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**CHEVRON NIGERIA:
IN-HOUSE COUNSEL**

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INTRODUCTION

The effective operation of a company is dependent on the alignment between its strategies, culture, business environment and people. This is an exceptionally important issue because every professional service firm suffers this challenge and is not immune to it. But the strategy that the organization's management employs to tackle the issue determines its success or demise.

Most times, case studies focus on professional service firms with particular emphasis on law firms, investment banks and consulting firms. Multi-national companies are often overlooked, especially the dynamics of their in-house legal teams who face similar challenges.

This paper is a case study that aims to explore a leading international energy company, Chevron; with specific concentration on its in-house legal team in Nigeria. The questions raised and discussion points will allow the reader to gain insights into the operations and challenges faced by this legal team. It will highlight the General Counsel's experience in leading and managing his team, in addition to the approach he adopts in dealing with various challenges that arise while operating in Nigeria.

The primary data for this paper was obtained through various interview sessions with Mr. Ike Oguine, General Counsel of Chevron Nigeria.

I. CHEVRON WORLDWIDE

Chevron is a leading international energy company, with subsidiaries and affiliates that conduct business in the United States and in over 180 countries worldwide. It specializes in the exploration, production and refining of oil and gas; and is currently the second largest energy company in the world. It is also a very profitable company with a 16 percent Return on Invested Capital (ROIC).¹

II. THE BIRTH AND NATURE OF CHEVRON'S OPERATIONS IN NIGERIA

Crude oil was first discovered in commercial quantity in Nigeria by Shell in 1956.² In the early 1960s a number of companies, including Gulf Oil Company of Delaware (which was the predecessor of the operations of Chevron in Nigeria, following the Chevron/Gulf merger of 1985), were given licenses by the Nigerian government to operate in the country.

A. Chevron's Lines of Business

Several members of the Organization of Petroleum Exporting Countries (OPEC) acquired interests in the operations of international oil companies active in their territories. Following this, the Nigerian government in the 1970s, through the Nigerian National Petroleum Corporation (NNPC) (and its predecessor the NNOC), acquired stakes in international oil companies in Nigeria. In Chevron's case, NNPC acquired a 60 percent interest. From this period, Chevron owned the remaining 40 percent stake and

¹ Platts, 'Top 250 Global Energy Company Rankings', <http://www.platts.com/Top250Home>, assessed November 13th 2011.

² Etikerentse G, 'Nigerian Petroleum Law', 2nd Edition, Dredew Publishers, 2004 at page 8.

operated under a traditional joint venture arrangement with NNPC in the production of crude oil.³ NNPC contributed 60 percent of the funds required for operations and received 60 percent of the crude oil and gas produced; Chevron, through its Nigerian subsidiary, managed the operations on behalf of the two joint venture partners.

In the early 1990's, the Nigerian government granted licenses to explore for crude oil in deepwater areas of the country. These were areas of up to 2000 meters water depth and they were very expensive for oil exploration and production. The government introduced new terms for these operations. A Production Sharing Contract (PSC) model replaced the traditional Joint Venture Agreement, specifying NNPC as the owner of the lease (the deep-water fields) and Chevron and other oil companies as contractors. These PSCs required Chevron to invest its money in the exploration and production of crude oil. If oil is found in merchantable quantity, Nigeria through NNPC would have a share of the crude oil produced, in addition to earning royalties and taxes. However, if exploration is unsuccessful the contractor would bear all the cost of production and the country suffers no loss under this model.

Another major change in the Nigerian petroleum industry occurred in the late 1990s when Chevron and a number of the other oil companies started natural gas utilization projects in Nigeria. These projects were encouraged by tax incentives provided by the government to stop the environmentally damaging process of gas flaring. This resulted in various gas projects such as the liquefied natural gas project undertaken by Shell and its partners and gas processing facilities established by Chevron.

³ NNPC, <http://www.fundinguniverse.com/company-histories/Nigerian-National-Petroleum-Corporation-company-History.html>, assessed November 13th, 2011

In 2010, Chevron's total daily production in Nigeria averaged 524,000 barrels of crude oil (237,000 net), 206 million cubic feet of natural gas (86 million net) and 5,000 barrels of liquefied petroleum gas (LPG) (2,000 net).⁴ Chevron Nigeria is the third-largest oil producer in Nigeria and one of her largest investors in the energy industry, spending more than \$3 billion annually.⁵

B. The Operating Environment in the Nigerian Petroleum Industry

Some recent key features of the Nigerian petroleum industry are the rising interests in the operations of oil companies in the Niger Delta region of Nigeria and the increasing attempts by the Nigerian government to secure more benefits for Nigeria in the petroleum industry through new laws proposed or passed.

1) Niger-Delta

Chevron has assets on land, swamp and near-offshore concessions covering approximately 2.2 million acres (8,900 sq. km)⁶ in the Niger-Delta region of Nigeria. However, for many years, the people of the Niger-Delta have felt neglected and cheated because of the insufficient benefits they receive from the proceeds of the oil extracted and produced on their land. The main reason for this is Nigeria's revenue allocation formula among its states, which for many years did not sufficiently compensate the oil producing communities for the effects of oil production. This has led to protests and some violence

⁴ Ibid.

⁵ Chevron, 'Nigeria business portfolio', <http://www.chevron.com/countries/nigeria/businessportfolio/> assessed November 9th 2011.

⁶ Chevron, 'Nigeria business portfolio', <http://www.chevron.com/countries/nigeria/businessportfolio/> assessed November 9th 2011.

against oil companies steered by a group called the Movement for the Emancipation of the Niger-Delta (MEND).⁷ Though the attacks by MEND have reduced following the amnesty granted to the group by the Nigerian government two years ago, the Niger-Delta remains a vulnerable and risky place to do business.

2) Legal and Regulatory Changes

In recent years, there have been a number of attempts to change the laws that govern the operations of oil companies in Nigeria, with the objective of securing more benefits to the Nigerian people as a whole. One of the most significant laws passed recently in April 2010⁸ is the Nigerian Content Development Monitoring Board (NCDMB) Act. The Act provides that certain contracts for the supply of goods and services in the oil industry are to be performed only by Nigerian contractors in order to increase indigenous participation in the oil and gas industry. Failure to adhere to these rules is punishable by severe fines and termination of the project.

Mr. Oguine stressed, “the aforesaid background is paramount because it highlights the kind of issues we deal with as in-house lawyers.”⁹

III. MR. IKE OGUINE, GENERAL COUNSEL

⁷ Hanson Stephanie, “MEND: The Niger Delta’s Umbrella Militant Group”, Council on Foreign Relations, March 22, 2007, <http://www.cfr.org/nigeria/mend-niger-deltas-umbrella-militant-group/p12920>, assessed November 22nd 2011.

⁸ Nigerian Content Development Monitoring Board, http://www.ncdmb.gov.ng/index.php?option=com_cogfaq, assessed November 13th, 2011.

⁹ Telephone Interview conducted on November 12th 2011.

Oguine graduated in 1984 from the University of Nigeria Nsukka (Enugu Campus) with his first degree in law. He went to the law school in Lagos in 1985, was called to the Nigerian bar and fulfilled his National Youth Service obligation by teaching at Bayero University, Kano. After this, he moved to Jos where he joined a law firm as an associate for a year. He went on to obtain a Masters in Law from the University of Jos and was hired as an Assistant Lecturer in the University. He graduated in 1989 and continued lecturing from 1989 to 1992. He became restless in 1991 when the university was going through a crisis and lecturers were receiving salary cuts or going into other professions.¹⁰

In 1992, he joined Chevron as an attorney, which was the starting point for a counsel at the in-house Legal Department. He was promoted to Senior Attorney in 1998 and was moved to the Houston office in 2000 to advise the West African Gas Pipeline Project. He left the project in 2001 and returned to Nigeria. He started work on the Escravos GTL Gas-To-Liquid Project until about 2005, when final investment decisions were taken on the project. He joined another project named the Olokola LNG Project afterwards. At the end of 2007 he was offered the job of General Counsel in acknowledgement for leading these transactions successfully.

In January 2008, he assumed the role of General Counsel and was responsible for Chevron's operations in Nigeria, Ghana, Chad, Cameroon and Liberia. As General Counsel, he is also a member of the Board of Chevron Nigeria and part of the executive leadership team.

A. The Change

¹⁰ Ibid

“For me the transition from working on these transactions to being General Counsel has been dramatic. From being a front line lawyer that dealt with other parties, I now spend a lot of time in the office supervising the lawyers and facilitating their work,” remarked Oguine.

“Both kinds of work have their advantages, for me, the transactional and negotiations work was stimulating in that I dealt with a number of interesting issues, met lots of people from different companies and traveled around the world. Also, because most of the work I did was in the area of gas, I became kind of a specialist in an area of petroleum law which was very fulfilling,” he observed.

“In management you have a broad view of everything. Suddenly, you start seeing the bigger picture, including things you thought were unimportant as a transaction lawyer. You become involved with labour issues affecting the company and participate in high-level negotiations with the government. Being General Counsel gives you a better understanding of the company as a whole.”

IV. CHEVRON NIGERIA’S IN-HOUSE LEGAL TEAM

A. The Lawyers

Twelve lawyers and five administrative support staff ranging from secretaries to paralegals make up the in-house legal team. There is a mix of fairly senior lawyers, four of which have above twenty years experience, another two have up to fifteen years

experience and junior lawyers have between five to ten years experience. There are 11 Nigeria-qualified lawyers, most of whom joined the company from private legal practice or from in-house positions in other institutions. There is also one lawyer qualified in a U.S. jurisdiction.

B. Organizational Structure

The more senior lawyers lead various work areas, “but there is no rigid demarcation of areas of responsibility,” remarked Mr. Oguine. One of the senior lawyers is responsible for advising on deep-water issues, a second leads a team of 5 lawyers that coordinate legal support for operations conducted under the old traditional Joint Venture Agreements and also manages claims and litigation while another supports the gas projects. He asserts that this leadership structure reflects how the “Nigerian oil industry has evolved over time from joint ventures to gas projects,”¹¹ as discussed in the previous section. The fourth senior lawyer advises on miscellaneous issues such as supporting special projects, the pension fund and the Human Resources department. All lawyers are expected to support each other depending on the workload. Rigid lines between divisions and areas of specialization are discouraged.

C. Training and Mentorship

¹¹ Ibid

Most lawyers in Nigeria do not have an in-depth knowledge in petroleum law. “Even when we hire from other oil companies, the expertise in petroleum law is relatively small,” observed Oguine.

“Hence,” he went further, “We try to build our lawyers from within. We have found that employing a smart commercially trained lawyer and training them in the issues we deal with makes them become fairly good petroleum lawyers within two to three years. The retention rate of our lawyers is very good. In my 20 years here, only 2 lawyers (out of an average workforce of 12 lawyers) have left the group, one on retirement and the other to be General Counsel at Addax Nigeria, a much smaller oil operation than Chevron Nigeria.

In terms of training, Chevron in-house lawyers attend courses worldwide that are organized by Chevron or other companies to help improve their knowledge on the general working and specific areas of the petroleum industry. Courses organized within the company include training on negotiation, oral communication, writing and supervisory skills. These courses also explain to lawyers the intricacies of Chevron contracts and highlight important clauses in these contracts.

Younger lawyers are also put in charge of pieces of work. This is seen as the most crucial part of training. As Oguine reflected: “we expose the young lawyers to clients and ask them to obtain the facts, research the law and create draft opinions which are reviewed by senior lawyers. We also encourage our younger lawyers and even the more senior lawyers to ask questions if in doubt. This creates an ad hoc discussion of issues

and challenges faced that in turn, contributes to the training and learning process of the lawyers.”¹²

“We also utilize Chevron’s global networks to train our lawyers in various areas of law. Although, it is difficult to compare the percentage of the Nigerian in-house legal team with that of Chevron’s head office, since there are many more subject matter areas represented there. The best comparison would be with similar sized business units within Chevron. The Latin America business is similar in size to the Nigerian business as is the Angolan business. However, “we still encourage our lawyers to interact with their colleagues around the world,” he added.¹³

D. Compensation

A merit-based system of compensation - where pay is determined by annual performance - is applied to all Chevron employees worldwide. A Compensation Committee is set up to evaluate performance and a ‘Grade’ is awarded to individual employees for that year’s performance. The grading is subsequently translated into salary actions that influence a salary increase depending on the grade awarded. However, poor performance yields no salary change, creating a direct link between the individual’s grading and compensation.

In Chevron Nigeria, some of the employees are unionized (they are members of the staff union). Therefore, apart from the merit-based system of compensation, there are

¹² Ibid

¹³ Ibid

also salary increases that are realized through collective bargaining and negotiations with the union.

Furthermore, the general salary structure of Chevron employees in a particular country is determined country-by-country; however, the grading system used is universal and the percentage might be similar in that every employee with an “A” will get a 25 percent salary increase. But the actual amount received by the in-house team in Naira (₦), the Nigerian currency, depends on the country’s salary structure. This is where the unions come into play because the agreements reached between management and the union will determine the Nigerian salary structure.

Oguine illustrated this by stating that there is a Nigerian salary structure for lawyers hired on the Nigerian payroll and working in Nigeria. There is also a structure for lawyers hired on the Nigerian payroll and on assignment to the UK. In the latter case, the normal Nigerian salary is supplemented to account for the different living standards and the costs of being an expatriate.

E. Tasks and Responsibilities

The in-house team at Chevron performs the traditional tasks of any in-house legal department such as advising and ensuring the company complies with applicable laws, regulations and polices, managing claims, litigation, drafting and negotiating various kinds of agreements. They also perform company secretarial functions. These are the cornerstones of their responsibilities.

1) *Claims and Litigation*

One of the biggest sources of claims that the in-house team handles is land acquisition for company operations. Under the traditional systems of land ownership in many parts of Nigeria, one parcel of land could be held by individuals, families, communities and villages in a variety of ways. These complex systems of land ownership are not recorded in a land register but for centuries were understood and respected by people in the various communities. However, when colonialism brought the cash economy and land became a commodity that could be sold for a lot of money, various conflicts developed.

Consequently, when Chevron Nigeria needs to acquire a piece of land for drilling crude oil, the piece of land could have four claimants; first an original family with ownership title from “time immemorial”, then a second family to whom the original family gave a “Kola Tenancy”¹⁴ to farm the land in return for a percentage of the produce as acknowledgement of ownership. On this same piece of land, the second family might have leased individual plots to some of their servants and one of these servants might have in turn pledged his share of the same piece of land for a loan, Oguine explained. It therefore becomes difficult to ascertain and sufficiently accommodate all adverse claims to the land.

Another area of claims is for damage done to property and pollution in the course of petroleum operations. When Chevron establishes the amount of pollution from their facilities, the lawyers make an assessment of damages and try to determine sufficient compensation. Compensation is determined by assessing damages to equipment, like

¹⁴Kola tenancy is similar to ordinary land lease, but the difference is that in the case of kola tenancy, the person who holds the land got it from the original titleholder without paying any money.

fishing nets and fishing ponds, based on cost of replacement and/or estimated loss of income. In some cases there is a dispute regarding how much compensation is reasonable and who is entitled to this compensation, because of the land ownership issues referred to earlier. “Actually each of the claimants have a little bit of traditional entitlement to the land and our responsibility is to sort through all this,” he said.

The in-house team works closely with the company’s Community Affairs Officers in reaching a conclusion on who is entitled to compensation and deciding the size of a settlement. If the settlement is not reached, the claims proceed to the superior court. In this situation, “we do not defend the company in court; instead we outsource these matters to independent law firms,” remarked Oguine. Under the Nigerian Professional Practice Rules, in-house lawyers do not have audience in superior courts and are required by law to hire external lawyers for such matters. However, the in-house team actively manages all of Chevron Nigeria’s litigation by selecting external counsel, agreeing the fees with them, reviewing all pleadings, determining strategy in conjunction with external counsel and providing the witnesses and documents required to fight a case.

The legal department relates to the Community Affairs officers as advisors. The Community Affairs officers serve as a link between Chevron Nigeria and the communities they operate in. The legal team reviews applicable statutes and court decisions and on that basis, provides advice to the Community Affairs and Lands Officers. This advice includes the basis of determining compensation and entitlement to compensation, how to document compensation payments and also what to do when there is a dispute as to compensation.

The numbers of Community Affairs Officers (CAO) vary from time to time, depending on the number of projects going on at any particular time, but would typically range from between 15 to 30. A requirement to become a CAO is familiarity with the communities in an area. Thus, people who hail from a particular area, are domiciled therein or have been resident there for a long time are preferred. People with university degrees and other qualifications such as Certificates in Estate Valuations and Humanities are also preferred. Training for Community Affairs Officers is wide-ranging and continuous. It includes training on the company's policies on protecting people and the environment, negotiating skills, dispute resolution training and basic legal knowledge regarding the determination of rights to compensation.¹⁵

“The legal team also handles the more routine claims from government agencies, employees who have been terminated or have other problems with the company, the company's contractors and other commercial parties,” Oguine added.

2) Negotiation

The main counterparties of the in-house team are the government, companies that provide services to the company (e.g. drilling, seismic acquisition, logistics, etc.), the communities in which the company operates and other oil companies with whom joint ventures are entered.

Government-negotiated contracts involve the company's oil mining leases, their license to explore for crude oil, build pipelines and other facilities. In undertaking multi-billion dollar investments, Chevron spreads the cost and risk by negotiating a joint venture with other oil companies such as Shell and Total.

¹⁵ Telephone Interview conducted on November 24th 2011.

Chevron Nigeria has a core-staff but the majority of the staff employed is from service companies. They include the drilling staff, helicopter pilots who take personnel contractors to the rigs, the cleaners and drivers. Thus, there are thousands of contracts that have to be negotiated, making negotiation an invaluable skill for the lawyers.

3) Corporate Governance and Other Responsibilities

Oguine noted that the in-house lawyers “organize Board meetings, take minutes, prepare resolutions and ensure that the appropriate corporate documents are filed promptly and also advise Chevron Nigeria on compliance with all corporate laws and regulations.

“Taking decisions on whether to incorporate a subsidiary or a branch to carry out a project is paramount to our obligations. We work very closely with our tax colleagues in providing advice on these issues.”

He also stated that the legal team supports the company in many other ways. He elaborated further: “Our lawyers participate in various forums such as the diversity council, the company’s committee that awards scholarships to promising students from the company’s operating areas and various ad hoc committees set up from time to time to advise management on sundry matters.”

V. EMERGING CHALLENGES FOR THE GENERAL COUNSEL

A. Operating in Nigeria

There are a number of special challenges a company faces while operating in Nigeria that in turn affect its in-house legal department. “One of the most critical challenges we face is operating in an environment where a lot of focus is on the oil industry and how its operations affect the environment and neighboring communities,” Oguine remarked. Rightly or wrongly, there is a perception that oil companies in collusion with the Nigerian government are engaged in oppressive conduct against the communities in which they operate.

This makes it difficult for oil companies such as Chevron whenever there are acts of violence against these communities, because the communities see the company as agent of the Nigerian government. And as Oguine observes, this creates great difficulty for his department and the question then becomes how to operate in such an environment while ensuring the security of company property and personnel working in these communities with high levels of criminal activities. He stated that to ensure a safe operating environment, they are forced to rely on the government’s security forces such as the armed forces.

At the same time, however, there is the need to address the risks that arise from such protection. For example, if these soldiers overstep their boundaries and attack or shoot someone, it may lead to civil claims against the company and reputational damage. “In addressing this kind of situation,” he offered, “my team has to go beyond the strictly legal. First, we try to make sure that any dispute is resolved as early as possible and in an amicable manner in order to avoid escalation. This usually produces the best outcome.”

The in-house lawyers in appropriate situations relax the stringent standards that would normally be asked for in agreeing on settlements. However, this is justified where

there is a potential for escalation or violence. “I encourage the team to pay close attention to those small issues which can be magnified into larger issues,” he added.

Oguine continued, “It is better to bend over backwards to settle conflicts before they get out of hand. In order to achieve this, we work closely with the company’s Community Affairs Officers who handle these matters in the first instance and encourage them to bring these issues to our attention in a ‘timely manner’ in order to work together and quickly reach a compromise, where possible.”

In such a circumstance, the possibility of conflict between the legal team and the Community Affairs Officers is high. But Oguine said the reverse is the case at Chevron Nigeria. According to him, “There is no room for conflict as both groups have clearly defined roles. The legal team advises and the Community Affairs team implements that advice. Over the years, when disputes have arisen, the legal team has always been satisfied that its advice was correctly implemented.”¹⁶

Accordingly, there are a number of *ex gratia* payments made to various claimants as a goodwill gesture but without acceptance of liability. *Ex gratia* payments are recommended when it is the judgment of the legal team that even though a claim may not be provable in court against the company, there is nevertheless a good reason to pay compensation. For example, as stated earlier, there could be several claimants to a piece of land. Some claimants might be entitled as a result of actual possession of the land; other claimants might seek compensation because they have some connection to the land e.g. because their ancestors granted a ‘Kola Tenancy’ to the present occupants.

Settling those kinds of claims, strictly speaking, is a matter for the law courts and might entail several years of litigation between the claimants, which in several instances

¹⁶ Ibid

create levels of bitterness that easily degenerate into violent conflict. In such a case, the in-house lawyer might recommend that compensation be made to the parties in possession and an *ex gratia* payment be made to those who claim a hard-to-prove ancestral title (especially if there is some recognition of their connection to the land by people in the area).

Oguine stressed that “*ex gratia* payments are not bribes, they are customarily made to settle claims without admitting liability in many jurisdictions around the world. A bribe is a payment made with a corrupt motive to secure an improper advantage. In these cases, the motive is usually to reduce levels of bitterness and avoid violent conflict, and no improper advantage is being sought.”¹⁷

“The problem with this approach is that it sometimes encourages other people to make spurious claims,” Oguine noted. “A way to counteract this is by carefully selecting the disputes to resolve by an adequate consideration of the facts involved and encouraging the claimants who have not been selected to take up their claims through the court process. A factor that would make it more likely that a settlement is sought is the potential for conflict (especially violent conflict).”

Where appropriate, the in-house team also encourages claimants to use alternative methods of dispute resolution such as approaching the traditional rulers and institutions in those communities, since the court system is very slow and claimants cannot always afford the legal fees that an adversarial process entails. Alternative methods of dispute resolutions are very helpful in resolving these conflicts.

Elaborating further, Oguine said, “Many of the areas where we operate have various kinds of traditional governing systems – traditional chiefs, village councils, clan

¹⁷ Ibid

elders etc. They play a significant role in providing alternative dispute resolution. Where they have credibility in their communities, they can be very helpful in resolving complex disputes over entitlement to compensation. Where they are not credible (e.g. where community members regard them as corrupt or selfish), dealing with such individuals can actually bring the company into conflict with the communities.”¹⁸

This option of alternative dispute resolution produces the desired result as a small percentage of claims instituted against Chevron Nigeria are eventually litigated. As Oguine informed, “Less than 5 percent of the claims we deal with end up in court. The vast majority are resolved either through direct negotiation between the company and claimants or through the intervention of other agencies like traditional chiefs, local government officials etc. These claims go up when new locations are acquired and/or new facilities are constructed or an oil spill occurs. So the percentage of claims we deal with annually are neither going up nor down in any linear fashion; they bear a strong correlation to these listed factors.”¹⁹

B. Use of Security Forces and Protection of Human Rights

Oguine remarked that his team is responsible for working with the company’s security department to ensure that all security staff employed by or assigned to the company, including the armed forces deployed by the Nigerian government, are trained in human rights standards in accordance with the law. Company officials directly participate in the training of security forces on the *Voluntary Principles on Security and*

¹⁸ Ibid

¹⁹ Ibid

*Human Rights*²⁰ to which the company subscribes. Such training is a requirement before any security personnel is assigned to company operations.

“Additionally,” he averred, “we try to make sure Chevron Nigeria’s security officers are distinct from the government forces or government security officers and that the government forces remain at all times under the command and control of their senior officers in order not to blur the distinction between government forces and our own employees. Government security forces have separate accommodation from company employees and communication with those government forces is via their officers. Company personnel do not directly give instructions to government security forces.

“We adopt explicit company policies in support of human rights and establish procedures to ensure that company activities do not result in human rights abuses. *The Voluntary Principles on Security and Human Rights*²¹ is the key document that guides the company in this area. This places an obligation on us to work with the government’s lawyers to train the members of the government’s security force. This has been effective and is a step in the right direction, but there is still room for improvement.”²²

C. Corruption and Dealing with Government Officials

Nigeria is regarded worldwide as one of the most corrupt nations in the world; a good number of prosecutions by US agencies of companies involved in corruption

²⁰ U.S. Department of State, ‘The Voluntary Principles on Security and Human Rights’, December 20, 2000, http://www.state.gov/www/global/human_rights/001220_fsdr1_principles.html, accessed November 26th 2011.

²¹ U.S. Department of State, ‘The Voluntary Principles on Security and Human Rights’, December 20, 2000, http://www.state.gov/www/global/human_rights/001220_fsdr1_principles.html, accessed November 26th 2011.

²² Ibid no.18

include Nigeria. One of the most famous prosecutions was the TSKJ consortium²³ scandal that involved the payment of bribes by TSKJ to the Nigerian government at various times to win the contract for the Nigeria LNG Project.

Oguine asserted that this concern about corruption is constantly in the mind of Chevron's legal department when giving advice to the company. Chevron Nigeria has very stringent rules on approvals on any meetings with government officials and the legal team plays a central role in enforcing those rules. Any training, dinner, conference or other contacts in which government officials are involved require strict legal and compliance review. He said the legal team has formulated a number of steps and are involved in ensuring that company personnel take these steps before dealing with government officials.

“These stringent rules cause a lot of frustration for our government partners, like the NNPC that owns a 60 percent stake in Chevron Nigeria's traditional joint venture operations, and for other company personnel who do not want to jeopardize their close relationships with government officials,” he noted. “To mitigate this frustration, we encourage our company's clients and partners to ensure the legal team is involved early. That way, we assist our clients in going through the necessary steps to facilitate approval. We help our client make sure that the relevant government institution properly approves trips or other activities involving government officials and an official letter of approval is issued. We also assist the client in properly describing the business purpose of any such activity. These efforts make the approval process a lot easier.

23 Wrage Alexandra, “JGC Corporation Settles FCPA Charges Related to TSKJ Nigeria Bribery Scandal”, TRACE blog, April 6, 2011
<http://traceblog.org/2011/04/06/jgc-corporation-settles-fcpa-charges-related-to-tskj-nigeria-bribery-scandal/>, assessed November 15th 2011 or Interim Report, The Harliburton/TSKJ/NLNG Investigation, http://www.halliburtonwatch.org/news/nigeria_parliament_report.pdf, assessed November 15th 2011

“Being in-house lawyers, my team needs to be ‘ahead of the curve’ in relationships with our internal clients and to participate actively in the client’s decision-making processes. That is what differentiates us from external law firms who are typically brought in when there is a problem to deal with,” observed Oguine.

D. The Undeveloped State of Nigerian Petroleum Law

The law and regulations in Nigeria have not kept pace with the growth in petroleum operations. “To deal with this problem,” Oguine stressed, “I advise my team that we need to take every advantage of being part of a company that has about 180 branches worldwide. It is important to make use of this because somewhere within this global network someone would have dealt with the particular issue that is not sufficiently covered under the Nigerian law, which the legal team is now facing.”²⁴

Also, in areas where the laws are vague and it is not clear what is legal or illegal, Oguine informed that “the approach we take is to first ensure that we are very knowledgeable about what is clearly illegal. We then provide the company with the widest possible range to carry out its activities in so far as it is not disallowed, even though it is unclear if these activities are legal. In our view, this approach is supported by several decided cases in Nigeria which state that if a law wishes to impose an obligation on an individual it must do so in clear terms.”

E. Balancing between Protecting the Company with Advancing its Business

²⁴ Ibid no .10

“My bonuses are tied to the progress and performance of Chevron Nigeria; consequently, I have an interest in the progress of the company’s business. At the same time, I have a responsibility to ensure that the company does not take unnecessary risks that violate the law or otherwise create liability,” Oguine explained²⁵

He says this creates a bit of tension because while trying to promote the companies’ business by approving projects and deals, “I am also the one to say to my colleagues, ‘Look guys we cannot go beyond this point without taking unacceptable risks.’ If I come across as very strict, I am referred to as a ‘policeman’ and run the risk that people will keep things away from me. That actually increases the legal risk faced by the company and this can be pretty terrifying. On the other hand, if I am too soft and approve almost every decision even when there is substantial risk, this will be very shortsighted and the company faces a bigger legal risk that would cause millions of dollars in fines or legal fees.

“As the General Counsel,” he continued, “I need to strike a balance between making sure the company takes little or no legal risks and ensure that our clients comply with the laws when making business proposals. Again, early involvement is very important as well as being very creative and also being firm when appropriate.”

VI. ANALYSIS

²⁵ Ibid

McKinsey's 7-S model is an approach that states to ensure the effective operation of a company, there must be an alignment between the company's strategy, structure, systems, staffing, skills, styles and shared value²⁶.

What has driven the strategies applied by Chevron Nigeria and its in-house legal teams is an understanding of the legal risks that the company needs to guard against and those opportunities that the team needs to help the company concretize. In handling the Niger-Delta issues the department adopted a strategy to avoid the escalation of the conflicts in communities in which the company operates. There were systems put into place to ensure this outcome, such as working closely with the Community Affairs Officers. This goes a long way towards promoting the company's shared value of having good relationships with these communities.

Another strategy employed is the use of industry groups. This group of petroleum producing companies work closely together on regulatory issues. Over the years, the Nigerian government has taken lots of steps to secure more benefit for Nigeria. However, this sometimes results in very harsh legislation, and the company tries to moderate its effects by working together as an industry with companies like Shell, Mobil and Total. They work together in looking for solutions that allow them meet their objectives and also build capacity in Nigeria.

One of Chevron Nigeria's core values is "integrity". The way this translates into the work of the legal department is to make sure that they are at the forefront of helping their clients understand the "do's and the don'ts", since the country in which they operate is regarded as one of the most corrupt countries in the world. They work closely with

²⁶ Mind tools, 'The McKinsey 7S Framework', http://www.mindtools.com/pages/article/newSTR_91.htm assessed November 22nd 2011.

other employees and government officials, such as the NNPC, explaining to them why certain actions are not permitted in order to ensure that this culture is upheld.

To build a successful team, the lawyers undergo various trainings and are also mentored by senior lawyers. Nonetheless, the merit-based system of compensation encourages unhealthy competition and people start to work against each other. A system adopted to curtail this from happening and create a co-operative atmosphere, was to encourage teamwork. Projects were given that required people to work in teams and special rewards are given to those individuals who have shown an ability to work together. This also helps the lawyers subconsciously maintain the company's core values as colleagues frequently work together on assignments and keep a check on each other. Teamwork has also been included in assessing a lawyer's annual performance.

VII. LOOKING TO THE FUTURE

A. Mature Fields and Divestments

Since the production of Crude oil started in Nigeria in 1956, the fields have become very old and are less productive, and become less attractive to the big oil companies such as Chevron and Shell. However, what has happened in other parts of the world is that big oil companies are losing interest in this sort of fields, thereby allowing smaller companies who can produce at smaller costs to come and take over these fields.²⁷

Nigeria is now at the stage where preparations are being made for those fields that were explored under the traditional joint ventures to be transferred to smaller companies.

²⁷ Ibid

Arrangements are also being made to close down these fields and abandon them when they are no longer productive. Hence, the laws and regulations regarding the commissioning and abandoning have become very important. The in-house legal department, in order to understand their obligations under these laws, is spending more time studying them. They also work with their colleagues in the finance and technical teams to determine the costs implications and technical methods of achieving abandonment respectively.²⁸

B. Industry Advocates New Laws

Nigeria became a democracy again in 1999, and since then the legislature has become more active. Therefore, companies need to develop the capacity to go before the legislature and lobby if they want a law to be changed. This is where the industry efforts of oil producing companies come into play. Oguine suggests that, the petroleum industry should be organized into a lobbying group, write memos and have meetings with the legislature to press their case.

Going forward, the industry needs to develop proper lobbying skills and also develop a body of practices on how to lobby properly. The strategy here is to learn from other countries where there is a developed democratic culture such as the United States and the United Kingdom and to compare the practices studied to what is permissible under Nigerian law.

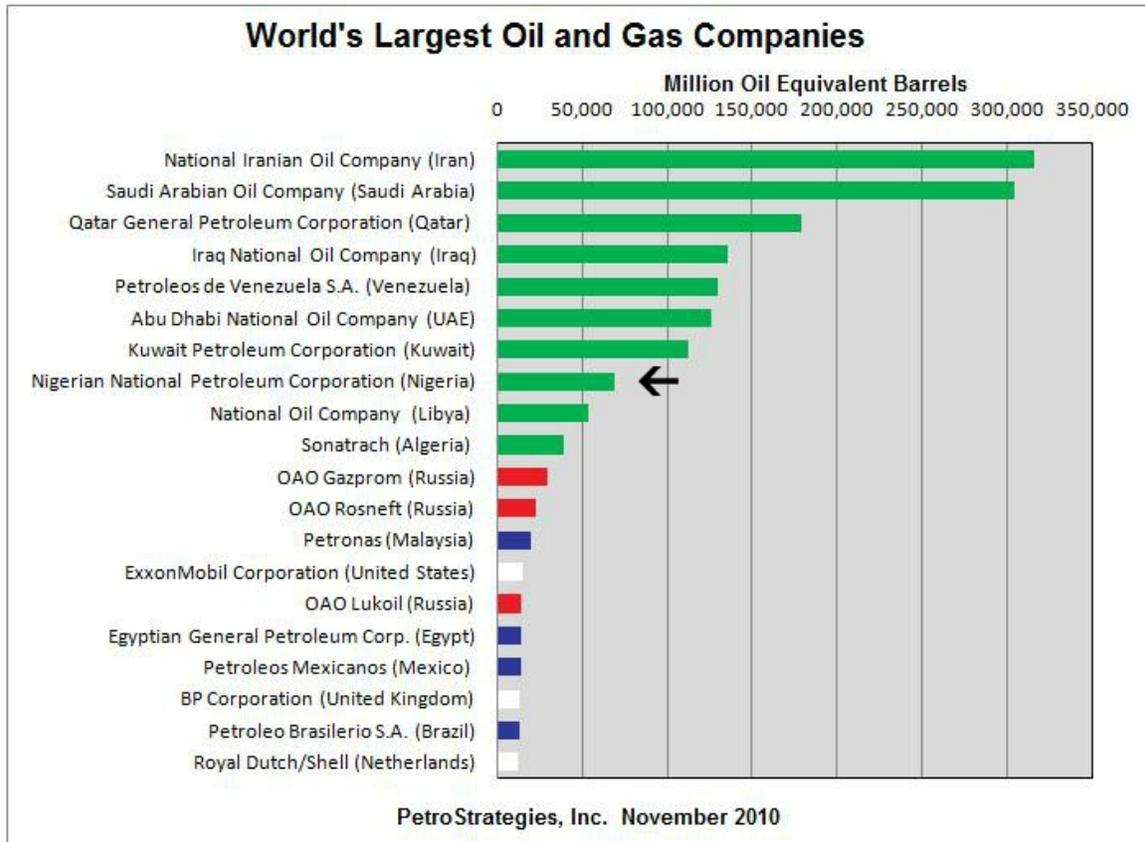
²⁸ Ibid

Exhibit 1: Platts 2010: Top 250 Global Energy Company Rankings (Top 10)

<u>Rank</u>	<u>Company</u>	<u>Assets</u>	<u>Revenues</u>	<u>Profits</u>	<u>Return on invested capital (ROIC)</u>	<u>3 year CGR % Revenues</u>
1	ExxonMobil Corp	\$302,510 mil	\$341,578 mil	\$30,460 mil	18%	-2%
2	Chevron Corp	\$184,769 mil	\$189,607 mil	\$19,024 mil	16%	-2%
3	Gazprom Oao	\$330,261 mil	\$118,401 mil	\$32,443 mil	13%	14%
4	Petrochina Co	\$254,914 mil	\$220,177 mil	\$21,034 mil	12%	21%
5	Total SA	\$206,640 mil	\$189,153 mil	\$14,234 mil	13%	1%
6	Royal Dutch Shell	\$322,560 mil	\$368,056 mil	\$20,127 mil	11%	1%
7	Conoco Philips	\$153,143 mil	\$281,981 mil	\$10,788 mil	11%	17%
8	China Petroleum	\$153,143 mil	\$281,981 mil	\$10,788 mil	11%	17%
9	OJSC Roneft	\$93,829 mil	\$61,942 mil	\$10,400 mil	14%	9%
10	LUKOIL	\$84,017 mil	\$104,956 mil	\$9,006 mil	13%	9%

Source: Adapted from < Platts, 'Top 250 Global Energy Company Rankings', <http://www.platts.com/Top250Home>>, assessed November 13th 2011.

Exhibit 2: World's largest Oil and Gas Companies: Barrels of Oil Equivalent in Millions



Notes:

Green bars are OPEC members

Red bars are Russian companies

Blue bars are non-OPEC national oil companies

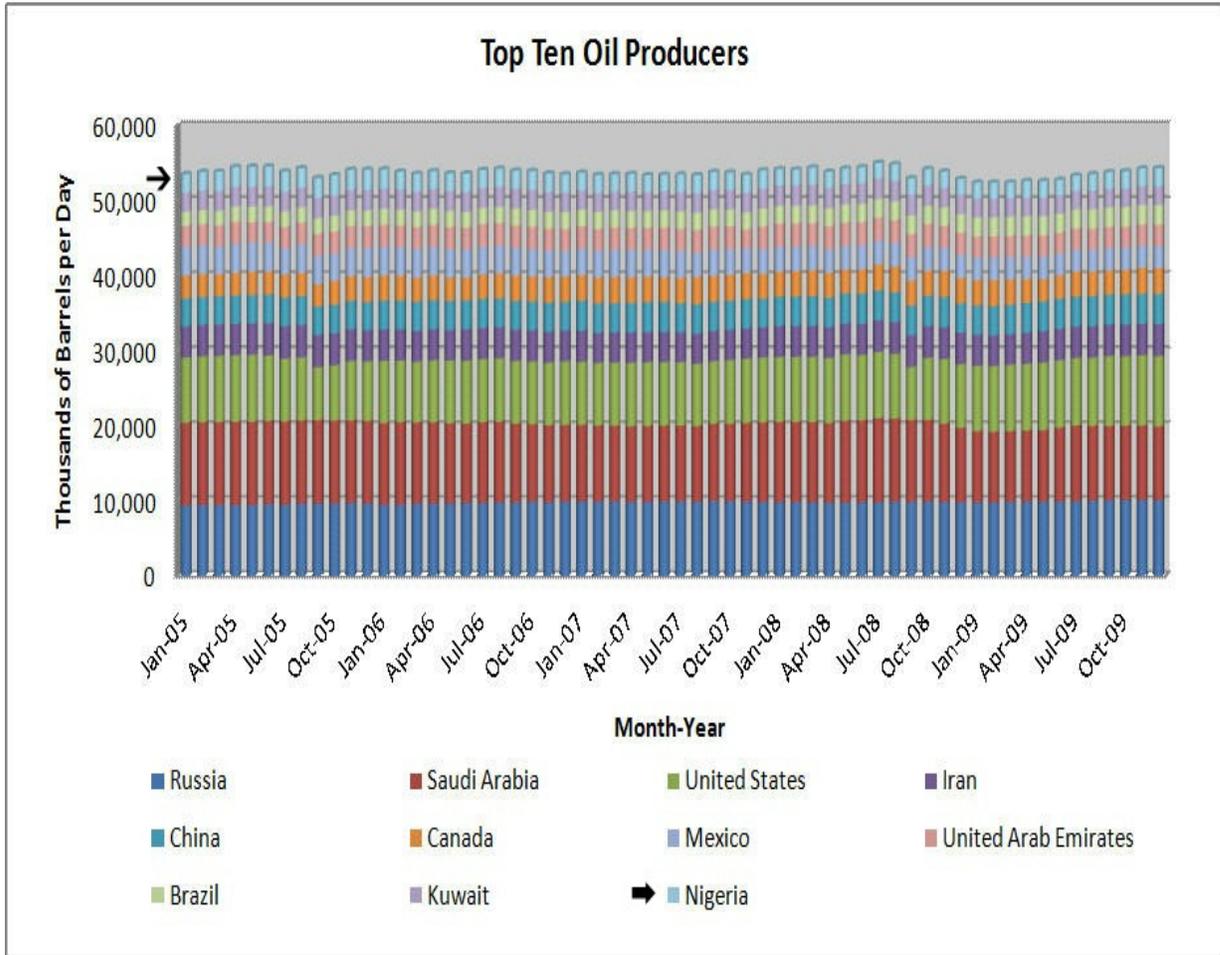
White bars are public multinationals

Source: Adapted from

<[http://www.petrostrategies.org/Links/worlds largest oil and gas companies.htm](http://www.petrostrategies.org/Links/worlds_largest_oil_and_gas_companies.htm)> ,

assessed November 22 2011.

Exhibit 3: Top 10 International Crude Oil Producers



Source: Adapted from

http://www.petrostrategies.org/Graphs/international_crude_oil_production.htm,

assessed November 27 2011.