

Local Content in the Energy Sector: Prerequisite for Enhancing Local Content

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Introduction

Countries that are endowed with resources globally are progressively tightening their local content requirements with a view to deriving maximum benefits from their resources. Local content can be defined as the value that the indigenous communities derive from extraction of their natural resources in terms of the use of local labour force and procurement of goods and services that are locally available.

Local content policies substantially target indigenous industry growth, technological advancement, value addition, job creation and various industrial linkages along the value chain. Globally, countries are therefore putting in place local content policy and legislative framework to ensure the local content requirements are exploited to derive maximum benefits from the natural resources.

Kenya has policies and legislation such as draft Local Content Bill of 2018, Petroleum Act of

2019 and Energy Act of 2019 that capture the local content requirements. All international firms are compelled to transfer skills and technologies to local firms and professionals. As a result, local firms learn, embrace and adapt technologies and production progressions developed elsewhere. This is critical in breaking the complex, enormous and prohibitive barriers found in sophisticated industries such as oil and gas in developing countries such as Kenya. The draft Local Content Bill of 2018 is under review at the Senate.

Opportunities for local content

In the energy sector, both the renewable and non-renewable energy should adequately identify the local content along the value chain to obtain maximum value for the local resources.

Some of the major energy legislation in Kenya have put emphasis on local content development.



For instance, the Petroleum Act of 2019 and the Energy Act 2019 outline local content plan modalities for operators in the petroleum sector. While the National Energy and Petroleum Policy of 2015 stipulates the timelines for development of local content plan, the development of local content policy is far behind the stipulated time (2015-2019) as indicated in the National Energy and Petroleum Policy.

Non-renewable energy sector

In petroleum exploration, there are opportunities to acquire sophisticated technologies and skills during the exploration stage. In addition, the development and production phases present opportunities for local firms to be engaged in drilling wells, supply of various materials, acquisition of skills by local workforce, distribution of petroleum products and acquisition of advanced technologies. The transportation and distribution phase presents an opportunity for local firms to invest various support businesses and develop skills for professionals such as chemical engineers and plant operators.

Renewable energy sector

In renewable sources of energy, there are opportunities for local content. International firms with manufacturing plants located abroad can set up industries in Kenya to maximize benefits from the local resources. Local firms could be engaged to manufacture energy projects components. In addition, local firms and local experts could be involved in project management, construction and installations, and operations and maintenance. Project development, construction and installation, and operations and maintenance phases present enormous opportunities to hire various professionals, use of local materials, transfer of technologies and growth of the industry.

Prerequisite for Enhancing Local Content

There are several considerations and prerequisites for Kenya to enhance local content in the energy sector as outlined below:

Legal and institutional framework

Local policies and regulations create an enabling environment for local firms to participate in the energy sector. This include regulations such as the Energy Act of 2019, National Energy and Petroleum Policy of 2015 and Local Content Policy (draft). The best practice stipulates that policy formulation should form the basis for laws, since policies are enforced by laws. Such policy and regulation interventions create incentives for companies to register with the relevant authorities, enforcement of agreements and aligning the development of infrastructure with the local content objectives. Nevertheless, some regulations may be an impediment to local content development. For instance, Trade-related Investment Measures (TRIM) measures introduced by the WTO are against protection of local industries through local content. Nevertheless, for developing countries, definite transactional exceptions have been allowed to allow economic development for a certain period. Similarly, the Southern African Development Community (SADC) trade protocol calls for equal market access by limiting governments to put in place protectionist measures on the suppliers of services depending on the country's level of development. This is an indication of how a country should strategically negotiate for effective local content policies.

Effective monitoring of local content policies

Local content policies tend to achieve their objectives in regimes that enhance good governance. Adequate institutional and administration structures offer a platform for modest and consistent measurement and reporting mechanisms that gather adequate information to check on the private firms' compliance.

Local capacity

Local capacity entails education and technical skills, available technology, expertise development, Research & Development and the available local firms. Growth in an industry requires an interplay between established and developing capabilities. A country's technology level and its industrial base play a crucial role in enhancing local content policy development. Kenya has inadequate skilled workforce to

implement local content and therefore Kenya needs an elaborate content plan on improving the necessary skills.

Local infrastructure

This entails public utilities such as roads, railway networks, telecommunication, water supply and electricity, information technology, indigenous firms' needs, social, education infrastructure, and institutional infrastructure. These infrastructure are essential in providing a conducive environment for growth of local firms in the energy sector. Kenya has not adequately provided the infrastructure especially in areas where energy resources are located.

Good governance and political will

Local content development is largely dependent on the policy making processes and a country's governance structure. Countries with weak executive and legislative influences, frail democracy, and devoid of independent oversight bodies are more prone to corruption and mismanagement of resources. In Kenya, the Local Content Bill has been under review since its introduction in 2016. Without good political will, Kenya faces a challenge of delayed development of the policy and its operationalization. In addition, the local content policy is still in draft, which should be finalized before the enactment of a bill. The best practice stipulates that policy formulation should form the basis for laws since policies are enforced by laws. Kenya is ranked position 121 out of 141 countries on transparency as indicated by the global competitive report 2019. This would have a negative impact on the implementation of local content policies and requirements in the energy sector.

Investment climate

Energy projects are capital-intensive. Most local firms do not have the financial capacity to undertake such projects. With effective investment climate, foreign firms could form joint ventures with the local firms. The draft local content policy emphasizes on collaboration with financial institutions, but the modality of their involvement is still not clear.

Policy Recommendations

- Consideration for short-term and long-term benefit during local content design; short-term benefits can be captured through strategic mechanisms which entails developing skills in the workforce by stipulating training requirements and procurement quotas. The current draft Local Content Bill of 2018 relies on the operator's planned local content and it is a prerogative of the Cabinet Secretary under the guidance of the local content development committee to set minimum local content requirements. There is need for pre-planned short-term and long-term requirements that could have some prescribed requirements by the government.
- Develop a framework for stakeholders' cooperation and engagement: Decision makers in the energy sector could formulate strategies that integrate all service providers and indigenous suppliers.
- Develop metrics for measuring local content implementation in the energy sector: For instance, the draft Local Content Bill of 2018 does not specify the number or percentage of Kenyans that should be employed in a certain job level. In addition, the Local Content Bill could propose development of a standardized measurement plan for monitoring and evaluation.
- To foster skills and development, Kenya could consider establishment of enterprise centres to offer specialized skills trainings for energy-related courses.
- Kenya should fast-track the formulation, approval and implementation of the local content policy, which focuses on extractive industry, gas, oil and petroleum resources. The best practice stipulates that policy formulation should form the basis for laws since policies are enforced by laws. The implementation of local content policy will significantly support local learning institutions to develop effective skills to enhance technology transfer, since local institutions have not tailored their courses to suit the energy sector skills. In addition, there is need to develop legislation that effectively guides different sources of energy on production, distribution and use of

energy. Other energy projects such as wind power should be included, with specific local content requirements to suit the industry.

- Strategies should be put in place to encourage localization of foreign-based firms. There should be clarity for operators to obtain a license or concessional rights to deal with projects similar to those they undertake elsewhere. This would lead to local manufacturing of products such as solar panels.
- Increase transparency and develop information sharing plan: for the local content policies to be substantially effective, indigenous firms and professionals need to be aware of diverse prevailing opportunities in the energy sector.
- Create incentives for financial institutions such as commercial banks and microfinance to increase funding to indigenous firms that wish to undertake energy projects.

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KIPPRA Policy Briefs are aimed at a wide dissemination of the Institute's policy research findings. The findings are expected to stimulate discussion and also build capacity in the public policy making process in Kenya.

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