Local Content, the Way Forward?

Developed by: Anissa Thomas, Arden Rodriguez, Carlton Thomas and Rene Marcellin
What is Local Content

Local Content

The degree of local ownership, control and financing by citizens of a nation, in a specific venture or entity that promotes and enables the optimal use of in-country human resource, materials and services.
Key Terms: Supply Chain

The network created amongst different companies producing, handling and/or distributing a specific product. Specifically, the supply chain encompasses the steps it takes to get a good or service from the supplier to the customer (Investopedia ULC, 2011)
Key Terms: Value Chain

Developed by Michael Porter, it is a systematic approach to examine, developing or enhancing Competitive Advantage. It analyses the activities along a supply chain, selects and develops / enhances an activity that is deemed to add value to a good or services.
Purpose

Used to drive the involvement of local goods and service providers to increase local capacity and competencies, maximize revenue in high earning sectors i.e. Energy industries and improve national and international competetiveness.

Role in Policy

Governments began recognizing the importance of implementing Local Content Policies, Laws, Plans and Strategies to maximize local involvement in the development of local G&S offerings. Driving direct local revenue earnings in the energy supply chain.

- Norway (Procurement Policy 1972, Petroleum Law, 1965)
- MOE Ghana, Feb 2010 (Local Content and Local Participation in Petroleum Activities – Policy Framework)
Why Local Content

As governments focus on diversifying and developing energy sectors and industries the need for building local content and participation to drive self sufficiency became critical as there is often inequal involvement from Foreign MNC’s leaving state vulnerable to the risk economic instability.
Key Players in Local Content

- GORTT
- Local Suppliers, Goods and Services
- MNCs

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Feb, 2012
GORTT Perspective
Government Policy Local Content

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National Policy Guidelines for the Utilization of Local Goods and Services for Government and Government Related Projects were initially applied in the development of the Atlantic LNG Train 1 Project, and subsequently, during the Atlantic LNG Trains 2 and 3 Expansion Project.

Throughout the period 1999-2003, and faced with an estimated capital cost of US$1,965 million for the Atlantic LNG Trains 1 to 3, the local content target of US$250 million was surpassed to the tune of US$385 million on completion of the three facilities.
The policy, adopted in 2004, aims to encourage the building of local capability and capacity across the entire value chain of the energy sector and has identified certain areas for immediate focus. These areas include the following:

Fabrication

- IT support, including seismic data management and processing support
- Operations and maintenance support
- Maritime services
- Business support services, including accounting, HR services and consulting
- Financing; and Trading

We shall … leverages the capabilities of international companies in our midst to build our own businesses, people, technology and capital markets.
While, typically, the themes of “local content and participation” have focussed primarily on the aspects of “in country" activity, Trinidad and Tobago recognises that the energy sector has tremendous potential to develop local capabilities that are essential for the capture of further opportunities outside of the country.

The Government shall consistently define local content in terms of the level of ownership, control and financing by citizens of Trinidad and Tobago, in conformity with internationally accepted norms and the key tenets of international conventions, such as General Agreement on Trade and Services (GATS).

Local Content & Local Participation Policy and Framework
Local Content Provisions

Production Sharing Contracts now include greater provisions for local content. The new provisions relate to:-

- The **unbundling of contracts** to match the capability of local suppliers in terms of timing, finance and manpower;
- Ensuring that seismic processing work is undertaken in-country;
- The transfer of technology and business expertise in the Energy Sector to Nationals;
- The selection and training of Nationals consistent with operators performance standards; and
- The advertisement of invitations to bid for contracts in the local media.
Local Content Provisions

In a downstream contract one clause with respect to reasonable preference is as follows:

The company shall provide the EPC Contract that in the award of sub-contracts reasonable preference will be given to qualified local contractors or Suppliers who meet the quality, cost and schedule requirements.

Monitoring

The Company will use all reasonable endeavors to ensure that Local Contractors or Suppliers and non-Local Contractors & Suppliers maintain records to facilitate monitoring of local Content by the Government and the Company and certify the cost of local materials, labour and services used with supporting documentation, all of which will be subject to audit.
Definitions

Local Contractor or Suppliers

• Means a person, firm or entity performing works, services and/or supplying materials to the Train 4 project, whether as a sub-contractor or otherwise:

Local Goods & Services

• Means materials and/or equipment mined, grown or produced in T&T, whether through manufacturing, processing or assembly and/or services provided by a Local Contractor or Supplier. An article, which basic characteristics, purpose or utility from any of its imported components. Manufactured goods would be considered to be of local origin if the cost of the local materials, labour and services used to produce the item, constitute no less than 40% of the cost of the finished product.
To fulfill the needs of offshore local oil and gas producers, Chet Morrison Contractors entered into an agreement with Weldfab Limited of Trinidad and Tobago and created Trinidad Offshore Fabricators Unlimited (TOFCO). Objectives were to develop a skilled Trinidadian workforce specializing in fabrication and to develop and implement a mentoring model leading to local empowerment.

- 200 Flux Core welders trained since inception
- In the first 5 years, the number of employees has grown to 700
- 5 year continued increase in equipment in order to meet client demand
- Over 161 employees promoted to higher positions within the company
Fabrication Developments Throughout the Years

**2004**
- Construction of BHP Billiton’s Kairi-1 deck, which was completed in April.

**2005**
- Construction of bpTT’s Cannonball facility, which was completed in March.

**2006**
- Construction completion of EOG’s Oilbird platform, which was completed in May. N.B. a larger & more complex platform than its predecessors.

**2007**
- bpTT’s Mango and Cashima platforms were fabricated simultaneously at Labidco. Both Mango & Cashima platforms were completed by mid 2007 and end 2007 respectively.

**2008**
- The hook-up of the BG Poinsettia facility was completed by TOFCO where first gas on the facility was achieved on December 2008 as scheduled.

**2009**
- Savonette’s deck was installed on 7th February.

**2010**
- Serrette installed in February.
- Construction of Juniper estimated to start between Dec 2010-Jan 2011.

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Local Content Success

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Additional

Major Shortcomings with respect to effective implementation of the policy:

• Lack of legislative provisions to ensure compliance;
• Lack of dedicated resources to monitor implementation; and
• Lack of dedicated resources to measure targets
Local Company Perspective
Implementation by other countries

- Nigeria
  - Oil & Gas Industry Content Development Law, 2010

- Venezuela
  - The Organic Law of Hydro-carbons, 2001
  - The Organic Law of Gaseous Hydrocarbons, 1999
  - Procurement Law

- Norway
  - Procurement Policy 1972
  - Petroleum Law, 1965
The energy services sector can be enhanced by an emphasis on local content in servicing local and international markets.

Focus on local content would raise competencies and capabilities, make the local energy sector more competitive globally.
Building on Strengths

- Ensuring tender evaluation contain appropriate criteria and weightings for Local Content
- Provide feedback on pre-qualification evaluation to unsuccessful local companies so that they may themselves confirm gaps that exist, learn and develop into a stronger company
- Acquiring new technologies and securing license agreements
- Improved focus on training at all levels – craft, managerial, etc.
- Partnering with GORTT on renewable energy/energy efficiency projects linked to State initiatives e.g housing
RECOMMENDATIONS

- New Local Content Act – clear and measurable local content definitions and descriptions, procurement rules for national and international companies, establishment of a local content commission for implementation, tax incentives, penalties
- Guidelines on local content incorporated in all contracts (PSCs etc)
- Mandatory local compliance with internationally recognized standards
- Tariffs on imported foreign inputs which are produced locally
- Local Content Arbitration panel
- Revamped work permit committee
Role of State Agencies & Business Associations

- **State Agencies**
  - Develop, monitor, measure and audit local content policy
  - Provide more access to funding/local training and certification
  - Market the strengths of local energy sector globally
  - Enforce PSC and E&P license local content requirements
  - Include incentives in contracts for international companies which develop local competencies

- **Business Associations**
  - Define local content and expectations of local companies
  - Liaise more with State Agencies to highlight strengths of energy services sector

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Competencies Required To Increase Competitiveness

- Software development
- Project management
- Rotating equipment specialists
- Process design safety consultants
- Front end engineering and design capability
- Specialist modeling in compression utilization
- Risk modeling for project controls
- Engineering/ heavy lifting
- Manufacture of equipment (such as compressors, slug catchers, turbines, pumps, cranes, pressure vessels, tanks)
- Subsidies for solar panel importation/wind generators
Conclusion

- Strong call for local content legislation and supervisory statutory body
- Need for clear local content standards, measurement, monitoring and auditing
- Fear that strict enforcement of LC measurement and auditing could limit foreign direct investment into sector
- Disconnect between LC and services sector development with State renewable energy/energy efficiency initiatives
- Local companies request investment fund set aside to develop staff competencies /skill sets
- Need for more practical, on-the-job training
Socio-Economic Scenarios

Business As Usual / Status Quo

- Export orientated of value
- Low cost labour provider to high productive and value provider
- Diversified economy
- Leader in energy skills
- Wealth not translated through society

Development of Local Content

- Export orientated of value-add services
- Low cost labour provider to high productive and value provider
- Diversified economy
- Leader in energy skills
- Wealth not translated through society
Multinational Company Perspective
GORTT’s Proposed Mandatory Local Content Policy Initiatives, can produce benefits to State, Citizens, and Local companies. However, these tend to be in the Short Term and can even result in negative socio economic effects as defined by key Economic Principles herein.
Protectionism: the economic policy of restraining trade between states, through methods such as tariffs on imported goods, restrictive quotas (including Local Content targets), and regulations designed to discourage imports.

Competitiveness: a comparative concept of the ability and performance of a firm or country to sell and supply goods and/or services in a given market.
MNC Perspective: Protectionism

- **Social Impact Compensation** – Applicable to communities close to infrastructure projects that are affected by temporary or permanent loss of economic livelihoods.

- **Infant Industry** – Nascent Industries often do not have the economies of scale of older competitors from other countries, and need to be protected until they can attain similar economies of scale. *(Breathing-space to catch up).*

- **Market Power** - Powerful international contractors with global sourcing arrangements and repeat use of preferred suppliers may lock-out fully capable and competitive domestic suppliers.
**MNC Perspective: Protectionism**

**PROTECTIONISM in Local Content Regulations**

- Blanket Minimum Local Content Targets (Exceeding Limits)
- Sub Targets (Exceeding Limits)
- Domestic-Only Tender Lists (If Not Benchmarked)
- Price Advantage on Contract Award
- Advance payments to domestic suppliers
- Reduced Pre-Qualification Criteria for Domestic Firms
- Minimum Levels of National Equity
- Mandated International/Domestic Consortia or Alliances
- Contract Award Veto for Authorities

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Source: Michael Warner Local Content in Procurement
MNC Perspective: Protectionism

Economic Impacts of PROTECTIONIST Regulations

**Socio-Economic**
- Short-Term Jobs
- Short-Term Order Books

**Firm competitiveness**
- Internationally Competitive Contract Award
- Technology transfer
- HSE Performance

**Commercial Value (NOC/IOC)**
- Cost Premium
- Schedules risk

**National Competitiveness**
- Internationally Competitive Industry: Import Substitution Exports
- Investment Climate
- Government Revenues Receipts Public Investment

Source: Michael Warner Local Content in Procurement

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MNC Perspective: Protectionism

**Double Market Failure** is Failure of the Market Twice Over.

**1st-Conventional Market Failure:** Informational Failure, Market Power, Unpriced Externalities.

**2nd-Failure of State Intervention:**
To fix the market failure, by applying Local Content regulations that fail because:
- Premiums and Delays become the norm
- Low Labour Productivity is ‘Locked In’
- Capital Investments Fail to Materialize “Infant” Industries never “Grow Up” relative to “Adult” foreign competitors.
- Premiums Books

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Source: Michael Warner Local Content in Procurement
MNC Perspective: World Trade Organization

Trade Related Investment Measures (TRIM):
- **Local Content Measures are Prohibited** if these require the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

Special and Differential Treatments (SDT):
- Under WTO, SDT can be granted to developing countries, which allows for some discrimination. For Example, Transition Countries, Least Developed Countries.

Note: Trinidad and Tobago is classified as a “Developing Country” by WTO Oil and Gas Producing Country Members. As such there is a 5 year grace period to maintain certain (protectionist) measures after entry to the WTO. Trinidad and Tobago joined the WTO on 1st March 1995.
MNC Perspective: World Trade Organization

General Agreement on Trade in Services (GATS):

Market Access to WTO Members:
All WTO members should accord services and service providers from other WTO members treatment no less favourable than that provided for under the common terms, limitations and conditions mutually agreed within the WTO. **Objective is to eliminate certain types of protectionist measures:**

- Numbers of Foreign Service Providers allowed to compete with domestic providers.
- Total Value of Service Transactions of Foreign Providers.
- Total Number of Foreign Service Operations or Foreign People Employed.
- Type of Legal Entity or Joint Venture through which a service is provided.
- Maximum Levels of Foreign Capital Participation.

Note: Trinidad and Tobago has attained Developed Country Status by the Organization for Economic Co-operation and Development (OECD), based on a GDP per Capita Rating and a sustained period of economic growth. T&T was removed from the DAC Listing in October of 2011.
MNC Perspective: World Trade Organization

General Agreement on Trade in Services (GATS) c’td:

- **National Treatment** to National Suppliers: Objective is to oblige member countries to **treat foreign service suppliers and domestic service suppliers in the same manner.**

- Provisions for Special and Differential Treatment (SDTs):
  - Longer Time Periods for implementing agreements.
  - Measures to improve Trading Opportunities for these countries.
  - Provisions for all WTO members to safeguard the trade interests of developing countries.
  - Support to help developing countries build the infrastructure for WTO work, including handling disputes and implementing technical standards.
MNC Perspective: Economic Principles

**Competition**: a comparative concept of the ability and performance of a firm or country to sell and supply goods and/or services in a given market.

**National Competitiveness**: Institutions; Infrastructure; Macro Economic Stability; Health and Primary Education.

**Firm Competitiveness**: Labour market efficiency; Financial markets; Technological readiness; Business sophistication.
MNC Perspective: Competitiveness

Competitiveness in Local Content Regulations

- Domestic-Only tender lists (Internationally Benchmarked)
- Minimum Local Content Targets – ‘within limits’
- Minimum Targets for Growing Competitiveness of suppliers
- Minimum targets for leveraging Inward Investment in local supplier development
- Full, Fair and Reasonable access to opportunities for domestic firms (some unbundling)
- Tender evaluation criteria for major contracts designed to drive supplier development
- Authorities agree on principles for contract award, then step back and allow operators to implement without threat of veto.

Source: Michael Warner Local Content in Procurement
MNC Perspective: Competitiveness

Recommendations for Competitive Local Content

Rules to ensure Local Content regulations drive supplier competitiveness and avoid unnecessary protectionism:

- **State pays for the ‘development premium’ public investment in business infrastructure**

- **Contract award on international competitive basis** (unless able to guarantee time-limited support for infant industries)

- **Market analysis** should separate, the manageable risks from the unmanageable
MNC Perspective: Competitiveness

Recommendations for Competitive Local Content

- **Smart contracting and procurement** Engineering and Contracting Strategies designed to drive supplier development
  - Compensation arrangements designed to manage risk
  - Tender evaluation criteria and weightings that reward quantity and quality in supplier development

- **Competitiveness-driven Local Content Regulations** Benchmarked domestic-only tender lists
  - Minimum Local Content targets – within limits
  - Minimum targets for growing competitiveness of suppliers
  - Full, fair and reasonable access to opportunities for domestic firms
  - Tender evaluation criteria for major contracts that drive supplier development

Source: Michael Warner Local Content in Procurement
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<th>Typical Local Content Regulations</th>
<th>Short-term jobs</th>
<th>Short-term order books</th>
<th>Int. competitive contract award</th>
<th>Technology transfer</th>
<th>HSE Performance</th>
<th>Cost premium</th>
<th>Schedules risk</th>
<th>Int. Competitive industry</th>
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Protectionist Policies related to Local Content Regulation:
- Benefits tend to be mostly in the Short Term
- Can negatively affect Safety and Productivity
- Can result in Double Market Failure
- Can Break Core Principles under the WTO that Contracts be awarded on basis of International Competitiveness for Price, Quality and Delivery.

Competitiveness Favours:
- Long Term and Short term Government Revenues with Excellent Investment Climate
MNCs support to Trinidad and Tobago is steadfast. We look forward to Future Growth, Development and Mutual Benefits to all Stakeholders.

While Value can be added locally, the Negative Effects of the Economic Principles outlined, gives rise to the view that MNCs are not inclined to support Mandatory Stipulations, Quotas and Legislation for the incorporation of Local Content and Local Participation.
Glimpse of the Local Content Strategy

Vision / Policy

Local Content Policy

Goals

- Increase Employment
- Reduce Costs
- Enhance Operational Efficiency

Initiatives

- High Performance Culture
- Operational Excellence
- Integrated Performance
- Capital Expenditure

Projects

National skills / gap assessment

Legislative Review / Recommendations

Develop strategic Partnerships between GORTT & MNC’s

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