [VAT Act].
[27] Some literature also includes a 'midstream' sector in the classification of the oil and gas industry. However, the midstream sector operations are usually included in the downstream sector. See KPMG, 'KPMG Nigeria Oil and Gas Industry Brief' (June 2014), online: KPMG Nigeria http://www.kpmg.com at 5.
[28]PPTA *op cit.*, s 8. This section provides for the 'charge of tax' for companies engaged in 'petroleum operations' and s 2 of the Act describes these companies as upstream companies.
[29]PPTA *ibid* at s 2 defines petroleum operations. Note that upstream companies that also conduct some downstream sector operations will be liable to tax under the CITA for such downstream operations.
[30]CITA, *op cit.*
[31]KPMG, 'KPMG Nigeria Oil and Gas Industry Brief'*op cit.*
[32]*Op cit.*
[33]KPMG, 'KPMG Nigeria Oil and Gas Industry Brief'*op cit.*
[34]*Ibid.*
[35]PPTA, *op cit.*

Based on this provision, oil and gas industry activities that are not covered therein are only taxable under the Companies Income Tax Act (CITA)[36]. Where a corporation's activities are categorized as 'petroleum operations', the applicable tax rate for such oil and gas corporation under the PPTA is further dependent on the nature of the contractual arrangement the corporation has with the federal government. The terms of participation for oil and gas corporations are contractual arrangements which stipulate the rights and duties of the parties. The national oil company (NNPC) is the entity that negotiates and enters into such contractual agreements on behalf of the Federal Government of Nigeria and has the responsibility of giving effect to these contractual agreements[37]. Examples of such contractual arrangements are Joint Ventures (JVs), Production Sharing Contracts (PSCs), and Service Contracts (SCs)[38]. However, the JVs and PSCs are the most common types of contractual arrangements used by upstream petroleum corporations and are both liable to tax under the PPTA. The law describes JVs as any agreement or arrangements under which the NNPC 'jointly owns and develops various oil and gas concessions in Nigeria'[39]. This embraces the NNPC's collaboration with international oil companies (IOCs) for the purpose of exploiting petroleum resources through a joint operating agreement (JOA) which provides a framework for the joint venture relationship[40]. Under a JV arrangement, ownership, funding and production sharing are all based on each JV partner's equity share - the parties jointly hold the OML and the costs for exploration, development and production of the petroleum (and the hydrocarbons produced) are shared among the parties in proportion to the participating interest held by each party under the JOA[41].

For corporations under the JV arrangement, petroleum profits tax (PPT) is imposed at the rate of eighty-five percent (85%) on the corporation's chargeable profit[42]. The corporation's 'chargeable profit' is described as its assessable profits based on petroleum operations carried out within each accounting period less the deductions allowed under the PPTA[43]. However, a tax rate of sixty-five point seven five percent (65.75%) is applicable to the chargeable profits of corporations that are within their first five years of business[44]. After the initial five years, the chargeable profits of the corporation are taxed at the general rate of eight-five percent (85%). Due to funding pressure from the JV arrangements, the federal government commenced the adoption of the PSC model as the preferred petroleum arrangement with oil companies[45]. PSCs have been defined as 'an agreement under which a foreign company, serving as a contractor to the host country/its national oil company, recovers its costs each year from production and is further entitled to receive a certain share of the remaining production as payment in kind for the exploration risks assumed and the development service performed if there is commercial discovery'[46]. In practical terms, the oil producing country (or national oil company) owns the concession and engages the oil producing companies as contractors to conduct petroleum operations on behalf of itself and the country[47]. However, the contractor bears all

[36]CITA, *op cit.*
[37]Nigerian National Petroleum Corporation Act, LFN 2004, c N123, s 5 [NNPC Act]. See especially, s 5 (1) (g).
[38] CITA, op cit.; Yinka Omorogbe, Oil and Gas Law in Nigeria (Lagos: Malthouse, 2003) at 38-54
[39]Deep Offshore and Inland Basin Production Sharing Contracts Act Decree No 9 of 1999, LFN 2004 Cap D3 s18.
[40]Yinka Omorogbe, Oil and Gas Law in Nigeria, *op cit.*
[41]*Ibid.*
[42]PPTA, *op cit*. at s 21.
[43]*Ibid, s* 9. The PPTA in s 9(4) describes 'assessable profits' as adjusted profits less the deductions allowed in S 16 of the Act (for instance loss incurred by a company during a previous accounting period is an allowable deduction) while chargeable profits is defined in s 9(5) as assessable profits less deductions allowed under s 20 of the PPTA (which include annual allowances and petroleum investment allowance).
[44]PPTA, *op cit.* at s 21 (2). The initial tax rate is to enable the company recover its pre-production costs
[45]KPMG, 'KPMG Nigeria Oil and Gas Industry Brief'*op cit.* at 7. This model was adopted in 1993 and all new government contracts with oil companies since that time have been PSCs. As a result of the way Nigeria's oil and gas industry has evolved, most onshore operations today are JVs, and most deep water offshore operations are PSCs.
[46]GaoZhiguo, 'International Petroleum Contracts: Current Trends and New Directions'(London: Graham &Trotman, 1994) at 72.
[47]Francisca Nlerum, 'Reflections on Participation Regimes in Nigeria's Oil Sector' (2010) 6 *NCLR* 145 at 157.

exploration and development risk and is exclusively responsible for financing the costs of the whole petroleum operation which includes the exploration, development and production[48]. If the exploration is successful and oil is discovered in commercial quantities, the contractor recovers the exploration and development costs and will be entitled to reasonable profit upon commencement of commercial production[49]. If the exploration is unsuccessful, the contractor will bear all the losses. Also worthy of note is that royalties, costs, taxes and profits under the PSC are paid in kind (through allocation of oil) and not cash.

As under the Canadian tax system, Nigerian oil and gas corporations are also entitled to claim certain deductions in the computation of their taxable profits. For PPTA purposes, all expenses that are 'wholly, exclusively and necessarily' incurred for petroleum operations are allowable deductions for computing adjusted profit[50]. Examples of such expenses are royalties on exported crude oil, exploration costs, transportation costs, and shipping costs.In addition to JVs and PSCs arrangements discussed above, a third contractual arrangement in Nigeria's petroleum industry is the service contracts (SCs)[51]. A SC could either be a risk-service, pure-service or a technical assistance agreement[52]. Under the risk-service arrangement, the oil producing country owns the concession as well as the petroleum discovered while the oil company who is engaged as the contractor bears all the risks[53]. Pure-service and technical assistance agreements, on the other hand, are simply contracts for work - the contractor is brought in to perform defined services or tasks and is compensated accordingly. Unlike the risk-service contracts, the risks under the pure-service and technical assistance agreements are borne by the government[54].

In 1987, Nigeria had eleven (11) SCs with IOCs and NNPC in the nature of risk-service contracts[55]. However, SCs are no longer popular in the Nigerian oil and gas industry. As regards taxes, the contractor is treated differently under the SC as opposed to the JVs and PSCs. The contractor is not liable to tax under the PPTA because PPT is only payable by a company engaged in petroleum operation which is defined as 'the winning or obtaining … of petroleum in Nigeria … by a company on its own account…'[56]. Given that the oil company under the SC does not hold any participating interest in the concession, it does not win, or obtain the petroleum 'on its own account'[57]. Thus, the oil company's status as a *contractor* is underscored and the oil company is liable to tax on its remuneration under the CITA at the rate of thirty percent (30%)[58]. However, the NNPC is liable to pay PPT as well as all royalties due on the contract area since it holds the concession for the petroleum operations[59].

In addition to oil companies under SC arrangement, companies operating in the downstream and services sector of the Nigerian petroleum sector are also assessed to income tax at the rate of thirty percent (30%) of their chargeable profit under the CITA. Furthermore, activities of upstream companies (such as under JVs and PSCs arrangements) that are not covered under 'petroleum operations' are also taxable under the CITA[60]. In addition to corporate taxes and royalty payments, oil and gas companies are subject to certain indirect taxes and levies. The major indirect taxes

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48 *Ibid.*
49 *Ibid.*
50 PPTA, *op cit.* at s 10.
51 Francisca Nlerum, Reflections on Participation Regimes in Nigeria's Oil Sector, *op cit.*, at 161. Note that an oil company may have different arrangements with the government
52 *Ibid.*
53 Yinka Omorogbe, Oil and Gas, *op cit.* at 42.
54 *Ibid* at 43-4. The pure-service or technical assistance agreements are usually used in the areas of proven reserves such as the oil rich Middle East countries like Saudi Arabia, Qatar, Venezuela, Kuwait, and Bahrain. See Francisca Nlerum, Reflections on Participation Regimes in Nigeria's Oil Sector, *op cit.*, at 162.
55 Yinka Omorogbe, *The Legal Framework for the Production of Petroleum in Nigeria*, *op cit.* at 281.
56 *Ibid.*
57 *Ibid.*
58 *Ibid.*Yinka Omorogbe, The Legal Framework for the Production of Petroleum in Nigeria, *op cit.* at 282.
59 Yinka Omorogbe, *ibid.* at 282.
60 KPMG, 'KPMG Nigeria Oil and Gas Industry Brief'*op cit.* at 12.

include Tertiary Education Tax (TET), Withholding Tax (WHT) which is an advance payment of tax deducted at source on certain income, for which tax credit is given to the paying corporation, Value Added Tax, Niger-Delta Development Commission levy and import duties to mention a few[61]. Resident oil and gas corporations are liable to pay TET on assessable profits in each tax year[62]. However, non-resident corporations and unincorporated entities are exempted from TET. This tax is assessed at 2% of a company's assessable profits in addition to the PPT or corporate income tax liability of a company. However, this tax is an allowable deduction for purposes of arriving at adjusted profits for companies liable to tax under the PPTA.

Value added tax (VAT) is also applicable to the oil and gas corporations at the rate of 7.5% on taxable goods and services[63]. Like the GST applicable in Canada, some supplies are VAT exempt while some have a 0% tax rate[64]. For instance, oil exports, supply of plant, machinery and equipment that are purchased within or outside Nigeria for gas utilization in the downstream petroleum operations are exempted from VAT[65]. Also, oil and gas corporations are also liable to pay the Niger-Delta Development Commission (NDDC) levy of 3% of the total annual budget of all onshore and offshore oil producing companies as well as gas processing companies operating in the Niger-Delta area of Nigeria[66] to take care of the environmental degradation in the Niger-Delta.

The oil and gas tax administration in Nigeria is done solely by the Federal Government through the FIRS. Like the Canadian self-assessment system of taxation, Nigerian oil and gas corporations that are taxed under the CITA also have the responsibility to complete and file income tax returns with the FIRS[67]. However, companies involved in upstream petroleum operations that are taxed under the PPTA are required to submit audited financial statements and tax computations to the FIRS for review. Upon review of these documents, the FIRS issues notices of assessment to the upstream petroleum companies. Where there is any dispute relating to assessment under any of the two regimes, the Tax Appeal Tribunal has the responsibility to settle such tax disputes[68].

The Canadian Income Tax Act[69] regulates the imposition of federal income tax on the corporations in Canada. Canada operates a multi-tier taxation system, as the various levels have some rights to collect taxes. Generally, the federal government has legislative powers to impose taxes on corporations[70]. In addition to federal income taxes, provincial and territorial income taxes are also levied on corporations. While the provinces have constitutional powers to impose taxes under respective provincial statutes[71], the territories do not have separate constitutional taxing powers but derive their taxing powers from the federal government[72].In Canada, the Department of Finance is responsible for development and evaluation of corporate tax policies[73], however, the Canada Revenue Agency (CRA) administers such fiscal policies on behalf of the federal and provincial governments in Canada (except

[61] This list above is not exhaustive and only includes the most common taxes and levies.
[62] This list above is not exhaustive and only includes the most common taxes and levies.
[63]VAT Act, *op cit.*at s 2.
[64]*Ibid*, see 1st Schedule, Part III.
[65]*Ibid*, see item 1st Schedule, Part I
[66]Niger-Delta Development Commission (Establishment etc) Act, LN 2000, s 14 [NDDC Act].
[67]1999 Constitution, *op cit.*, s 24 (f); FIRS, 'Self-Assessment Regulations', online: Federal Inland Revenue Service Retrieved from http://www.firs.gov.ng.Assessed on 19.10.2016.
[68]FIRSEA, *op cit.* at s 59(2).
[69]Income Tax Act, RSC 1985, c1 (5th Supp).Hereinafter referred to as ITA.
[70]Constitution Act, 1867, 30 & 31 Vict, c 3, reprinted in RSC 1985, Appendix II, No 5, s 91, hereinafter referred to as Constitution Act, 1867 vests taxing powers in the federal government.
[71]Constitution Act 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 hereinafter referred to as Constitution Act, 1982] ss 92(2), 92A (4) grants provinces the exclusive jurisdiction to make laws relating to exploration and management of non-renewable natural resources within their provinces.
[72]Constitution Act, 1982, *ibid*, s 32 (1).
[73]Financial Administration Act, RSC 1985, c F-11 s 14-5. The Department is responsible for formulation of general tax policies including policies for corporation in Canada.

Alberta and Quebec)[74]. The CRA collects and remits corporate taxes to relevant provinces based on tax collection agreements with such provinces[75]. Alberta and Quebec have separate provincial tax administrative agencies for administration of taxes[76].

The major challenges include lack of transparency and accountability, environmental degradation, tax evasion, inadequate technology and lack of skilled personnel in petroleum operations. These challenges present a compelling case for oil and gas sector reforms in Nigeria. We cannot fail to mention also that the Canadian oil and Gas industry faces a number of challenges itself, which include the declining or aging labour force and advancement of technology in the oil and gas industry[77].

While we do not contemplate that the tax system is the only tool with which the previously identified problems can be addressed, we argue, however, that the tax system provides a promising avenue for improving administrative efficiency and growth of Nigeria's oil and gas industry while raising tax revenue for the federal government. For instance, tax incentives administered through the tax system can help to attract investment in the oil and gas industry while the imposition of tax on undesirable activities can influence corporate decisions and mitigate the incidence of such activities.

3. Conclusion and Recommendations

In identifying the desire for petroleum sector reforms, this work identified the oil and gas industry inefficiencies and the current attempts being made by the Federal Government in addressing the petroleum industry inefficiencies. These discussions highlighted the real need for oil and gas sector reforms and the benefit of transplanting Canadian measures to address the major defects in Nigeria's legal system. Secondly, this research evaluated the functionality of Canadian ideas in meeting the needs for Nigeria's oil and gas sector reforms by exploring the desirable features of the Canada's oil and gas industry and providing justification for the choice of the industry as a comparator. Even though the proposed recommendations may assist in improving certain aspects of Nigeria's petroleum sector in a theoretical context, the transformation of Nigeria's petroleum industry into a globally competitive tax system remains a collective responsibility of all stakeholders. Therefore, the willingness of the major stakeholders in Nigeria's petroleum industry is crucial to the implementation of any of the proposed recommendations. Particularly, corporate taxpayers involved in petroleum operations need to lend their hands, when required, for enforcement of these tax reform initiatives. While this research concludes that the tax system has a role in petroleum sector reforms through the adoption of tax-based measures between Nigeria and Canada, this thesis can only predict the success of such reforms. The accurate and precise determination of the rate of success of these tax-based measures in the Nigerian legal system is a subject for further research and thus, remains an open question for the purpose of this thesis. Despite the fact that the recommendations in this work do not purport to provide the final solution to all the challenges in Nigeria's petroleum sector, it is anticipated that they will make a worthy contribution to Nigeria's oil and gas reforms. Ultimately, it is hoped that this research provides an insight on the reformative role of taxation in other sectors of Nigeria's economy.

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[74]Canada Revenue Agency Act, SC 1999, c 17 [CRA Act] s 2(a); ITA, s 22(1).

[75]CRA Act, ibid, s 63(1) on 'Agreements to Administer a Tax'. For implementation, see generally s 5(1) (b) CRA Act which states that: the CRA is responsible for 'implementing agreements between the Government of Canada or the Agency and the government of a province or other public body performing a function of government in Canada to carry out an activity or administer a tax or program. Specifically, Corporations Tax Act, RSO 1990, c C-40 s 98.1 (1) [Ontario Corporation Tax Act] empowers Ontario's Minister of Finance and the Minister of Revenue to enter into an agreement with the CRA for administration and enforcement of the CRA Act.

[76]Constitution Act 1982, *op cit.* at s 17.

[77] Ernst & Young, 'Human Resources in Canada's Oil and Gas Sector: A Snapshot of Challenges and Directions', (2011), retrieved online from http://www.ey.com at 4. Accessed on 07.12.2016.

Given the reputation of the Canadian petroleum industry, we argue that there are certain regulatory provisions in Canada's tax system that are potentially beneficial to Nigeria's petroleum industry. Therefore, we propose five recommendations derived from Canada's oil and gas tax regime to address the previously identified problems in Nigeria's oil and gas industry. While some of the selected Canadian measures are novel to the Nigerian petroleum industry, the other measures simply provide supplementary insights to existing measures in Nigeria's oil and gas tax system.

1. Specifically, we propose that the incentivizing of research and experimental development (R&D) in Nigeria's oil and gas industry through tax credits can address the problem of recurrent fuel shortages and inadequate technology. In practical terms, such R&D incentives are likely to promote local investment in oil exploration activities and increase local production of petroleum products thereby reducing Nigeria's heavy reliance on imported petroleum products. Similarly, such R&D credits may also encourage existing international oil companies to invest in more advanced technology for oil exploration activities especially for the utilization of associated gas.
2. It is hereby suggested that the use of clean energy generation equipment by oil exploration companies can mitigate the adverse environmental effects of oil exploration activities in oil producing communities. The use of clean energy equipment can be promoted by granting an accelerated capital cost allowance for purchase of specified clean energy generation equipment to eligible oil and gas companies.
3. In addition to the use of clean energy, we also recommend the imposition of a pollution tax to address the problem of environmental degradation and its consequent effects in the oil producing communities in Nigeria.

In addition to these three fiscal measures, the thesis also proposes two tax administrative measures;

First, we recommend Canada's tax informant reporting program to address the problem of tax evasion and aggressive tax avoidance. Finally, we recommend the recent mandatory reporting requirement for Canadian extractive companies to address the problem of lack of transparency and accountability in Nigeria's oil and gas sector.