



ACCESSING INCENTIVES IN THE OIL & GAS FREE TRADE ZONES IN NIGERIA



February 2017

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3. Government Objectives in Establishing Oil & Gas Free Zone
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Introduction

Free Zones are:

- Special Geographical Area
- Technically a Foreign Territory or Extra Territorial Area
- With Better Business Environment
- Free of Bureaucratic Bottleneck
- To increase Volume of Trade and
- Attract Foreign Direct Investment (FDI)
- Acts as a catalyst for Host Countries economic growth and provides employment opportunities.

Historical background of free zones

There are over 2,000 Free Zones in the world. However, World Bank statistics records over 50% to be failures, most especially in the developing world due largely to the following reasons:

- Inept application of the project
- Inadequate assessment
- Political and economic instability
- Lack of credibility and bureaucracies existing within the host country
- Misunderstanding of the Free Zone as an immediate revenue generating concept rather than acting as a catalyst for the accelerated development of the country.

Background to the oil & gas export free zone Onne

In Nigeria

- The idea of free trade zone is a well-developed system of creating a tax free zone to attract foreign direct investment into a country which was introduced in Nigeria with the establishment of Nigeria export processing zone authority (NEPZA) following act 63 of 1992.
- There are about twenty-nine (29) free trade zones in Nigeria with only about nine (9) functional and the rest at different stages of development.
- The establishment of the Nigeria Export Processing Zones Authority came with the primary focus on Production and Value Addition on Non oil products and exportation of same to foreign countries leaving about 25% to be exported into the Nigeria Market (this has since changed to 100% via executive correspondence)

Oil & Gas Free Zones

- The Federal Government in its wisdom during the mid 1990s noticing its comparative advantage in the Oil & Gas Products decided to create a Free Zone dedicated to Oil & Gas in order to take maximum benefits of the Production of Oil & Gas; at least to attract reasonable “spent” [hitherto domiciled in the foreign countries like Argentina, Brazil, (pipes production) South Korea for FPSO and Wellhead materials, etc.].

Therefore

- The implementation of the Onne Oil and Gas Free Zone was the object of a detailed and thorough process
- From promulgation of the Decree in March 1996 to its ratification by an Inter-Ministerial Committee in July 1997.

Government objectives in establishing a free zone dedicated to oil & gas

Among others, the main objectives of the Study were:

- To clearly define Government objectives
- To define expectations from Free Zone Potential Users
- And to define a development strategy ensuring that both **“match”**.

To create a “WIN/WIN” situation

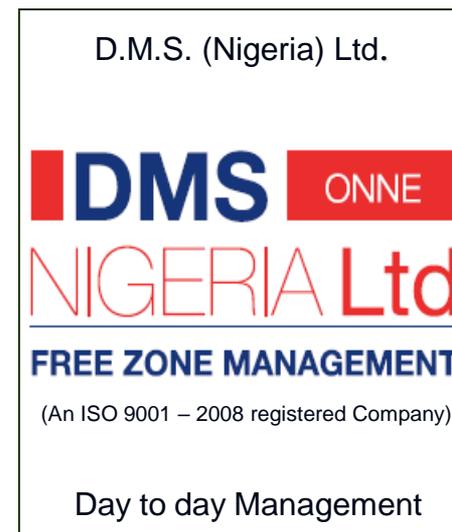
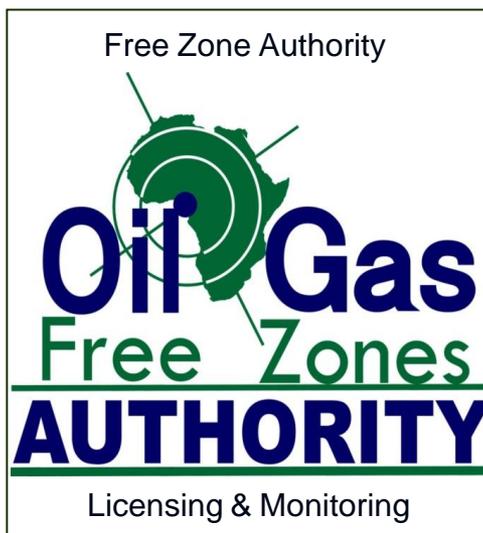
The Government Objectives:

- Foreign Direct Investment (FDI)
- Capital Growth
- Technology Transfer
- Employment Opportunities
- Skill Acquisition
- Revenue Generation
- Enhance trade industrialization
- Establishment of Oil & Gas Free Zone was to utilize our comparative and competitive advantage in the Oil & Gas sector of the economy

The Potential Users' Objectives:

- All sectors of the Oil Industry, Oil Producing Companies, Oil Service Companies, Oil and Gas Project Companies and Down Stream Companies had specific expectations
- Facilitating their procurement and logistics requirements for Exploration and Development programmes so as to satisfy their “just in time” policies for offshore requirements.
- Co-ordinating a regional procurement approach and distribution centre.
- Major cost savings due to the reduced inventories required when utilising the “stockist” concept.
- Ability to share both facilities and services
- Facilitating specific or specialised services to Oil Producing Companies
- Better environment and facilities for development of local content
- Long term objectives for export oriented projects.

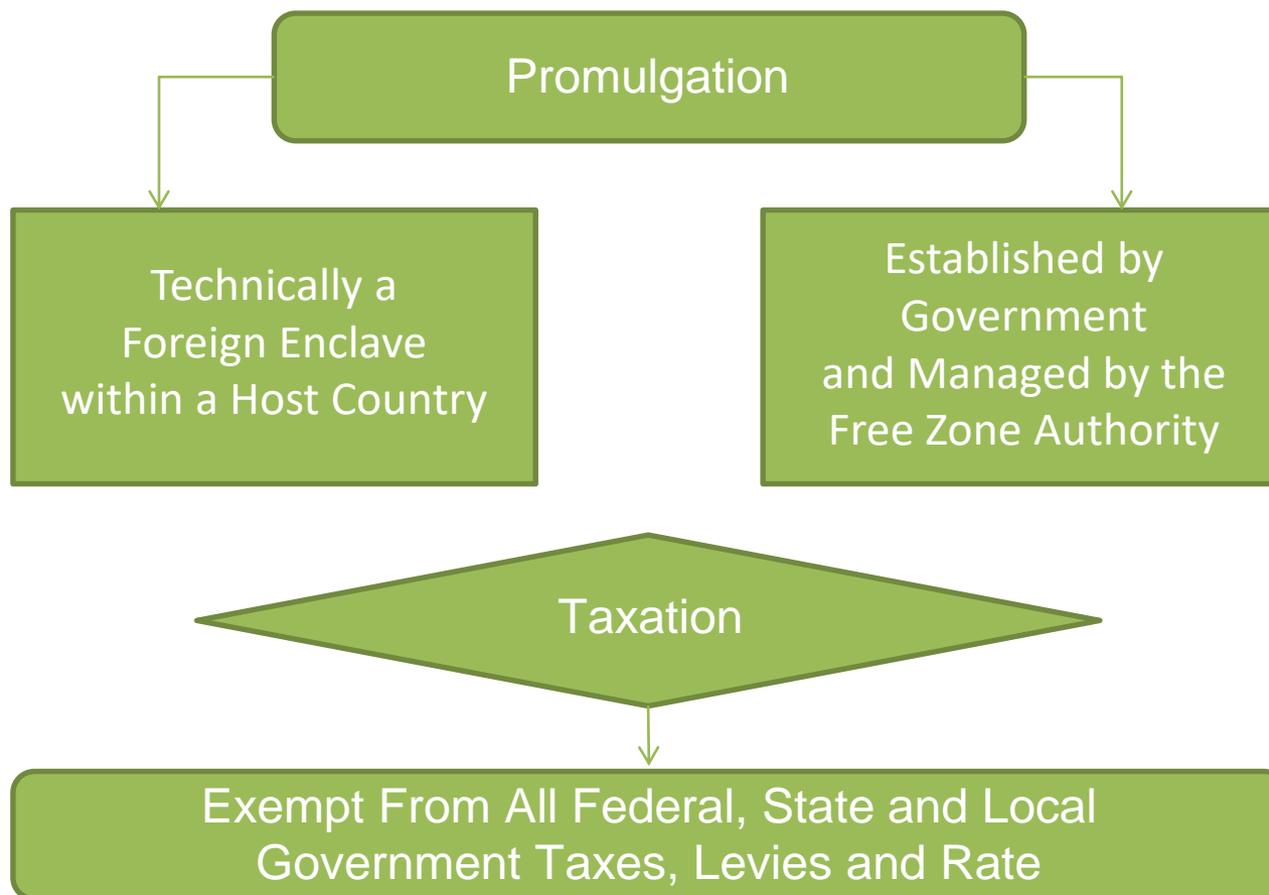
Public & Private Sector Participation (PPP Perspective)



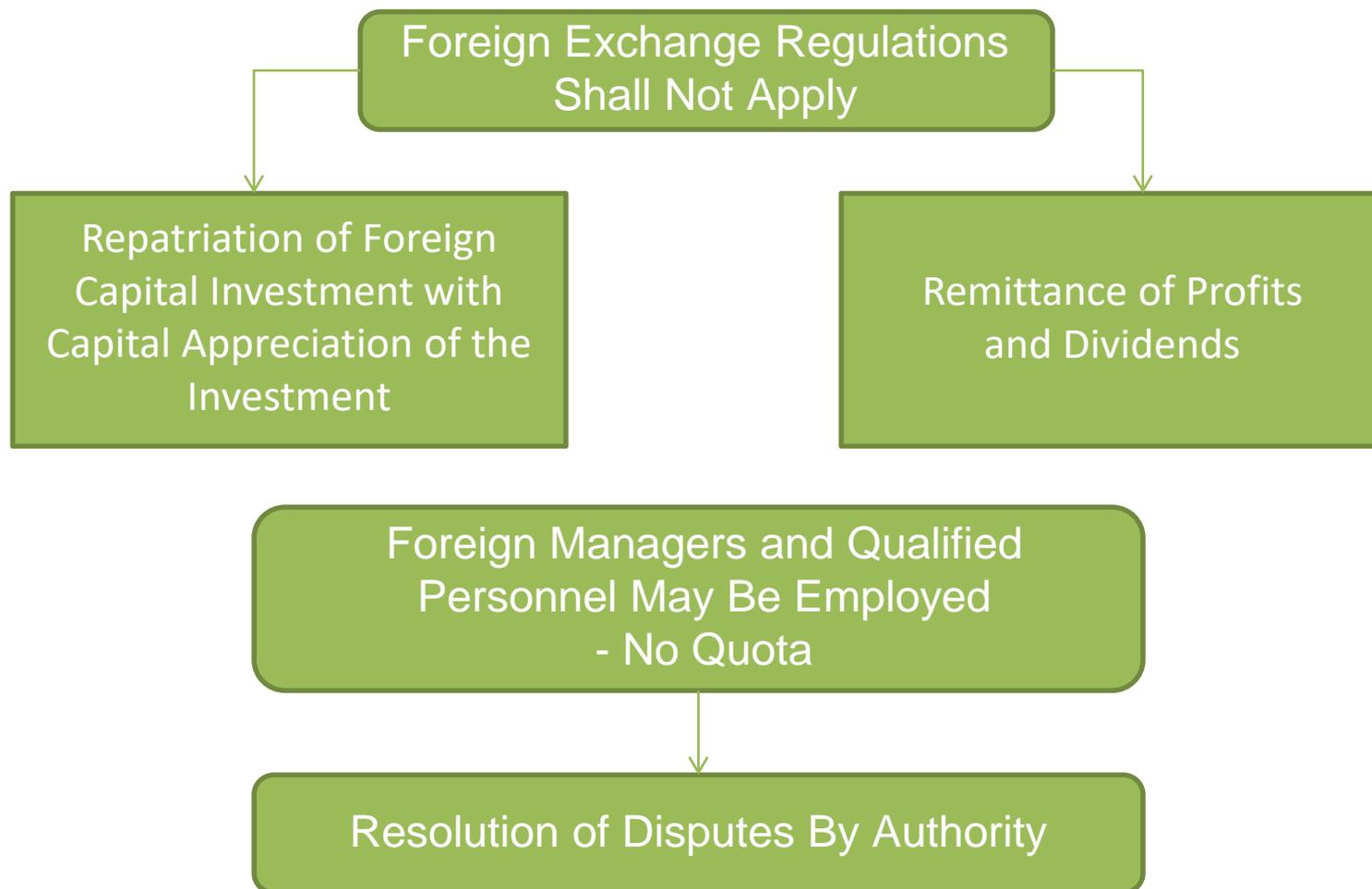
- For the Federal Government, the most veritable means of accomplishing its part of the bargain was to create incentives of varying degrees.
- These incentives will in turn encourage the potential users to invest in the Zone and thereby attracting Foreign Direct Investment and accomplishing other objectives it set out to achieve.

Legal frame work

Legislative: As per Act No. 8 of 29th March, 1996



Legal frame work



Legal frame work

S. 8 of the Act, provides as follows:

"Approved enterprises operating within the Export Free Zone shall be exempt from all Federal, State and Local Government taxes, levies and rates"

The above provision is re-enforced by S.18 of the Act, as follows:

"Approved Enterprises within the Export Free Zone shall be entitled to the following incentives:

- Legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations shall not apply within the Export Free Zone;
- Repatriation of foreign capital investment in the Export Free Zone at any time with capital appreciation of the investment;
- Remittance of profits and dividends earned by foreign investors in the Export Free Zone;
- No import or export licenses shall be required
- Up to a minimum of 25 per cent of production may be sold in the customs territory against a valid permit, and on payment of appropriate duties;
- Rent free land at construction stage, thereafter rent shall be as determined by the Authority;
- Up to 100 per-cent foreign ownership of business in the Export Free Zone allowable;
- Foreign managers and qualified personnel may be employed by companies operating in the Export Free Zone

The Authority and any approved enterprise shall be entitled to import into the Export Free Zone, free of Customs duty, any capital goods, consumer goods, raw materials, components or articles intended to be used for the purposes of and in connection with an approved activity, including any article for the construction, alteration, reconstruction, extension or repair of premises in the Export Free Zone or for equipping such premises [S.12(1)] Act No. 8 of 1996

Incentives

Why Locate in Oil & Gas Free Zone

The incentives are categorized into four (4) broad Headings viz.:

- Free Port/Logistics Incentives
- Customs (Import & Export Incentives)
- Immigration Incentives
- Tax/Financial Incentives

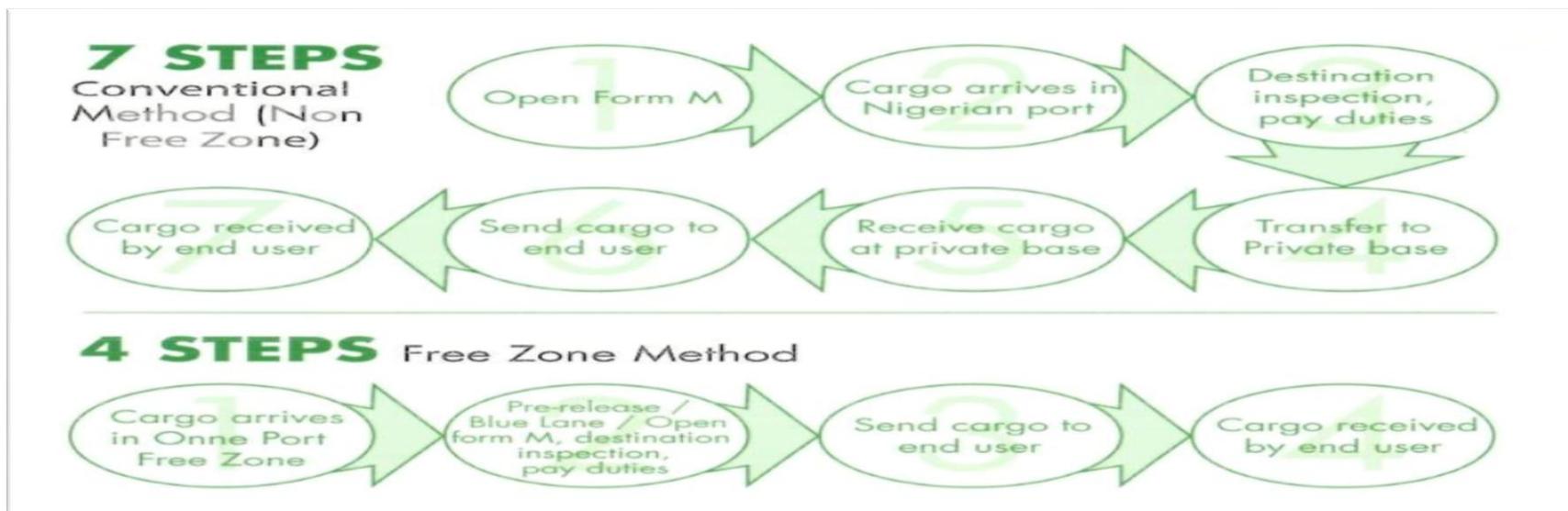
Free zone incentives

Free Port Incentives

No Form “M” requirement prior to shipment

ExxonMobil for instance does not require Form “M” prior to shipment into the Free Zone any material which is destined to Usan, Erha or any of their marginal field thereby saving time and cost as the procurement of Form M can sometimes take up to 40 to 60 days. By this, the Free Zone therefore offers critical flexibility to the management of drill operations in Nigeria. This is applicable to all free zone users.

- Benefits of time: It takes about one month (30days) minimum to get Form M approval by the CBN from the Authorized Dealer Bank to the corresponding Bank to Customs.
- But for Free Zone, a licensee can just ship direct provided the right addressing in documentation is made via Free Zone – “Chevron Onne Oil & Gas Free Zone.”



Free zone incentives

Free Port Incentives

Free Zone goods may be:

Stored indefinitely, sold, Exhibited, Broken up;

- Flexibility of usage: Company XYZ imports a cargo in the Free Zone and is at liberty to access the cargo even prior to duty payments.
- Cash flow: Addax imports 5000m/t of drill pipes via the free zone with duty on CIF = \$437,500 (\$87,500 per thousand ton).
- Immediately requests about 2,000m/t will therefore pay only \$175,000 (the balance saved = \$262,500). When required thereby saving the financing cost or freeing up to the cash equivalent of \$262,500.

Packed, Graded, Cleaned, Marked, Remarked, Loaded, Unloaded, Reloaded, Divided, Mixed, Separated or otherwise manipulated or

- Allows for flexibility of stock usage and optimization of spares
- Wellhead Companies dealing on Xmas tree & Valve Components (E.g. GE, Onesubsea/Cameron Valves, FMC): Value addition prior to use or imported into Nigeria thereby taking advantage of duty on raw materials.

Be worked, processed, or Re-processed or Otherwise Manipulated or Manufactured

- Duty Free stock benefits e.g. Tenaris Pipe Coating/Threading Activities, BK Tubulars, Vallourec, etc.

Be Consumed in the Free Zone

- Consumption of machineries and equipment by WAMS and consumption of cement and other construction equipment by Prodeco, etc.
- Regional Distribution campaign only achieved in the Free Zone for all Oil Producing Companies (OPC)
- Flexibility of re-exportation in case of non usage.
- Prodeco or any other client imports duty free all materials ancillary to the development of the infrastructure in the zone (roads, the four way walls, the Crane in Intels, the computers and other office consumables)

Customs (import/export) incentives

Duty Free:

- for goods stored within the Free Zone
 - goods consumed within the Free Zone (including personal vehicles, equipment & machinery)
- for export of Free Zone goods to other countries: A f/z client is at liberty to re-export any surplus imports into the free zone without restriction, thereby saving on the cost of duty payment of the surplus.
- on Free Zone goods transferred under customs escort from any Ports of entry in Nigeria to Onne Free Zone
 - Freedom of choice of destination allowed for all Free zone Cargo Transfer under Customs Escort - Free Zone goods can be transferred from any Port (Air, Sea or Land) in Nigeria into the client facilities under customs escort. Once this is done, the consigned transferred automatically acquires the character of the Free Zone and therefore qualifies for all free zone benefit/incentives (split shipment, consumption etc.).
- Fast track Airfreight cargo movement under customs escort from any Airport in Nigeria
 - Most companies utilize this mostly for importation of very urgent rig materials, i.e. the wellhead companies (FMC, Onesubsea & GE) Time savings which translates to cash savings on a long run
- Duty on Raw Material only for manufacturing and 100% importation allowed into customs territory
 - Most importations for construction companies take advantage of payment of duty on raw material i.e. WAS

Customs (import/export) incentives

Scenario 1 – Free Zone Cargo:

Cost of Raw Material = \$430,000 (43% of the finished product)

Average Duty range (0 – 20%) = 4%

Duty on Raw Material = \$17,200 (CISS + ETLs + Surcharge + VAT)

Scenario 2 – Conventional Cargo:

Cost of finished Product = \$1,000,000 [for Vessel (Raw Material + Overhead + Mark-up + Financing Cost)]

Duty on CIF [(CISS + ETLs + Surcharge + VAT) 7.8%] = \$78,000

Savings = \$60,800

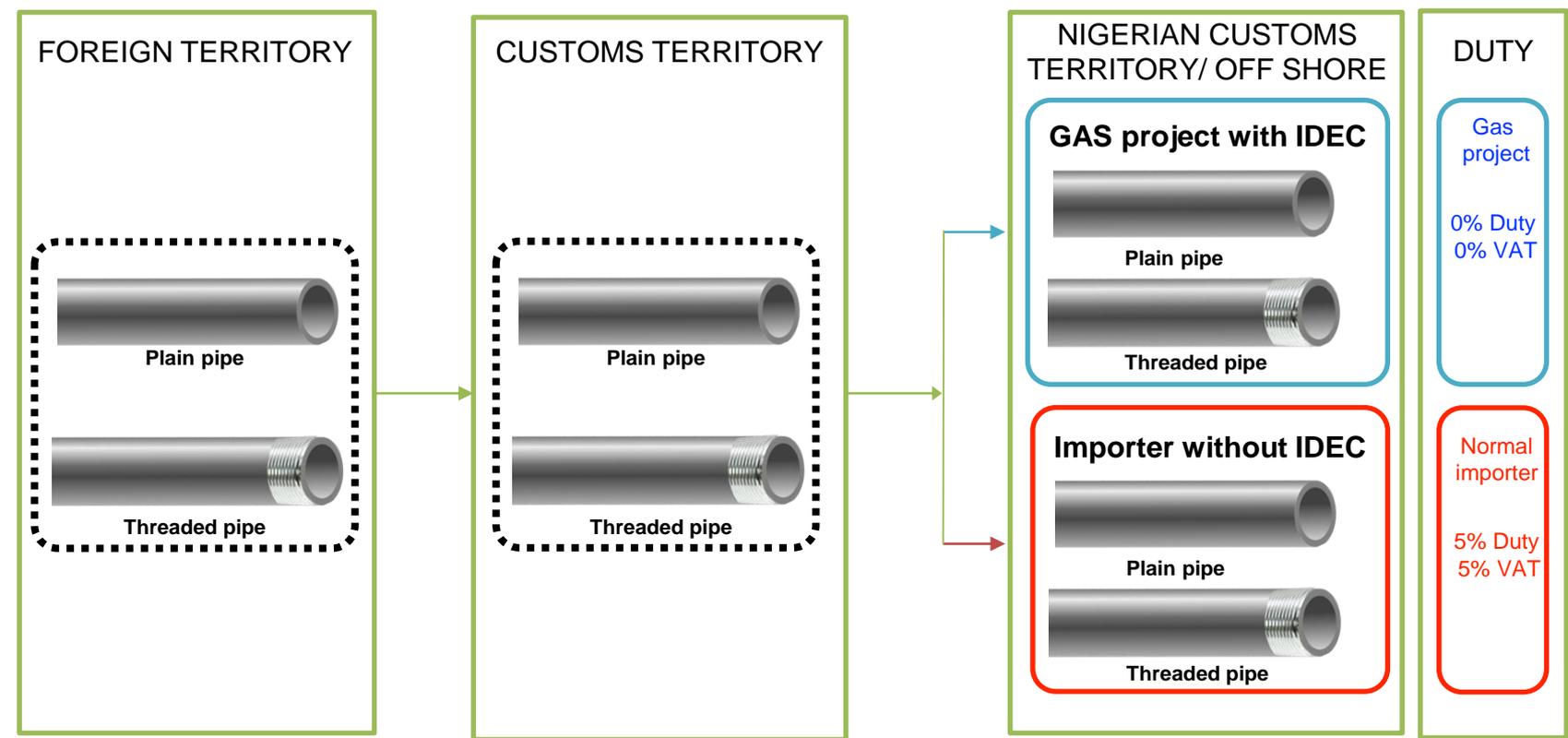
- 75% Custom import Duty Rebate on processing special product without changing its essential character, intended for the Customs territory.

75% Scenario developed

- Pipes threaded in OGFZ
 - Duties on finished products is approx. 5% on CIF
 - Threaded pipes of CIF \$1,750/ton (inclusive of \$200/ton for sea freight) on importation from overseas into Nigeria, attracts 5% duty i.e. \$87.5/ton.
 - In case, a Plain End pipe on which value addition is carried out by threading it in the FZ and is costing \$1,800 on its importation into Nigeria gets a 75% rebate on the custom duty of \$90/ton i.e. a rebate of \$67.5/ton approx. Client pays about \$22.5/ton.

75% Duty rebate incentive custom duty scenario 1

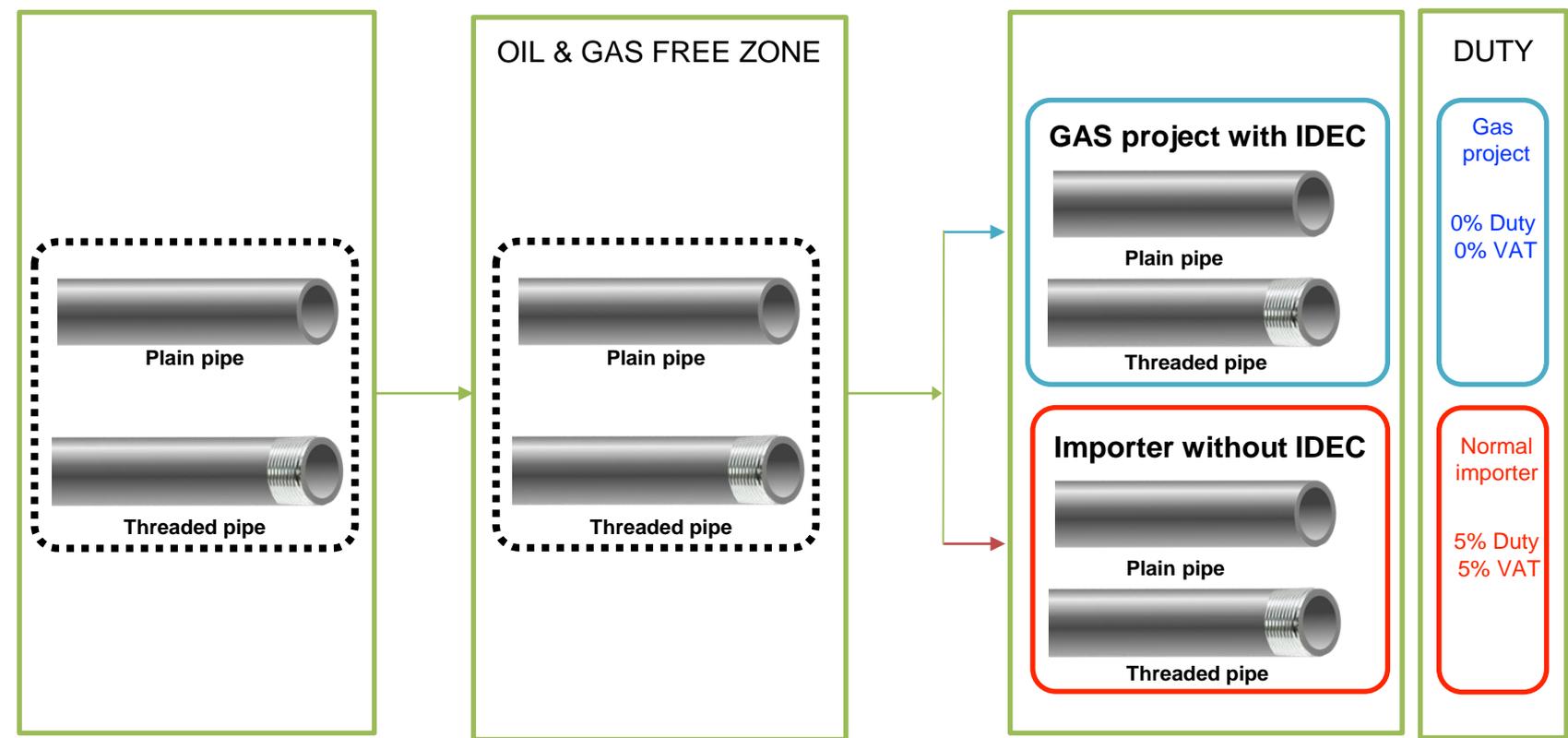
Pipes imported directly into Customs Territory



*IDEC- Import Duty Exemption Certificate

75% Duty rebate incentive custom duty scenario 2

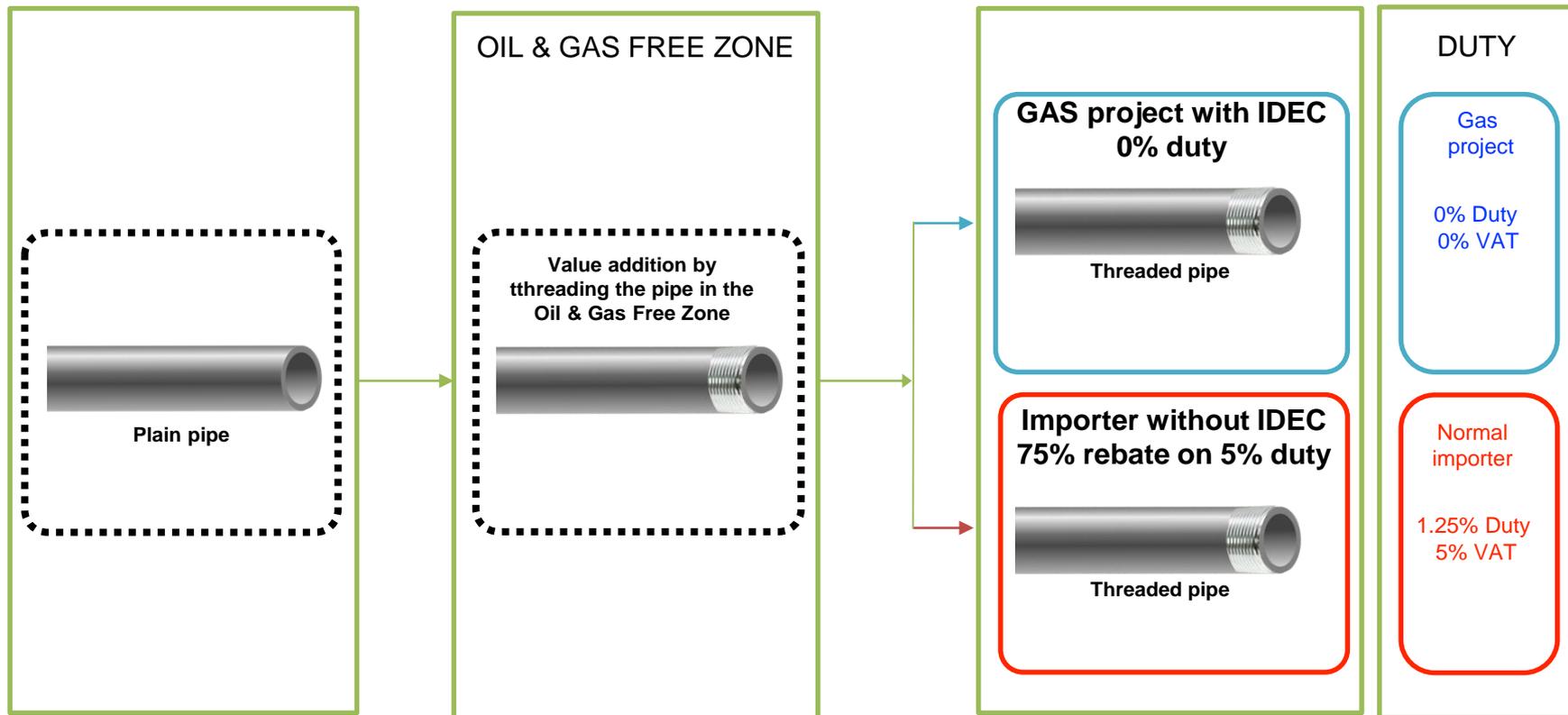
Pipes imported without any value addition in OGFZ



*IDEC- Import Duty Exemption Certificate

75% Duty rebate incentive custom duty scenario 3

Pipes imported with value addition in OGFZ



*IDEC- Import Duty Exemption Certificate

Companies with the certificate to enjoy 75% rebate incentive



OILTOOLS AFRICA



LBENERG LIMITED



Immigration Incentives

- No Quota restrictions for expatriate employees.
Part of the 13% Expatriates will live in the F/Z without Quota thereby creating opportunities for more expert staff outside the Free Zone (i.e. Lagos, Warri, etc.)
- Fast track Immigration procedure and attendance

Visa application under the STR visa regime:

- Company applies through DMS Management to FZ Authority
 - FZ Management vet application, i.e. Letter of Offer of Appointment, Acceptance, Applicants C.V., Certificates/Credentials, etc.
 - Application forwarded from FZ Mgmt. to FZ Authority
 - FZA (by letter) advises applicant's Home Office to issue STR Visa.
 - Applicant's STR Visa is regularized at the FZ without subject to Quota.
-
- Free Zone Expatriate shall reside and work within the Zone only
 - Shall be allowed free movement in and out of the Zone

Tax and financial incentives

- No Federal, State and Local Government Taxes, Levies and Rates:
 - No Corporate Tax – (Current rate is 30% of Profit)

Illustration Company XYZ, an approved enterprise in OGFZ makes a Net Profit of \$500m in the Tax year 2016. By reason of operating in the FZ the company shall be exempted from corporate tax as follows:

- Corporate Tax on \$500m if operating in Customs Territory = 30% of \$500m = \$150m
 - No Withholding Tax (WHT) – (Current rate 2.5% - 10% depending on type of transaction)
 - ABC Ltd provides services (Training/Consultancy) to XYZ Ltd worth N1,000,000.
 - WHT of 10% on N1,000,000 = N100,000.
 - But if both companies are FZE Licensees (it does not apply); Interim Savings of N100,000.

Application in Nigeria

ABC Ltd adjusted Net Profit of N2,000,000 in 2016	
With Corporate Tax of 30% of N2,000,000	= N600,000
ABC applies the advance Corporate Tax (WHT)	= N100,000
Balance	= N500,000

- No Value Added Tax (VAT) – (Current rate is 5% of invoice value)

Illustration PAC Limited paid \$10,000 as VAT for items purchased in the course of its business operations in Jan. 2016 and rendered services or sold products worth \$500,000 during same month. VAT to be remitted is calculated as follows:

- OUTPUT VAT = 5% of \$500,000 = \$25,000
- INPUT VAT = \$10,000
- VAT Payable to be remitted to FIRS = (\$25,000 - \$10,000) = \$15,000

This will not be applicable to PAC Limited if it is registered as an Approved Enterprise in the FZ.

Tax and financial incentives

- No Capital Gains Tax – (Current rate is 10% of the profit from sale of qualifying assets), and
- No Education Tax – (Current rate is 2% of Profit)

Illustration Company XYZ is also not liable to Education Tax of 2% of Assessable Profit = 2% of \$500m = \$10m

Foreign Exchange Regulations shall not apply:

- 100% Repatriation of Profits and Dividends
- 100% Repatriation of Profits and Dividends
- 100% Repatriation of Foreign Capital Investment
- Receive and make payments in Foreign Currency.

Tax free and financial incentives

The tax incentives in the free zone exempt the licensees of the following:

- No Federal, State and Local Government taxes, levies and rates
- No Corporate Tax (WHT, VAT, and capital gain tax)
- 100% repatriation of profits and dividends
- 100% foreign ownership
- 100% foreign capital investment
- Receive and make payment in foreign currency
- There is no VAT and WHT on Purchases by approved enterprises in Free Trade Zones.
- VAT on Sales made by approved enterprises to companies in the customs territory is payable by the companies in the customs territory but there is no WHT
- There is VAT and WHT on purchases / sales made from customs territory by **unapproved enterprises operating within the Zones**
- VAT and WHT are not applicable to imported goods conveyed through other Ports outside the Zone that are consigned to the Free Zone.

Guidelines on Tax Matters of FTZs

	Business Transaction	Tax Treatment	Remark
(i)	Purchase made by Approved Enterprises from companies operating in the customs area	To be treated as exported goods from Nigeria. No VAT No WHT	This is in line with sections 11(2) and 12(8) of Oil & Gas Export Free Zone Decree, which made rules for export from Nigeria applicable.
(ii)	Sales made by Approved Enterprises to companies operating in the customs area.	To be treated as imported goods to Nigeria. VAT to be paid by the purchaser. NO WHT	This is in line with sections 11(1) & 12(6) of the OGFZ Decree, which made rules for import into Nigeria applicable.
(iii)	Purchase or Sales made from customs area by unapproved enterprises operating within the zone	VAT and Withholding Tax applicable	Sections 8 and 18 of OGFZ Decree, which granted tax exemption, did not cover unapproved enterprises operating within the zone.
(iv)	Imported goods conveyed through other Ports outside the zone but consigned to the zone.	To be regarded as goods in transit to the Zone: No VAT No WHT. Provided customs officers accompany them from the Port of entry to the Free zone.	This is in line with Sections 12(1) and 18 of the Oil and Gas Export Free Zone Decree.
(v)	Submission of Tax Returns to FIRS by Approved Enterprises	Approved Enterprises to submit Tax returns through the Free Zone Authority to FIRS.	This is in line with Section 40A of CITA 1979.

Guidelines on Tax Matters of FTZs

	Business Transaction	Tax Treatment	Remark
(vi)	Business activities of Head Office or Branch Office of Approved enterprises located in customs area dealing with approved enterprises.	The enterprises in the zones and their affiliates in custom area are to be regarded as separate legal entities.	This is in line with Section 8 of the Companies Income Tax Act, and other relevant tax laws.
(vii)	Approved Enterprises making purchases or obtaining services from enterprises of the customs area under contract of supplies, service, design, construction or installation.	To be treated as Exports by enterprises of custom area with No VAT and No WHT.	This is in line with Section 11(2) of the Oil and Gas Free Zones Act.
(viii)	Approved enterprises making sales or supplying services to enterprises of customs area under contracts of supplies, service, construction or installation.	To be treated as import by enterprises of customs area with VAT and WHT being withheld by the enterprises of the customs area. In this regard, the customs area enterprises would act as an agent of both the FIRS and the approved enterprises	This is in line with Section S.51a of PPTA; S.8, 11&63 of CITA and S.72 of PITA.
(ix)	The term “Contract of Supplies or Services” Mentioned in (vii) & (viii) above shall have the same meaning ascribed to the term under Nigerian Tax Laws.	The term to be clearly defined in a publication by FIRS.	This is in line with Section 63 of CITA and S.72 of PITA.

Responsibilities of OGFZA prior to clients benefiting from the free zone incentives

The following are some of the responsibilities of the OGFZA prior to clients accessing or benefiting from the Free Zone Incentives:

- Ensure proper documentation of prospective client
- Prompt registration of qualified clients
- Prompt issuance of licence to clients who has paid the required fees and met criteria and duly paid the required fees

Responsibilities of clients prior benefiting from the free zone incentives

The following are some of the responsibilities of the Free Zone clients prior to accessing or benefiting from the Free Zone Incentives:

- Prompt renewal of licence
- Prompt filing of Annual Returns
- Prompt perfection of Pre-release items
- Prompt notification and forwarding of documents in event of transfer of cargo (Sea & Air Freight)
- Prompt notification upon change of title of equipment in event of consumption in the Free Zone

Beyond incentives, how can clients be still retained in the free zone

- World class and professional service deliver to clients
- Change in attitude to suit the private sector approach

Industry sector advantages

Oil and Gas Free Zone Authority Clients are treated as part of local content during bid qualification because of their presence at the Free Zone

Oil Producing Companies

- Major cost savings due to reduced inventories when utilising a “stockist” concept
- Ability to share both facilities and services

Oil & Gas Project Companies

- Logistics or regional base
- Appropriate location for any ‘value-addition’ industry
- Treated as part of local content during bid qualification due to location at the Free zone

Oil Service Companies

- Regional distribution centre
- Facilitating specific or specialised services to the Oil Producing Companies
- Better environment for the development of local content

Specific OGFZ advantages

- 100% repatriation of capital investment
- 100% Remittance of profits and dividends
- No import or export licenses required
- 100% of FZ goods can be sold in Nigeria
(See Federal Ministry of Finance circular of 5th Aug. 2002, titled “Special Concessions to Enterprises in the Free Trade Zones”)
- 100% foreign ownership of business allowed
- Duty Free Stock *Equipment *Spare Parts *Pipes
- Optimize Cash flow management as no payment of duties till goods are exported into Nigeria from the FZ
- No Double Handling in and out of Nigeria
- Resolution of disputes by the Authority

Qualification for accessing free zone incentives

- Note that before a company can access the Free Zone Incentives,

First qualification is by proper registration into the Zone vide S.10(1)&(2) of the Act:

- S.10(1) confers on a company the capacity to access the incentives
- S.10(2) emphasizes that registration is tantamount to incorporation in the Zone which gives lee way to even foreign companies to be eligible to trade in the Zone without incorporation in Nigeria

Conclusion

- We invite clients to come to the Oil and Gas Free Zone, Onne
- Avail maximum benefits of their investment
- Enjoy the encouraging policies and exploit the abundant opportunities in the Oil & Gas Free Zone, Onne.



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