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Nigeria's new petroleum law: a political hostage

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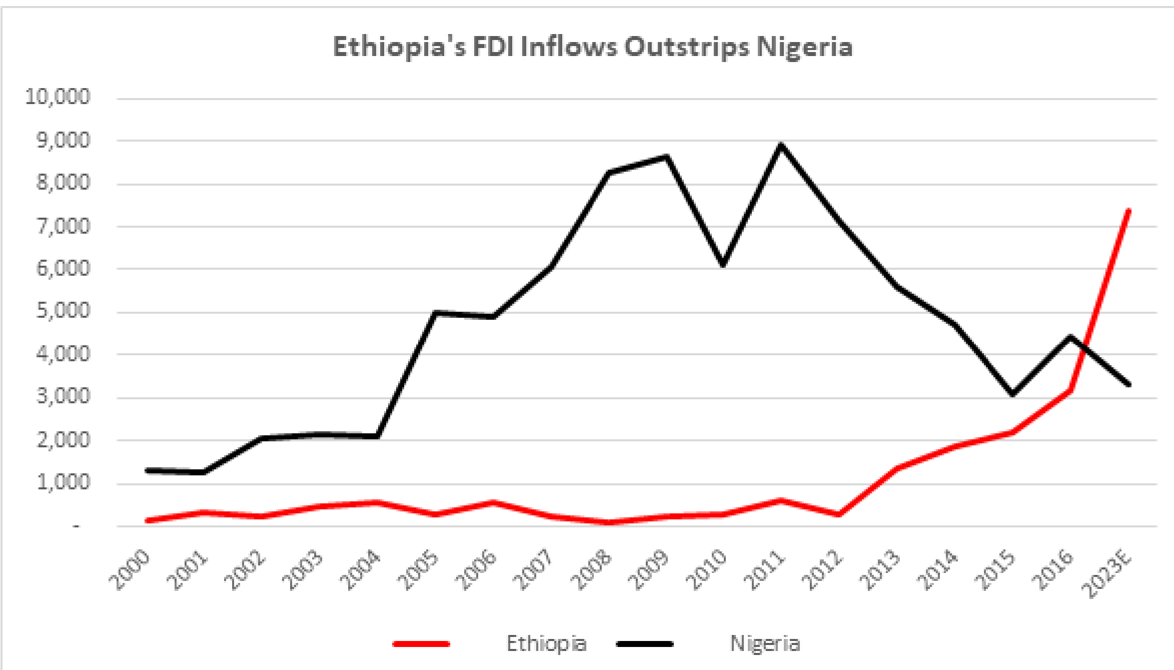
Nigeria's long awaited passage of a new petroleum law – will have to wait much longer until after the 2019 polls. Despite being passed in late 2017 by the Nigerian legislature, President Mohammadu Buhari has refrained from signing the law over political considerations that it will boost the possible presidential candidacy of the ambitious Senate President Bukola Saraki. To put the delay in perspective, when Nigeria first began the regulatory overhaul nearly two decades ago, the US dollar exchanged for around 105 Nigerian naira, the price of crude oil was $23 per barrel, and Nokia 3310 was still the most popular phone on the planet.

Consequently, when the news broke recently that Nigeria's National Assembly had finally passed the petroleum sector reform laws, investors were unevenly divided between pessimists and optimists. The optimists hoped the new law will be signed quickly in light of the rise of US shale. While the pessimists refused to believe the government's promises until they saw the law signed by Buhari. It seems the pessimists were right.



Source: UNTCAD/ DaMina Advisors (USD billions)

The latest attempt to enact the new petroleum laws involved breaking up the petroleum industry bills from the previous attempts into four bills. The first of the bills, the **Petroleum Industry Governance Bill (PIGB)** which focused on institutional reforms, was passed by the National Assembly in early 2018, and was supposed to be sent for presidential assent. The president has not assented to the PIGB. Deliberations and public hearings on the other three bills are still ongoing. These other bills are the **Petroleum Industry Administration Bill, the Petroleum Host and Impacted Communities Development Bill,** and the **Petroleum Industry Fiscal Bill.**

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ABOUT DAMINA

DaMina Advisors is a preeminent Africa-Asia focused independent frontier markets political risk research, due diligence, M&A transactions consulting and strategic geopolitical risks advisory firm.

DaMina Advisors is legally registered and has offices in the US, Canada, The UK and Ghana. DaMina is headquartered in Toronto.

There are a number of reasons why these petroleum reform bills, like their forbears, may not become law before the country's general elections in early 2019. An understanding of these reasons are very crucial to investors who though are weary, still await the enactment of these laws for their investment decisions.

First, there is a chasm between the executive and the legislature as to some aspects of the reform. The executive envisaged a total deregulation of the downstream sector, where the prices of petroleum products are determined by market forces, and not by government intervention or subsidies. This was contained in the National Petroleum Policy issued by the Ministry of Petroleum Resources in 2017, a Ministry under the executive and headed by the president himself. The policy stated that "*the government does not intend to reintroduce any subsidies. Any support to the poor will be made directly rather than through distortions to economic pricing". (p. 96).* On their part, the legislature decided on equalization of petroleum products prices and a system where prices are not determined by the invisible hand of the market, but fixed by the government. (s. 56 of the PIGB). Therefore while the administration favors a market centric deregulation, the legislature favors the opposite.

Also, one of the major targets of the executive is to bring down the cost of oil production in Nigeria. The estimated cost of producing a barrel of oil in Nigeria is UD28.99. U.S. Shale is USD23.35, in Iran it is USD9.08, and in Saudi Arabia it is USD8.98. This makes Nigeria unattractive to investors. The executive, in its National Petroleum Policy recognized that "contracting cycles, government mandates and bureaucracy" are important factors in cost escalation in the Nigerian petroleum industry (p. 62), and are desirous to fix this by streamlining the regulatory bodies. However, the PIGB passed by the National Assembly includes a provision on government mandate that will increase the overall cost of Nigerian production by empowering the regulatory body to impose a special levy on licensees and/or leasees for "implementation of projects". For an industry already overburdened by various forms of mandatory payments, this would add another layer of cost and defeat the aspirations of the executive. These regulatory ideological differences between the executive and the legislature may mean that until they are resolved, the executive will not assent to the PIGB as enacted by the National Assembly.

Furthermore very deep political permutations in Nigeria may stifle any further progress towards passing into law the reformative petroleum bills. This can be viewed from two perspectives. First, the general elections in which elections into leg until after the 2019 polls. As is common with the political landscape in Nigeria, these months running up to the elections are used to intensify efforts towards re-election, and are not to be spent on the tedious process of enacting laws. The legislators and the executive, both due for re-election, are more focused on retaining their seats and positions. The last may well be heard of any of these petroleum bills until mid-2019.

More critically the running political battles between Buhari and the Saraki. Despite belonging nominally to the same ruling party will likely stymie any deal on the petroleum law until next year. There is no love lost between the president and senate leader. Saraki assumed power against the wishes of the top echelon of his political party to the eternal dissatisfaction of the president. Saraki has signaled his interest in displacing Buhari as the ruling party candidate for 2019. If Saraki successfully brings into existence these reformative petroleum bills that has defied his predecessors, it would be a huge political boost for his campaign and a basis to portray himself as a reform minded leader capable of tackling the problems of the country where his predecessors have failed. It would strengthen Saraki's vis-à-vis Buhari. Buhari's presidency has been plagued by inertia and allegations of incompetence. The enactment of the petroleum bills into law is therefore not in the short-term political interest of the president.

For weary investors that await the passage of Nigeria's new petroleum laws, they may need to wait a little longer, or go elsewhere.

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To schedule in-depth Q&A with DaMina Advisors on Nigeria

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