

**Myanmar Centre for
Responsible Business**



Sector-Wide Impact Assessment (SWIA)

Local content – learning from experience elsewhere

Vicky Bowman
Director, Myanmar Centre for Responsible Business

**Panel on NATIONAL CONTENT: GOING BEYOND LOCAL CONTENT TO ENSURE THE
DEVELOPMENT OF MYANMAR CAPACITY**

Please like us on Facebook and add our RSS feed to stay up
to date on our activities
<http://www.myanmar-responsiblebusiness.org/rss.xml>

Sule Shangrila Yangon, 28 October

www.mcrb.org.mm

Myanmar Centre for Responsible Business



www.myanmar-responsiblebusiness.org

15 Shan Yeiktha Street,
Sanchaung, Yangon
Tel/Fax: 01 510069

Founders:



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

Objective: To provide an effective and legitimate platform for the creation of knowledge, capacity and dialogue concerning responsible business in Myanmar, based on local needs and international standards, that results in more responsible business practices.

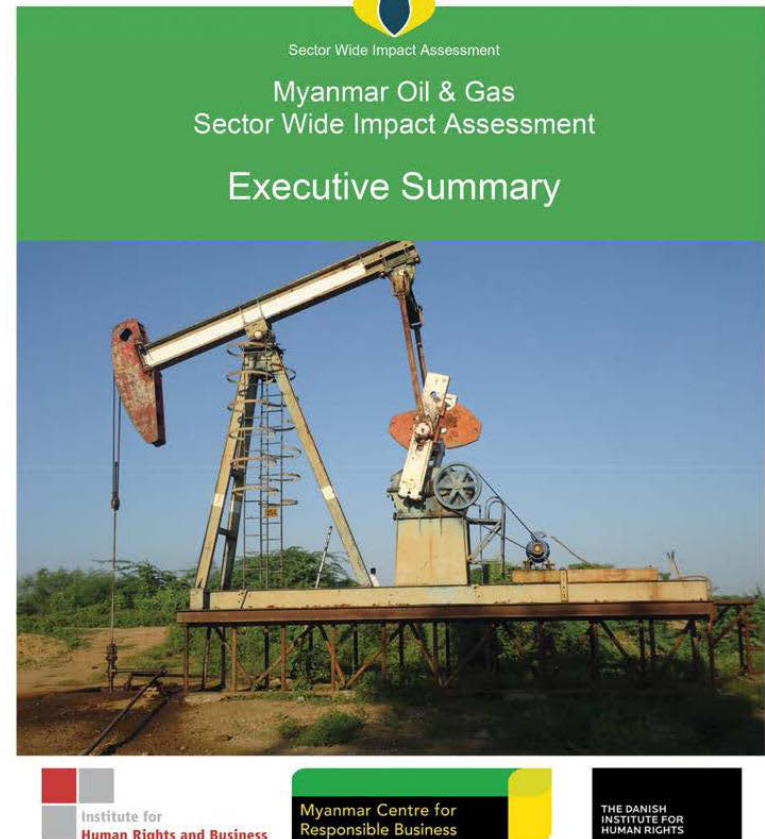
Current core funders:

- UK Department for International Development
- DANIDA (Danish development aid)
- Norway
- Switzerland
- Netherlands
- Ireland

Oil and Gas Sector Wide Impact Assessment (SWIA)

Download the Myanmar O&G SWIA:

- [Full Report \(234 pages/20.9mb\)](#)
- [Cover, Acknowledgements, TOC](#)
- [Executive Summary](#)
- [Part 1: Introduction](#)
- [Part 2: Government Structure and Legal Framework](#)
- [Part 3: Sector-Level Impacts](#)
- [Part 4: Project-Level Impacts \(also download individual chapters below\)](#)
- [Part 4.1: Stakeholder Engagement & Grievance Mechanisms](#)
- [Part 4.2: Communities](#)
- [Part 4.3: Land](#)
- [Part 4.4: Labour](#)
- [Part 4.5: Ethnic Minority Groups / Indigenous Peoples](#)
- [Part 4.6: Groups at Risk](#)
- [Part 4.7: Security](#)
- [Part 4.8: Environment](#)
- [Part 5: Cumulative-Level](#)
- [Part 6: Region-Specific Conflict Considerations – Rakhine and Tanintharyi](#)
- [Part 7: Recommendations](#)
- [Annexes](#)



What is the Oil and Gas SWIA?

- Field research in six locations, desk analysis of laws and policies, consultation
- Published 4 September 2014
- Available online at www.mcrb.org.mm
- Assessment through a human right lens
- MCRB's first sector-wide impact assessment (SWIA) possibly the first such sector-wide assessment ever, globally (coming soon, Tourism, ICT....)
- Highlights the actual and potential impacts of oil and gas investment, positive and negative
- Makes recommendations for government, businesses and other stakeholders on how to increase positive and reduce negative impacts on human rights.



(8)
Develop strategies for creating positive impacts at the local, regional and national level.

Local Content recommendation to business

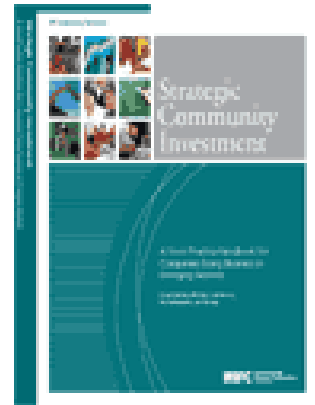
- **Develop immediate-, medium- and long-term strategies for addressing communities' desire for jobs.** These may include supporting basic education and vocational training programmes for skills needed in the sector.
- **Develop social investment programmes with, for and by communities** that will support them in developing their capacity to choose and manage small-scale developments. These programmes should address issues related to O&G operations.
- **Avoid philanthropy.**
- **Develop more systematic planning of quality project infrastructure** that can improve host community livelihoods while also serving the project.
- **Promote small business and entrepreneurship programmes**

Sources of guidance

- ❑ Local content in the Oil and Gas Sector, World Bank Studies, 2013;
- ❑ IFC Guide to Getting Started in Local Procurement
- ❑ IPIECA Local content strategy: a guidance document for the oil and gas industry (2011)
 - According to IPIECA, actions for achieving local content objectives include four key factors. These are:
 - Thoroughly analysing the local context;
 - Starting early in the project life cycle to consider how and when to intervene;
 - Taking a long-term perspective; and
 - Effectively managing information flows and transparency.
- ❑ IFC Guide to Strategic Community Investment

These and many other guides and case studies can be found on the EI Sourcebook

- ❑ www.eisourcebook.org/932_55LocalContent.html



What does 'local content' mean?

World Bank: “The extent to which the output of the extractive industry sector generates further benefits to the economy beyond the direct contribution of its value-added, through its links to other sectors.

- *backward links*: supplying input to the local economy through transfer of technology, the generation of value-added in domestic supply sectors, the creation of local employment opportunities, and increasing local ownership and control
 - *forward links*: processing the sector's output prior to export through, for example, the establishment of refineries, petrochemical industry, and the production of fertilizers (aka 'beneficiation')”
- ▶ What does 'local' mean in Myanmar?
- From Myanmar?
 - Or from Rakhine State?
 - Or from Kyaukphyu..?

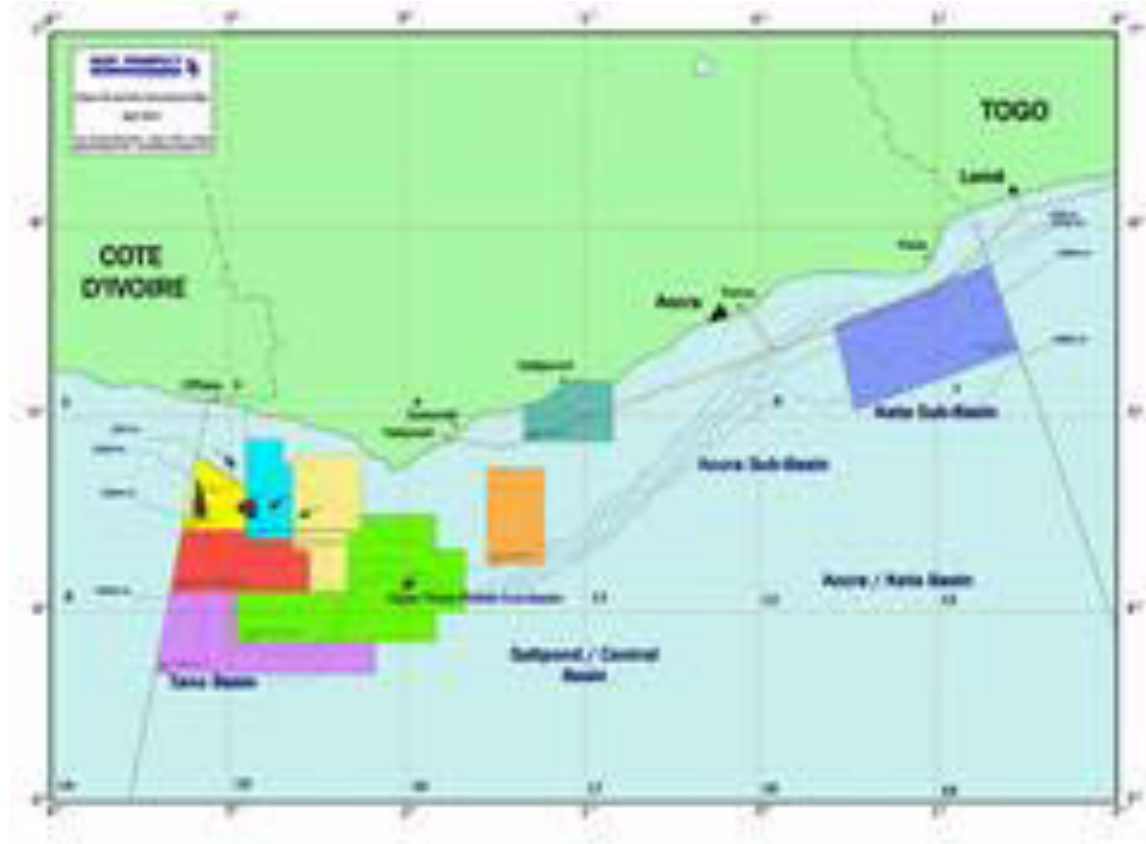


Where does this describe?

- ▶ Fishing and other livelihoods of coastal communities have been affected.
 - The fishing industry is already under pressure, with reduced inshore fish stocks, and oil and gas exclusion zones may increase anger and disillusionment.
 - 67% of jobs in the fishing industry will be lost in the six coastal districts by 2020.
 - A coconut disease is devastating the coastal coconut farming industry.
 - Coupled with the oil and gas industry further reducing farming livelihoods and access to land, many will blame the oil and gas industry.
- ▶ Oil-driven growth in the urban areas has led to rapid increases in cost of living for urban poor.
- ▶ Expectations of local citizens that they will benefit from the oil industry are high, but immigration has meant that while jobs have increased, original residents are not securing them.
- ▶ Traditional and local politicians are aware of the concerns, but the risks of tension and conflict are increasing, as little action appears to be taken and there is no effective mechanism to raise concerns or require a response.

Ghana

- Oil was found in commercial quantities off the coast of Ghana's Western Region in 2007. Extraction started at the end of 2010.
- Production, presently at 126,000 barrels per day, is expected to increase significantly in the coming years.
- While its effective use would be good for Ghana's development, oil has caused tension in Western Region.



Local Content Laws & Contractual Provisions in Ghana and other countries

- Ongoing survey of local content frameworks of a number of countries by Columbia Center on Sustainable Investment (CCSI) (New York)
 - identifies the key legislation, regulations, contracts and non-binding policies and frameworks dealing with local content issues in the mining and petroleum sectors.
 - CCSI has completed the following local content legal profiles and is working on additional profiles:
 - [Angola: Petroleum](#)
 - [Ghana: Petroleum](#) and [Mining](#)
 - [Nigeria: Petroleum](#)
 - [Tanzania: Petroleum](#) and [Mining](#)
 - [Uganda: Petroleum](#)
 - [Trinidad and Tobago: Petroleum.](#)
- CCSI Profiles intended as a tool for policy makers, researchers and citizens seeking to understand and compare how local content is dealt with in their own and other countries, and to provide some examples of language that might be adopted in a framework to achieve local content goals.

LOCAL CONTENT



Ghana – Petroleum





Highlights

- Comprehensive local content framework for the petroleum sector.
- Ghana is one of the few countries to have a dedicated regulation dealing with local content.
- The framework envisions a strong role for government, its vision suggests it "shall seek to provide the enabling environment and opportunities for Ghanaians to benefit from the economic wealth that emanates from the activities in the oil and gas industry..."
- A key objective is to "promote the maximisation of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the petroleum industry value chain and their retention in the country".
- Creation of a Local Content Committee to "oversee, coordinate and manage" the implementation of the local content framework.
- A focus on local participation by the Ghanaian private sector - at least 5 percent equity for petroleum license, permits and contract operators and at least 10 percent equity for providers of supplies and services.
- Detailed targets for minimum local employment, services and goods, gradually increasing over the first 10 years of the project.

GHANA

✓	Employment Requirements
✓	Procurement Requirements
✓	Training Requirements
✓	Technology Transfer Requirements
✓	Monitoring and Enforcement Mechanisms
✓	Government Obligations in Support of the Companies' Program



International law



* As the Regulations provide a comprehensive framework, all references in this document to Articles, are to Articles of the Regulations unless otherwise stated.

Key definitions

Indigenous Ghanaian company means a "company incorporated under the Companies Act, 1963...

- (a) that has at least fifty-one percent of its equity owned by a citizen of Ghana; and
- (b) that has Ghanaian citizens holding at least eighty percent of executive and senior management positions and one hundred percent of non- managerial and other positions".

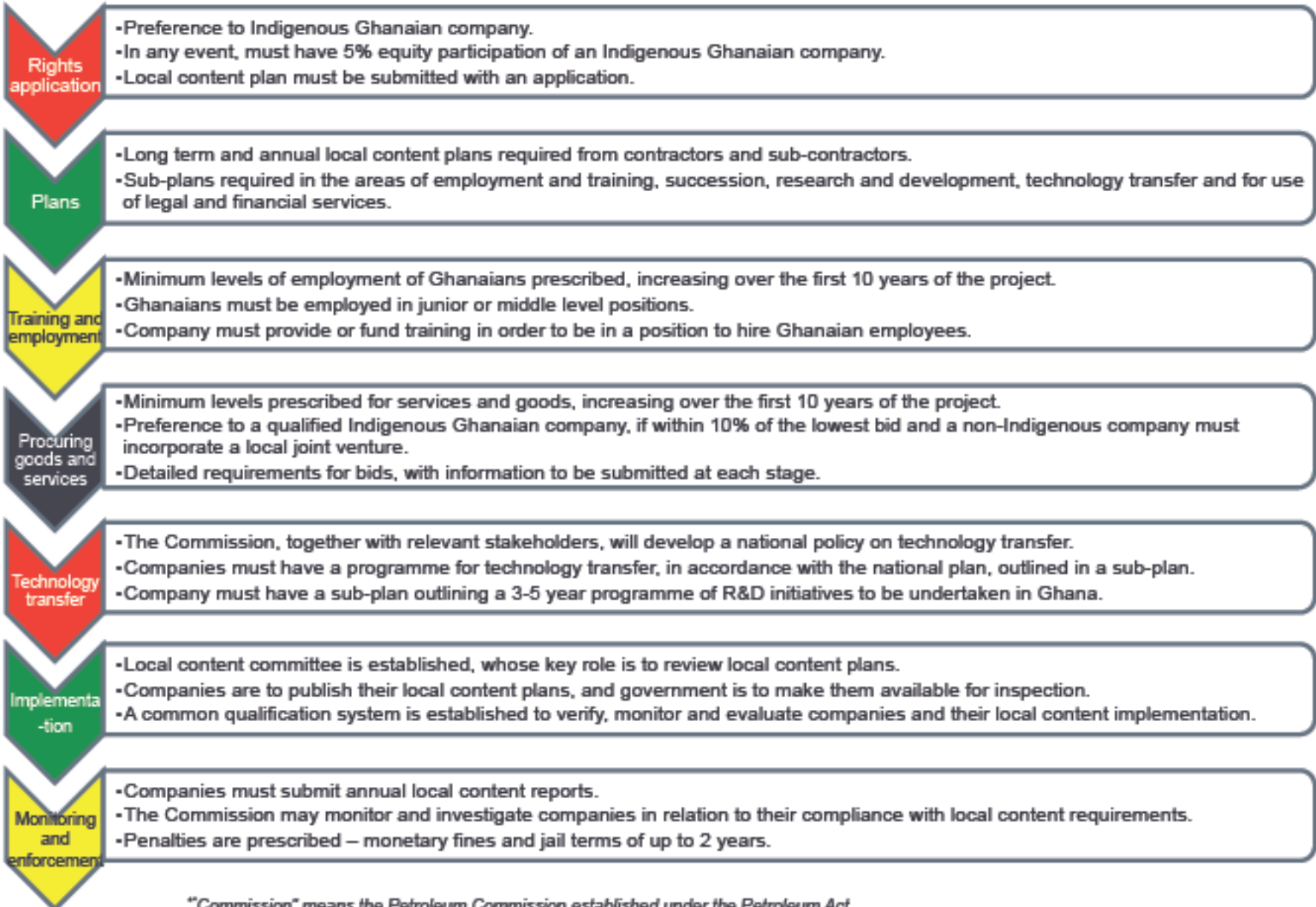
Local content means "the quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the petroleum industry value chain and which can be measured in monetary terms".

Qualified means "technical competence and financial capability to fulfill all obligations under a petroleum agreement or petroleum licence".

Value-addition means "the economic improvement of a product or service in the petroleum industry".

Common qualification system means "a sole centralised system of pre-qualified service providers in Ghana's upstream petroleum industry based on their capacities, capabilities and local content strength to enable ranking and categorisation of the service providers as well as tracking and monitoring their performance".

Overview



"Commission" means the Petroleum Commission established under the Petroleum Act.

Realistic or idealistic?

- ▶ Recent global poll of oil company and government official (Oilandgasiq.com) showed:
 - international oil companies overwhelmingly favoured requiring 20–40% of a project to be applicable as local content
 - national oil companies and governmental agencies wanted 60–80% local content
 - Some government officials even voted for 90%.
- ▶ **Ghana's targets:**
 - The Contractor and sub-contractors must comply with specified minimum local content levels:
 - For goods and services broadly – 10% at start, 50% at 5 years and 60–90% at 10 years
 - Specific levels for particular types of goods and services used in the petroleum industry at start, 5 years and 10 years e.g. engineering services, fabrication and construction materials, IT and others
 - The Contractor must comply with minimum employment levels set out in Schedule 1, up to 70–80% for all technical and core staff and 100% for “other” staff

Ghana passes local content law

Thursday, 28th November 2013 | Companies, International, Local Content

[Email](#)



The Kwame Nkrumah Floating Production, Storage and Offloading facility in Ghana's offshore Jubilee Field, operated by Tullow and partners. (Photo: Tom Fowler)

Ghana's Parliament passed the Petroleum Local Content and Local Participation Regulations, 2013 (L.1.2204) last week, amidst stiff opposition from the upstream oil companies operating in the country.

The companies are concerned the new law may affect their outstanding agreements with the Ghana government.

The law requires new foreign exploration firms entering the Ghanaian market to have at least 10 percent local ownership, and targets having an impressive 70-80 percent locally-trained management and technical staff in the oil and gas sector by 2023.

The law is tilted strongly in favour of Ghanaian businesses, envisaging they can provide up to 50 percent of goods and services to the oil and gas industry in five years' time; and up to 90 percent within 10 years.

In addition to giving first consideration to Ghanaian independent operators in the award of oil blocks, oil field licenses, oil lifting licenses and other contracts, the policy stipulates that during bid evaluation, where bids are otherwise equal, the bid containing the highest level of Ghanaian content shall be selected.

Operators in the oil and gas industry are also expected to use local goods and services as much as possible, even if they are up to 10 percent more expensive than imported ones.

In Ghana, the jury is still out but the new rules are stimulating action.....

- ▶ Ghana Government commissioned the Enterprise Development Centre (EDC) in May 2013:
 - five-year Project jointly sponsored by the Jubilee Partners – Tullow Oil, Ghana, Kosmos Ghana, Anadarko, Petro SA and the GNPC
 - under the general supervision of the Ministry of Energy & Petroleum and the Ministry of Trade & Industry
 - provides capacity-building to Ghanaian small and medium enterprises (SMEs) to take advantage of business opportunities in the oil and gas sector.
 - acts as a focal point for coordination between SMEs and the oil and gas companies, their contractors and sub-contractors.
- ▶ Tullow Ghana (2013)
 - almost half of US\$1.2billion spent with suppliers was with Ghanaian businesses or international companies registered in Ghana (who pay their taxes in Ghana and whose workforces are majority Ghanaian).
 - Tullow spent US\$128m with local businesses, an 86% increase on the previous year [2012: US\$69m: 10% of overall expenditure with suppliers

Ghana: Proposed Western Region Oil Programme

DFID will commit £9.5 million 2014–2018:

- invest in establishing a strong dialogue through:
 - a forum for solving problems between stakeholders in the oil and gas industry, communities and government, the *Coastal Citizen's Advisory Council*, and
 - a *Community Conversation* with the affected communities to provide residents with a voice at the Advisory Council. Community facilitators will capture views and concerns and feed issues to the secretariat. They will be able to provide early warnings if problems are escalating. A secretariat will monitor follow-up and action.
- establish a *Development Fund*.
 - The initial focus of companies' programmes has been on service delivery; the programme will introduce a new focus on employment and income-earning opportunities.
- set up and manage the *Coastal Foundation*, ensuring good financial and other systems are established, and strong development impact and good value for money in the programmes that the Foundation is supporting. An effective Foundation could last for the duration of oil and gas production which is expected to last 30–40 years.

Could this prove to be a good example of collective action in Ghana?

Could it be done in Myanmar?



Highlights:

- Draft local content policy for oil and gas published in 2014.
- Regulation of local content by contractual provisions in Arts. 20 and 21 of the Model Production Sharing Agreement (MPSA) 2013 and in Arts. 18 and 19 of the MPSA 2008 rather than by laws and regulations.
- Training provisions dedicated to Government and Tanzanian Petroleum and Development Corporation (TPDC) personnel at the exploration license level.
- Current laws and regulations lack mechanisms for accountability to assure that the Contractor's and TPDC's commitments to local content are implemented.
- Development licenses require the transfer of management and operation functions to Tanzanian nationals within a period not exceeding five years from the start of commercial operations.

Tanzania

✓	Employment Requirements
✓	Procurement Requirements
✓	Training Requirements
✓	Technology Transfer Requirements
✗	Monitoring and Enforcement Mechanisms
✗	Government Obligations in Support of the Companies' Program

Key definitions

Local content means: "The added value brought to the country in the activities of the oil and gas industry in the United Republic of Tanzania through the participation and development of local Tanzanians and local businesses through national labour, technology, goods, services, capital and research capability" (Draft Local Content Policy).

Local content plan means: "A plan agreed between the Ministry responsible for petroleum affairs, the Contractor and TPDC, which forms an integral part of the approval for an Exploration License, Development License and Operational License, and which guides the activities and eligibility for recovery of costs of Contractor and Lead Contractors in their use and development of Local Content" (Draft Local Content Policy).

Local goods means: "...goods obtained, produced or manufactured and have after-sales services in Tanzania Mainland" (Draft Local Content Policy and MPSA 2013).

Tanzanian Companies means "companies incorporated in the United Republic of Tanzania and whose shares are wholly or at least 51% owned by in Tanzanian nationals (Art. 20(p) of the MPSA 2013).

Tanzanian Materials means "materials obtained produced or manufactured in the United Republic of Tanzania" (Art. 20(p) of the MPSA 2013).

Tanzanian services means "services provided by Tanzanians or Tanzanian companies or Tanzanian materials" (Art. 20(p) of the MPSA 2013). Note that local services are defined as "services provided in Tanzania Mainland" in the Draft Local Content Policy.

A reminder of standard Myanmar PSC requirements

CONTRACTOR shall

- ▶ endeavor to employ qualified Myanmar citizens in accordance with the Foreign Investment Law, rules and regulation of the Republic of the Union of Myanmar. In doing so, CONTRACTOR shall submit a staffing plan for the Development and Production Operations at all levels up to the management level. The employment of Myanmar nationals shall be reviewed from time to time by the Management Committee.
- ▶ unavoidably give preference to such goods and services which are available in Myanmar or rendered by Myanmar nationals approved by MOGE, provided such goods and services are offered at comparable conditions with regard to quality, price, availability at the time and in the quantities required; such payments for goods and services shall be made in US Dollars or local currency as appropriate in accordance with prevailing regulations;
- ▶ unavoidably execute Petroleum Operations in accordance with the Work Programme utilizing twenty-five (25) percent of the approved Budget for each Financial Year for goods and services that are available in Myanmar or rendered by Myanmar nationals, subject to the approval of MOGE unless otherwise agreed upon by both parties;

Myanmar Foreign Investment Law 2012

24. The investor -

(a) Shall appoint, when appointing citizen skilled workers, technicians and staff, at least 25% of citizen within first 2 years from the commencement date, at least 50% within second two years, at least 75% within third 2 years however in the academic basis works the time limit may be extended as deemed to be suitable by the commission.

(b) Shall arrange to provide training and courses for the citizen employee to be appointed under section (a) for the progress of competency.

(c) Only citizen shall be appointed and the unskilled works.

(d) When recruiting labour, it may be exercised from the government labour exchange or internal labour agencies at the discretion of the investor.

(e) When appointing citizen skilled workers, technicians and employee the appointment contract shall be signed between employer and employee as per the existing the labour law and rules.

(f) Shall arrange salary standard without segregation the citizen employee shall be provided the same as foreigner employee as proportionate division of professional level.

Local content: relevant initiatives in Myanmar

- ▶ ILO/Myanmar Government – National Labour Force Survey
 - ▶ SMEs development
 - UNIDO – SMEs Development Centre
 - USAID – Advancement and Development through Entrepreneurship Programs and Training (ADEPT)
 - GIZ – SME and entrepreneurship development
 - SPARK (NL NGO)
 - Financial inclusion (i.e. banking services – UN Capital Development Fund) and microfinance programmes (GRET, PACT, others)
 - **Building Markets**
- 



Building Markets

Connecting **Entrepreneurs**. Creating **Jobs**. Sustaining **Peace**.

We work for the good of the local SMEs,
In the best interest of international companies.

A Unique Model

- A non-profit social enterprise that specialises in connecting entrepreneurs to domestic, regional and local supply chains.
- Funded by various public and private donors, all generated revenues are re-invested in our private sector development programmes, which drive sustainable growth for local SMEs.

A Leading Position

- The largest database of local businesses in Myanmar, currently working with over 1,100 local companies.
- Over \$10 million of contracts facilitated in Myanmar.
- A presence in the three main economic centers of the country.

A Mission of Development

- Building Markets aims to build the capacity of Myanmar businesses, strengthen their competitiveness, unlock their potential and connect them with opportunities.
- Working with us not only benefits your business but also contributes to the development of Myanmar.

Awards : Skoll Award for Social Entrepreneurship 2010, G20 SME Finance Challenge Prize, 2010, World Economic Forum's Young Global Leaders Award, CEO Scott Gilmore, 2011, Senior Ashoka Fellowship, 2012

In Myanmar:

- 2 years of operation
- Offices in **Yangon, Mandalay** (+Mawlamyine in Q2 2016)
- 20 local staff dedicated to local content development

Results:

- Interviewed and profiled over **1,200 SMEs across 25 sectors**;
- Produced **200 matchmaking reports** including over 500 unique SMEs for 40 buyers;
- Facilitated **130 contracts** for a total value of **US \$11m**;
- Conducted **50 training sessions** for over **250 businesses (960 individual attendants)**;
- Disseminated **2,500 tenders** on ***myanmar-opportunities.org***;
- Held more than **60 meetings** with aid organizations and procurement officers;

WE SPECIALIZED IN LOCAL CONTENT

Where information is scarce and unreliable, we aim to bring sustainability and predictability to your business by providing accurate, up-to-date and transparent information, and facilitating access to the local marketplace. We develop innovative tools and approaches aimed at meeting business objectives, local content requirements and contributing to sustainable economic growth.

LOCAL CONTENT STRATEGIES

Based on your business needs and requirements, we develop country or project-specific Local Content strategies that identify and pursue clear objectives, designed to manage risks (to quality and schedule/delivery) and align with the Myanmar government's industrial and economic priorities.

➤ LOCAL CAPABILITIES AND BARRIERS STUDY

➤ SUPPLY CHAIN MAPPING AND ANALYSIS

➤ COST-BENEFIT ANALYSIS

➤ REGULATORY ENVIRONMENT AND REQUIREMENTS

➤ STAKEHOLDER EXPECTATIONS OVERVIEWS



Building Markets

Connecting Entrepreneurs
Creating Jobs
Sustaining Peace

With the largest and highest-quality dataset on local businesses in Myanmar, Building Markets:

- Recommends and designs local content strategies
- Surveys sectors and researches markets
- Profiles and evaluates capabilities of Myanmar companies
- Facilitates local sourcing and procurement

We develop long-term partnerships with operators to:

- Align their CSR activities on their business objectives
- Build capable and responsible local supply chains
- Monitor and evaluate impacts

Procurement and Sourcing Services

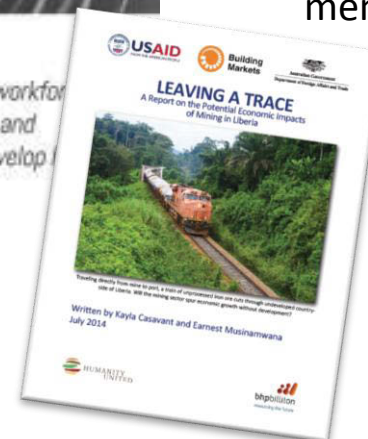
We maximise opportunities for achieving higher levels of reliability and quality through local supplier integration and help lower the costs of locally procured goods and services. By providing detailed information, reducing the size and complexity of the scope and/or simplifying procedures, we contribute to ensuring that contracts are competitive and awarded and performed to international standards.

- Procurement strategy (direct / indirect; unbundling; contract types; investment and JVs)
- Supply opportunities and price comparison
- Pre-qualification of suppliers (finding potential suppliers and evaluation of capabilities)
- Tender distribution (online and offline announcements)
- Matchmaking services
- Contracting
- Performance monitoring, mentoring and constructive feedback

Capacity Development Programmes

We design, coordinate and implement capacity development programmes in two core areas: workforce development (employment and training of local workforce) and supplier development (developing and procuring supplies and services locally). We have access to internal and external resources to develop capacity within very complex industries, such as oil and gas, mining, tourism, telecoms, etc.

- Identification of skill gaps and requirements
- Training programmes for staff and contractors / suppliers
- Information sessions and materials in Myanmar language on CSR and HSE
- Coaching and mentoring



Example of programme:

BUILDING MARKETS SUPPLIERS DEVELOPMENT PROGRAMME with ExxonMobil Exploration and Production Liberia

- ▶ Survey and Research of local oil and gas specific supply chains
- ▶ Vendor capacity situation by procurement category
- ▶ Database of qualified locally-registered service providers and supply companies
- ▶ Vendor capacity gap analysis
- ▶ Capacity Building and Support activities (training, coaching, mentoring)

myanmar@buildingmarkets.org

www.Buildingmarkets.org



Sector-Wide Impact Assessment (SWIA)

Thank you!

www.mcrb.org.mm

Please add our RSS feed to stay up to date on our activities
<http://www.myanmar-responsiblebusiness.org/rss.xml>