The Nigerian Oil and Gas Industry

CONTENT DEVELOPMENT ACT: SIMPLIFIED



Senator (Engr.) Lee Ledogo Maeba, FNSE, FNSchE

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Dedication

To the deprived and oppressed people of the
Niger Delta Region

Foreword

The Nigerian Oil and Gas Industry Content development Act is geared towards developing and improving local indigenous capacity building with a view to enabling Nigerians to participate in the development of Nigeria Oil and Gas Industry. To achieve the realizations of these objectives the Federal Government has put in place a regulatory framework tailored towards the achievement of local participations through deliberate utilizations of Nigerian human and material resources.

This book provides a summary of the inherent benefits in the Nigerian Oil and Gas Industry Content Development Act; a Legislation that is changing the face of the Nigerian Oil Industry by providing relief and change to the economic fortunes of the Nigerian people.

The book is arranged in ten chapters. In the first chapter the author provided us with information on the need for the Nigerian Content Act while the second chapter deals with the Historical perspectives of Local Content Policies and in the third chapter the Nigeria local content policy was discussed. In Chapter Four an analysis of the Nigerian Content Act is provided. Chapter Five and Six deals with the Nigerian Indigenous Service Companies and Employment Benefits respectively. Chapter Seven examines Technology Transfer, Chapter Eight looks at Insurance, Financial and Legal Services while the Ninth Chapter deals with E-marketing Practices and the tenth chapter summarizes the benefits inherent in the Nigerian Oil and Gas Industry Content Development Act.
The book provides quality information for youths in Nigeria to take hold of their destinies by actively participating in the oil and Gas business

rather than been limited to making demands for Compensation. The effort by the author at putting together these quality information in the book 'Benefits of the Nigerian Content Act' is worthy of commendation, given the general reticence of elected representatives to offer information about their performances to their people, one can appreciate the level of love, care, determination and commitment exhibited by Senator Lee Maeba towards the realization of his goals to his Constituents.

I therefore recommend this book to prospective investors, businessmen, researchers and indigenous operators in the Oil and Gas sector.

Senator (Dr.) David Mark GCON
President, Senate of the Federal Republic of Nigeria

Acknowledgement

Let me commence by sincerely thanking His Excellency Dr. Goodluck Ebele Jonathan, GCFR, President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, whose approach to governance in Nigeria has greatly influenced me politically.

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Chapter One

The Need For The Local Content Development Act

1.1 Introduction

Oil was discovered in commercial quantities in Oloibiri, Bayelsa state by Shell Corporation in 1957. Since then, the Nigerian Oil and Gas Industry has grown to become a major player in the international oil and gas market in the world. Today, about 53 years later, Nigeria is the largest oil producer in Africa and the 11th largest in the world market, averaging 2.5million barrels and is currently the 5th largest exporter of crude oil to the United States of America with oil revenue making up over 90% of Nigeria's foreign earnings.(Festus and Gowon, 2004)

Despite this impressive profile, the contribution of the Nigerian Oil and Gas Industry to the national Gross Domestic Product (GDP) has been very minimal. According to energy report in 2008, the oil and gas sector of the economy accounted for less than 38% of the National Gross Domestic Product. This has been a direct consequence of the noticeable absence of indigenous participation in the industry given that over 80% of the goods and services needed for projects were been imported into the country.
Furthermore, the greater part of the last four decades, the Nigerian Oil and Gas Industry has been dominated by major international oil companies with large number of expatriate workers been employed to carryout projects in various onshore and offshore

locations in the country. Whatever that comes out as proceeds are repatriated to their home countries. This preponderance of expatriate workers has resulted in ~~a~~ paucity of jobs, skills development, capacity building and utilization for the indigenous workforce and in the long run, a lack of sustainable economic development in Nigeria.

In view of this deficiency, the Federal Government of Nigeria has in the past made deliberate efforts to domesticate a significant portion of economic derivative from the oil and gas industry by encouraging the development and deliberate utilization of Nigerian indigenous human and material resources in the oil and gas sector. Such efforts led to the formulation of a number of local content friendly policies in the Nigerian oil and Gas Industry. The establishment of the Nigerian Content Division of Nigeria National Petroleum Corporation(NNPC) to monitor and give effect to the Nigerian content policy and the formulation of the Nigerian Association of indigenous companies are a few of such policy initiatives.

While these efforts made by the Federal Government resulted in some improvements in the industry, local content development in the Nigerian oil and Gas sector still remained unsatisfactorily low and continued to inhibit the growth potential of the industry.

It was observed that the absence of a law guiding the activities of the companies in the Nigerian oil and gas industry was responsible for the capital flight in the industry with companies from various parts of the world executing jobs for which Nigerian companies were competent to handle. This has also been responsible for the impoverished state of indigenous companies in the country in the industry despite the fact that we are the fifth largest producer of crude oil.

The foregoing inspired the development of the Local Content Development in Oil and Gas Bill. We had extensive consultations with industry practitioners and also travelled widely across continents to compare content development in the oil and gas industries around the world. By the year 2007 the bill was ready but we could not pass the bill into law owing to factors beyond my control. However, when in 2007, I was re-elected into the Senate the entire process was started all over again. I wish to place on record that the National Assembly appreciated the enormity of the problem at hand and the need for active Nigerian participation in the industry in order to rapidly stimulate our economy.

1.2 Reasons for sponsoring the Nigerian Content Development Bill

The Nigerian Oil and Gas Industry Content Development Bill is a legislation aimed at changing the face of the Nigerian oil industry. The Bill is directed at empowering our people, especially in the oil producing communities, to partake in the industry as partners for the benefit of our children and future generation. Furthermore, the major reasons for sponsoring this bill include but not limited to the following:

1. The economic opportunities expected from the oil and gas industry for our people since oil was discovered in commercial quantities in the Niger Delta has still not materialized after 53 years.
2. The contracts awarded by operators in the industry is more than $18 billion per annum, but sadly only a paltry 5% is given to Nigerian indigenous companies and far less than 2% of this 5% are done by business owners from the Niger Delta.
3. Contracts signed by the Federal Government of Nigeria with the oil operators and their alliance partners whether as

Petroleum Sharing Contracts (PSCs) or as Joint Ventures (JVs) contain provisions for training and employment of Nigerians but, the oil companies never implement these agreements.

4. Jobs that could be given to Nigerian indigenous companies are given to foreign companies for example French international companies gives job to only their French counterparts, American oil majors give to only Americans etc.
5. Jobs that can be perfectly done in Nigeria are taken outside and done in Europe, America, Korea, Japan, China etc. This has induced so much pressure on the value of the Naira in the Foreign Exchange Market.
6. Project headquarters for oil being drilled in our country are mostly located somewhere in Europe or America.
7. Finally and very importantly too, that there was no existing legislation to enforce the rights of our people to get jobs and contracts from oil companies drilling crude oil from our backyards.

The bill was passed into law by the National Assembly and on the 22nd of April 2010, the President of the Federal Republic of Nigeria, Dr. Goodluck Ebele Jonathan, GCFR, signed the Nigerian Content Bill into law. This Act takes precedence over all existing content policies and was enacted with the aim of providing for the development of indigenous content in the Nigerian oil and gas industry by ensuring that henceforth, priority would be given to indigenous services companies.

Under the Act, the utilization of Nigerian human and material resources for the provision of goods and services to the petroleum industry within acceptable quality, health, safety and environment standards are made mandatory in order to stimulate the development of indigenous capabilities.

Chapter Two
Historical Perspectives Of Local Content Practices

2.1 Introduction

In chapter one, we introduced and gave reasons of the need for Local Content Development Act. In this chapter, our focus is to vividly examine the historical perspectives of the practices of local content of some selected countries.

We shall also discuss the local content experiences and practices in these countries and their lessons for our Nigerian Oil and Gas Development Content Act.

2.2 Local Content Practices in selected countries.

Local content is not a new terminology in the oil and gas sub-sector of the economy. It has existed ever before now. In Norway, the government practice local content in 1970 when they introduced a legislation to implement policy to protect the interest of communities and the economy. Local Content is also practiced in Brazil, Kazakhstan, Qatar, Russia, Venezuela, Angola etc. Local Content Practice is sometimes referred to as developing local economies, stimulating industrial development, increasing local capability, building a skilled work force and creating a competitive supplier base.

We have carefully selected some countries where local content is practiced and the various experiences. The countries selected are

Norway, Brazil, Kazakhstan, Venezuela, and Angola. The Local Content practices of these countries are examined below:

2.2.1 Local Content Practice In Norway

When it comes to local content, Norway is one of the leading nations in terms of policy. The Norwegian government introduced legislation necessitating that companies using natural resources also contribute to economic development. Exploration for offshore oil and gas in Norway began in the mid-1960s and from the 1970s. Since then policies to protect the interests of communities and the economy are been implemented. Its local content strategy has therefore been held up as an example of good practice for other countries.

To start with, the government aimed to award contracts to Norwegian bidders when they proved to be competitive in terms of price, quality, delivery time and service. The rationale behind this was to promote the establishment of local industry and this was achieved through cooperation with international oil companies. When foreign operators started entering the Norwegian industry in the late 1970s, they were strongly encouraged to form research and development (R&D) partnerships and joint development programmes with Norwegian companies and institutions, thus engaging in local content growth.

Overseas firms' commitment to and strategies for technology transfers were made a crucial and determining factor in the licensing process by the Ministry of Petroleum and Energy, once again putting local content programmes at the heart of investments. Governmental policy meant that Norwegian oil and gas supply companies developed leading class, state-of-the-art technologies and, as a result, many international companies have located part of their R&D chain in the country.

The competencies and technological expertise developed as a consequence of Norway's local content policy also strengthened its position within the international oil industry. Local supply and service providers to oil activities have proved truly competitive by global standards.

2.2.2 Local Content Practice in Brazil

"Everything which can be done in Brazil should be done in Brazil", so goes the slogan under President Lula de Silva. While the country has possibly the best established track record for local content development outside of the first world, Lula's election in 2003 only served to strengthen and consolidate its role, even to the extent that long term goals for energy self-sufficiency have been stepped back in order to ensure that production platforms could be built on home turf. With the giant discoveries at Tuppi and Jupiter, pressure to see revenues distributed throughout the population has become even stronger.

And arguably, both in terms of increasing indigenous technical skills and job creation, the Brazilian local content program can be said to have worked. The primary objective of the Brazilian local content policy is, to maximize goods and services, national industry content, within competitive and sustainable basis, in the implantation of oil and gas projects in Brazil and abroad. With the President arguing that Petrobras should be used as a development tool, it should be assumed that profits for their own sake take a back seat to a broader definition of "national interest.

Job creation is very much at the heart of this agenda. State oil company Petrobras aims to create some new 100,000 jobs by 2010 through ratcheting up local content requirements and implementation, and its 2006-2010 Petrobras strategic investment plan calls for 65% of equipment and services to be sourced from domestic suppliers. This would entail an average spend of some

US$ 6.4 billion per year with local suppliers, as compared to the current figures of some US$ 3.5 billion per year. Therefore, it is good policy for foreign companies to seek partnerships with local suppliers and establish after-sales technical support in Brazil, as they are encouraged to do.

Uncovering the extent of local content requirements on any given project or aspect thereof seems to present obstacles almost without exception. Investors regularly complain that they simply don't know how much work is expected to be delegated to indigenous suppliers. The regulations are complicated and detailed to a Byzantine extent. Furthermore they vary between each part of the Exploration and Production process and from project to project.

Brazil is not only eager to increase LC in onshore projects, but also in offshore projects and in subcontracting projects for Petrobras - a trend especially evident since 2003 when IOCs were asked to build a large part of their platforms locally, which actually led to delays in the bidding process for platforms including the P-51 (Marline Sul field) and the P-52 (Roncador field), which is currently being built for Petrobras.

As a general rule, the minimum local content requirements are 70% for onshore, 51% for off shore in shallow water of up to 100 meters and 37% for deep water between 100 and 400 meters. The minimum local content requirements during development are 77% for onshore, 63% for off shore in shallow water of up to 100 metres and 55% for deep water between 100 and 400 metres.

Until 2002 there was no minimum local content requirement in Brazil. Through rounds 1 – 4 companies offered a target percentage for labour and materials for both exploration phase and a separate target for development. These were typically

around the 15% mark. From 2003, local content rules began to take on more tangible form. Rounds 5 and 6, in 2003 and 2004 respectively, set minimum percentage of local content targets of 40% for blocks located in lands, flat waters, and deep waters. Changes continued through rounds 7 and 8, in 2005 and 2006. Essentially the rules now place a greater distinction between different fields according to on/offshore and the depth of water involved. Another development from the rounds was the introduction of the "Cartilha de Conteúdo Local" as a tool of measurement of contractual local content. For these rounds the weight of the Local Content was lowered to 20%.

2.2.3 Local Content Practice In Kazakhstan

Local content is becoming an increasingly important issue in Kazakhstan as the country's oil production soars and foreign countries line up to invest. Astana's local content requirements are becoming stricter and stricter – the introduction of advanced technology, as well as the use of local goods and services, is a common feature of oil contracts in the country. And unlike some states, which pay lip service to local content to satisfy observers, the Kazakh government takes the issue very seriously.

Although the exactitude of the requirements would appear to discourage foreign investors, Astana is confident that it can attract the attention of many suitors. China, in particular, is an increasingly visible presence in the country's energy sector, and to avoid losing out Western IOCs will have to accept the government's local content regime.

In late 2007 President Nazarbayev signed off on the amended Subsoil Law, a piece of legislation which had caused consternation amongst IOCs for its strict requirements. Some IOCs even sent a letter to the President, asking him to reject the bill as contrary to the Kazakh constitution. The reason for such anxiety is that the new

law allows the Kazakh state to impose amendments retroactively, on contracts that have been signed months or years before. The revised law also provides for the state-controlled KazMunaiGas (KMG) to hold 51% of all new exploration and production contracts, and allows it to obtain field rights without an open tender. The clause which has attracted the most attention is that which grants the government pre-emptive rights to buy strategic assets based in Kazakhstan or even abroad (although the legal complications of doing so appear to rule that possibility out for now).
The new legislation is the centre piece of Astana's aggressive and unilateral new approach to its oil. In 2008, 100 out of 900 subsoil contracts were withdrawn by the Ministry for Energy, mostly for failing in contractual obligations such as capital investment. These developments have created a feeling of unease amongst investors, who fear that the government may suddenly decide to revise or rescind their contracts.

Nonetheless 'resource nationalism' in Kazakhstan is not a severe threat, and is unlikely to reach the level of Russia, for three reasons. Firstly, Kazakhstan's local capacity remains low. It needs the technical expertise of foreign investors. Secondly, along the same lines, Kazakhstan also needs foreign capital. Its banking sector has been crippled by the global downturn and outside investors are more vital than ever to keep developments on track. Thirdly, Kazakhstan is much less politically confrontational towards the West than Russia. President Nazarbayev has cultivated strong ties with America and is increasingly looking towards the EU as a business and political partner. The country will need Western backing for a planned pipeline across the bed of the Caspian to Azerbaijan and thence to Europe, a project which Russia staunchly opposes.

However, Astana will continue to pressure IOCs in the country, particularly those such as Chevron which are accused of striking an unfair deal in the heady post-independence days of the early 1990s. As the government becomes more assertive on the world stage, its desire to turn back the clock on unfavourable contracts will only increase.

2. 2. 4 The Venezuelan Local Content Experience

Under its populist left-wing President Hugo Chavez, Venezuela's economy has shifted away from the cautious market reforms introduced in the 1990s and back towards the statist, top-heavy system that existed under the military strongmen who rules the country from independence in 1959.

President Chavez's program of '21st century socialism' has been a mixture of Venezuelan nationalism, America-baiting rhetoric, avuncular authoritarianism, and high levels of social spending. All of this is underpinned by oil, which constitutes 80% of Venezuela's export earnings and around half of government revenues. The fact that President Chavez's socialist experiment should also seek control over the country's oil reserves is therefore not surprising. Local content, in its broadest sense, is a central part of this resource nationalism.

The government's desire to assert its control over 'strategic sectors' of the economy has worried investors – with good reason, since the Chavez administration has repeatedly made aggressive moves to limit the control of outside companies, and even private firms from Venezuela itself. Attempts to control the industry began in 2001, when President Chavez signed a new Hydrocarbons Law which provided that all oil production and distribution activities were to be the domain of the state, excepting joint ventures in the extra-heavy crude sector. In 2005 the President ordered the termination of all contracts signed with foreign oil companies, replacing them

with joint ventures in which the state oil company, PdVSA, would hold a controlling stake. This led to lawsuits from ExxonMobil and ConocoPhillips, who refused to acquiesce in the takeover (as Chevron, Shell, Total and BP did).

In May 2009 President Chavez sent in the army to take over oil service companies, declaring a "revolutionary offensive" on firms which PdVSA argued had been paid unjustifiably high prices. This follows earlier deployments of the military to nationalise food factories and seaports, usually on the grounds that the industry in question was unproductive. In the case of food companies this is often true, because government subsidies for food have not kept pace with inflation, forcing them to sell at a loss or to hoard stock.
The nationalisations also seem to be removing competitors to PdvSA. Now the third-largest oil company in the world, the firm increasingly acts as an unaccountable 'state within a state', with its own housing, construction, education, and food production arms, and with close links to the President. PdVSA's strength and its backing by the security forces make the country's oil industry increasingly confident and assertive when it comes to enforcing local content. Indeed, local content for many of the more 'revolutionary' figures within the government does not go far enough – hence the desire to directly control the industry.

The outlook for IOCs is very uncertain. President Chavez sends conflicting signals, at times promising that foreign investors would be welcomed and treated fairly, and at other times decrying their presence as 'perverse'. Similarly, he has dismissed the IMF and the World Bank as tools of imperialism, but has yet to follow through on his threat to withdraw from them. The most obvious example of this contradictory policy is his relationship with the United States. Regularly lambasted as 'the empire' (and, in President Bush's case, 'the devil'), President Chavez is well aware that the US remains his

biggest trading partner, importing one-third of Venezuela's food aid and buying up significant volumes of Venezuelan oil – 1.2 million barrels a day in January 2009.

When oil prices are low, the Venezuelan government is likely to tolerate foreign investors provided that the state coffers receive a sufficient share. When oil prices are low – as was seen during the first half of 2009 – an urgent need for revenue will lead President Chavez to tighten the screws on IOCs. An extended period of low oil prices would curtail Venezuela's geopolitical ambitions and raise serious questions about the sustainability of its ambitious social programmes. However, even a period of high prices may not necessarily be good news for foreign investors. President Chavez has repeatedly shown himself to be unpredictable and impulsive – regardless of oil prices, this is unlikely to change.

2.2.5 Local Content Practice In Angola

Angola's savage civil war ended in 2002 after 27 years and the loss of up to one and a half million lives. The depredations of the conflict have, unsurprisingly, caused economic turmoil. The country's infrastructure is dilapidated and under-developed; landmines still litter the countryside; and there are still hundreds of thousands of internal refugees.

Significant oil reserves have been Angola's potential salvation. In 2008 the country had an estimated 9 billion barrels of reserves, and is the second-biggest producer in sub-Saharan Africa after Nigeria. Also, unlike Nigeria, Angola does not have to tackle a debilitating insurgency in its prime oil-producing region. However, Angola faces many of the same challenges facing most oil states in sub-Saharan Africa – corruption, lack of local capacity and skills, political interference and the dangers of Dutch Disease.

The existing program of 'Angolanisation' has been largely

unsuccessful, partly due to the destabilizing effect of the civil war, which the program predated, and partly because of the absence of a unified and coherent regulatory framework. There are a number of legal requirements requiring the inclusion of local workers and equipment, particularly a 2003 Petroleum Order which created three regimes defining the extent to which foreign companies can bid for various tenders. Contracts tend to require a certain quota of local workers, although this may vary from contract to contract.

The lack of skilled labour and technical capacity is arguably the most significant impediment to Angola's local content policy. In 2003 it was estimated that only 15% of the population were employed in industry and services: 85% were employed in agriculture, illustrating the extent to which Angola remains a deeply rural country. To fulfill the government's local content program as the industry grows over the next few years would require hundreds of skilled workers, workers which the country will find it very difficult to produce.

Angola's poor services, high crime rate, and lack of amenities have caused another problem for IOCs, as expatriate staff are reluctant to stay in the country without substantial financial inducements. Given the requirement to pay local and expatriate staff equally, this can lead to a spiral of wage inflation.

Despite these problems, many foreign firms are committing themselves to Angolanisation, confident that, in the long term, it will result in lower operating costs and a better relationship with the government. As the process continues, local capacity – in the labour supply and the broader supply chain – will increase, although it will be an uphill struggle for both the government and for foreign companies.

One of the success stories of Angola's local content drive has been

neither a state-run nor a commercial enterprise, but a civil society organization, CAE. A project of the American NGO Citizens Development Corps, CAE provides business training, financial and supply chain management, and other services to Angolan businesses hoping to strike contracts with international oil firms. They also act as a provider for IOCs, locating qualified Angolan companies for competitive bids. According to CDC, almost $50 million in new contracts have been secured as a result of CAE's services.

The state-run oil company, Sonangol Holdings, is less reliable. It often serves as joint venture partner, regulator and concessionaire, raising questions about its intentions and the independence of its operation. On top of this are the typical problems of a sub-Saharan state oil company – corruption, a lack of transparency, and murky ties to the executive branch.

2.4 Lessons from the Local Content Practices and experiences for Nigerian Content Development.

Having seen the local content Practices and Experience in Norway, Brazil and Angola, the followings are lessons that we can derive from the experiences and practices of these selected countries.

(i) Increase in multiplier effect of investment in the oil sector

The practice of local content establishes a multiplier for the economic development through contribution to employment, skills strengthening, supplier and local enterprise development. Some countries that practice local content development have a multiplier effect of investment in the oil sector of about 3.0. From the Norwegian experience and practices, they have a multiplier effect of investment in the oil sector of about 2.5. It is worthy of note that a lot of countries can hardly attain a multiplier of 1. The multiplier of Kazakstan is 0.45 as at 2003, despite being an

industrialized country (Petrad 2009). Mention is made of Norway for the simple reason of being country where local content in the oil and gas industry has been successfully implemented.

Norway is assisting several developing countries with the indirect development of local content through an initiative called oil for development (OFD). The Oil for Development Initiative is predisposed to assisting developing countries, on the basis of their request. The initiative is to enhance the bid to administer petroleum resources in a way that create economic growth; and encourage the welfare of the whole population in an environmentally sustainable way (Norad, 2010).

(ii) Maximization of the benefits of oil and gas wealth generation. Another obvious lesson from the experiences and practices of local content in these countries is the full maximization of the benefits of oil and gas wealth generation on a comprehensive local content platform by maximizing the use of local expertise, goods and services, job creation for people, business and financing in all aspects of the oil and gas industry value chain and retention of the benefit in-country.

(iii) Development of Local Capacity.
These selected countries develop local capacity in all aspects of the oil and gas value chain through Education, Skills and Expertise Development, Transfer of Technology know-how and an active research and development portfolio. Increase capabilities development and international competitiveness of domestic business and industrial sectors in these countries resulted in increase Gross Domestic Product (GDP).

(iv) Consideration of local content as an important project development and management philosophy.

An important lesson from these countries is that all regulatory authorities, operators, contractors, sub-contractors and other entities involved in any project, operations, activity or transaction in their various countries consider local content as an element in their project development and management philosophy for project execution. The implementation of the local content philosophy ensured measurable and continuous growth of their countries through participation in all aspects of the operations.

CONCLUSION

From our lessons so far, the Norwegian's practice and experience is a very good example Nigeria should pursue. The Norwegian practices compel foreign companies to comply with the legal framework and are monitored every year. The Norwegian government penalizes a company that does not comply with the Local Content demands. The economies of oil and gas make it relevant for foreign firms with superior technology to be allowed to come in to assist and encourage the indigenous companies.

Chapter Three
Nigeria Local Content Policy

3.1 Introduction

The preceding chapter had thoroughly introduced and given historical perspective of the practices of local content of some selected countries. The focus of this chapter therefore, is to vividly explain the Nigerian Content Policies before the advent of the Act.
We shall also look at some impediments to the Nigerian Content Policy. The observed deficiencies in the Federal Government friendly local content policies were addressed and it formed the crust of the Nigerian Oil and Gas Industry Content Development Act.

3.2 Nigerian Content Policies

With inception from early 2000, the Nigerian Content Policy envisioned by the Nigerian National Petroleum Corporation served as the basis for measuring and ensuring local participation and job creation for Nigerians in the oil and gas industry [Obasi, 2010]

Regulation 26 of the Petroleum (Drilling and Production) Regulations made pursuant to section 9 of the Petroleum Act, Chapter p.10, Laws of the Federation of Nigeria, 2004 is a precursor to the Nigerian Content Policy, as it prescribes that a licensee of an oil prospecting license and a lessee of an oil mining lease must submit an employment plan for Nigerian employees within 12 months of the grant of a license or the grant of a lease respectively.

Consequently, these have been incorporated into the drafting of oil and gas agreements, such as the Joint Operating Agreements (JOAs) and Production Sharing Contracts (PSCs), rehashed in the Nigerian Content Directives (NCD) issued by the Nigerian National Petroleum Corporation. The aim of the Nigerian Content Directives (NCD) issued by the Nigerian National Petroleum (NNPC) is to oversee the implementation of the Nigerian Content Policy.

Before signing into law of the Nigerian Oil and Gas Industry Content Development Act by the President, the operational framework for the local content development with the Nigeria Petroleum Industry consists of various policies issued in the form of guidelines by the Nigerian national petroleum Corporation (NNPC).

3.2.1 Employment Policy

Before the advent of the Local Content Act, there existed an employment policy in the oil and gas industry in Nigeria. Paragraph 38, schedule 1 of the Petroleum Act (LFN, 2004), which provides that the holder of an oil mining lease to ensure that;

(a) The number of Nigerians employed by him in connection with the lease in managerial, professional and supervisory grades shall reach at least 75% of the total number of persons employed by him in those grades;

(b) The number of Nigerians in any one such grade shall be not less than 60% and;

(c) All skilled, semi-skilled and unskilled workers are Nigerians.

Also, Regulation 26 gave Nigerians the right to employment; it stipulates that twelve months after the grant of license and lease, the operator shall submit for the Minister's approval, a detailed programme for recruitment and training of Nigerians.

Section 2 of the above Regulation also stipulates that the programme shall provide for the training of Nigerians in all phases of petroleum operations whether the phases are handled directly by the lessee or through agents and contractors.

3.2.2 Policy Pipelines

There was policy on pipelines before now, Regulation 2(3) of the oil and gas pipelines Regulation 1995, stipulates that no license shall be granted and released unless a list of construction companies being considered for the work has been submitted to and approved by the Department of Petroleum Resources (DPR).

Section 5(1) of the NNPC Act provides that NNPC shall be charged with the duty of engaging in activities that would enhance the petroleum industry in the overall interest of Nigeria. This includes ensuring and improving the level of local participation within the Nigerian Petroleum Industry.

3.2.3 Policy On Insurance

The Federal Government policy for the insurance of risk in the oil and gas industry stipulates that all projects and operations must involve Nigerian Insurer/broker/adjuster. The operator must demonstrate strict compliance with the provisions of the Insurance Act 2003 as well as the guidelines for the insurance of risk associated with oil and gas operations in Nigeria. A certificate of compliance issued by the National Insurance Commission (NAICOM) must be submitted to the Nigerian Content Division as part of the technical evaluation requirements for insurance or reinsurance contracts.

Item 4 of NAICOM's guidelines on offshore insurance provides that the appointment of an overseas reinsurance brother when and if necessary, shall be made by the Lead co-insurer or broker(s) duly registered under the Insurance Act, 2003 in consultation with the

insured. The overseas re-insurance broker(s) so appointed shall work in collaboration with re-insurance brokers registered under the Insurance Act, 2003.

It was also stated in the policy that, NAICOM shall only grant approval to Lead co-insurer/ or broker to effect re-insurance overseas where it can be convincingly demonstrated that the participation of local insurers and re-insurers are fully maximized in accordance with the local content objectives of the Federal Government.

3.2.4 Policy on Petroleum Upstream

The policy on petroleum upstream provides that, it is an offence for a wholly indigenous Nigerian Oil Service Company to win a contract and to engage a foreign company to execute the contract. The penalty is a fine of N1,000,000 and in addition, the company's operating license shall be withdrawn by the Department of Petroleum Resources for a period of three years.

The policy was compulsory in the execution of contracts won by indigenous companies. It was also a matter of policy that any contract awarded in excess of USD100, 000 should contain a Labour Clause mandating:

i. the use of a minimum percentage (to be stipulated by DPR in each case) of Nigerian Labour (on professional cadres) for listed projects in such contracts, or

ii. the use of indigenous companies with minimum staff strength to be determined by DPR.

It was also mandatory for DPR to design a certificate of competency which shall be issued to the company by operators on completion of the contract. On the training of Nigerians, the Department of Petroleum Resources with the assistance of the Petroleum Technology and Development Fund (PTDF) to take all necessary

steps to ensure that Petroleum Training Institute (PTI) becomes the industry centre for middle level training and specialized skills development.

It was also a matter of policy that, multi-national oil operating companies and oil service companies that have been in existence in Nigeria for a period of ten years or more shall ensure that the number of citizens of Nigeria employed by the company in managerial, professional and supervisory grades or any other corresponding grades designated by the company shall reach 95% of the total number of persons employed by the company in those grades and further insure that at least 60% membership of the Board of Directors are Nigerian citizens.

Another basic policy that has been in existence before now is the mandate given to DPR to impose, where necessary, conditions on, and set targets for multi-national oil service companies to form Joint Ventures or Partnerships with Indigenous oil service companies for the purpose of achieving technology acquisition, and pursuit to section 15 of the Nigerian Content Division, no expatriate quota shall be granted to any oil producing company or oil service company without the companies first obtaining the approval of the DPR which approval shall be based upon the recommendation of NNPC with respect to her operating partners. It was also the obligation of the DPR to ensure that the multi-national oil companies invest in local fabrication, infrastructure and other facilities in Nigeria.

3.3 Impediments of the Nigerian Content Policy

The Nigerian Content Policy was initiated in 1997 by the Obasanjo administration to help develop local capacity in the Nigerian Oil and Gas Sector, with a view to ensuring that Nigerians participate actively in the operations of the sector. The initiative implied the development of local skills, technology transfer, use of local

manpower and local manufacturing to the benefit of the private companies and the economy in particular.

The government directed oil companies operating in the country to commence in-country fabrication of equipment as well as other major components used in oil exploration. The government also reasoned that the implementation of the content policy would serve as a means of dissuading capital flight. A benchmark target of 45% was set for the total contractual jobs to be done in Nigeria and 70% for the jobs done-in-country by the year 2010. These local content initiatives were undertaken to create an enabling environment for increased indigenous involvement in the oil and gas industry as Local firms are ultimately and probably the most important drivers of economic incomes and growth in developing countries (Arizona–Ogwu, 2008).

However, the performance of the Nigerian Content Policy over the past decade has been a mix successes and failures. The Federal Government's aspiration to achieve 70% local content in the oil and gas sector by 2010 is not feasible, following the poor compliance with the guidelines governing the local content policy by most international oil companies (IOC) operating in the country.

From the foregoing, the major impediments to the Nigerian Content Policy are:

i. There was no enabling law by the National Assembly to back up the Nigerian Content Policies of the Government, and;

ii. Since there was no law, it was difficult if not impossible to comply with the regulations.

Consequently, it was justifiable to correct the anomalies, so that the aims and objectives of government can be realized. It was these defects of the Nigerian Content Policy that gave birth to the Nigerian Oil and Gas Industry Content Development Act.

Conclusion

The Nigerian Content Policies sought to transform the Oil and Gas Industry into the economic engine for job creation and national growth by developing in-country capacity and indigenous capabilities. It was designed to ensure that a greater proportion of the work was done in Nigeria, with active participation of all sectors of the economy. In addition, the ultimate aim is that Nigeria is positioned as the hub for service delivery within the West African sub-region and beyond.

Although the Nigerian Content Policy did not have the force of law, it had far reaching effects with NNPC as the senior partner in most oil and gas projects. The Policies were aimed at increasing local content value in the provision of materials, services and equipment to the oil and gas industry to 70% by 2010 and failure to comply with the Nigerian content policies may result in withdrawal of the License or lease. However, this action was unenforceable due to the lack of an enabling law. This development necessitated the Local Content Act, 2010. Following the passage of the Nigerian Oil and Gas Industry Content Development Act, into law, it is expected that the initial challenges the government, individuals and local companies experienced in implementing the regulation, coupled with the lack of compliance by holders of oil mining leases will be a thing of the past.

Chapter Four

Analysis Of The Nigerian Local Content Act

4.1 Introduction

The Nigerian Oil and Gas Industry Content Development Act (the "Act") recently signed into law is the collective result of decades of attempts by the Government and stakeholders in the petroleum industry to ensure that local value is maximized to the benefit of the country and its people. Since the discovery of oil in Nigeria, the petroleum industry has functioned as an "enclave" economy, with very little linkages and contribution to the wider Nigerian economy. However, there are previous efforts to give effect to the local content policy which includes the establishment of various research, development, training, education and support funds; provisions in the Petroleum Act on mandatory employment and training of Nigerians by petroleum operators, provisions on technology transfer, local content utilization, recruitment and training of Nigerian personnel contained in various contractual arrangements with International Oil Companies ("IOCs"), and the establishment of a Nigerian Content Division (NCD) of the NNPC to monitor and give effect to government's Nigerian content policy (Kline and Damus 2010).

This book provides a concise analysis of additional obligations, if any, imposed on oil and gas operating companies, their contractors and sub-contractors in the implementation of projects

in the petroleum industry. We will further highlight the advantages of this Act for indigenous companies and areas in which foreign companies with local subsidiaries can take advantage of its provisions.

The scope of this Act includes all activities carried out in the oil and gas industry. "Oil and gas industry" is defined in the Act as all activities connected with the exploration, development, exploitation, transportation and sale of Nigeria's oil and gas resources including upstream and downstream oil and gas operations.

4.2 Definition of Nigerian Local Content

The 2010 Act defines Nigerian Content as the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry (Nigerian Content Act, 2010).

The definition which focuses on value addition to the Nigerian economy requires that considered efforts must be made on the part of stakeholders to utilize and/or where appropriate, ensure the utilization of Nigerian human and material resources and services.

The Act, takes precedence over all other existing enactments and laws in respect of all matters pertaining to Nigerian content in respect of all operations and transaction in the petroleum industry. The functions of the NCD as well as all other Nigerian content regulatory bodies shall be taken over by the Nigerian Content

Monitoring Board established under the Act.

4.3 Nigerian Content Obligations under the Act

Section Two of the Act provides that Nigerian Content must be considered as an important element in overall project development and management philosophy for project execution.

The Act indicates that all subsequent arrangements in the petroleum industry must comply with its provisions. This appears to suggest that existing arrangements may continue to follow the status quo.

Some of the relevant provisions which must be complied with are set out below:

4.3.1 Submission of Nigerian Content Plan

Operators are required to submit a Nigerian Content Plan as part of the condition for bidding for a license, permit or other oil and gas interest. Such a Plan, showing compliance with the Nigerian content requirements of the Act, is also required to be submitted before the execution of any project in the industry. The Plan must contain provisions giving:

a. first consideration to the utilization of Nigerian goods and services;

b. first consideration for the training and employment of Nigerians in the work programme for which the Plan was submitted.

c. furthermore, details of the criteria to be used by the operator and its contractors in assessing how first consideration is to be given to Nigerians in the process of evaluating bids for goods and services required by the project, including details as to how the use of locally manufactured goods which meet industry standards is to be ensured.

It is noteworthy at this juncture to state that it is still unclear how the Board will determine whether the criteria used by the operator in determining first consideration are acceptable. As a result certain pertinent questions become germane;

I. Are these subjective criteria to be determined by the Board on a case by case basis?

ii. Is the Board to take advantage of the provision authorizing it to conduct a public review in relation to the exercise of any of its functions under the Act to determine the proper criteria for "first consideration" where questions arise?

Regardless of the stance taken by the Board, it is required to issue or deny the Certificate of Authorization for that project not later than 30 days from the date of commencement of the assessment. The Act is silent on whether the certificate would be deemed approved if the Board fails to issue or deny the certificate of authorization within 30 days.

4.3.2 Compliance with Minimum Nigerian Content Specifications

Operators are mandated to comply with minimum specifications for Nigerian content as contained in the Schedule to the Act. The Schedule specifies certain criteria to be followed which includes the number of Nigerian man hours utilized in relation to the duration of the project, tonnage, size and volume of certain goods, level of certification obtained and the total amount of local expenditure in relation to the procurement of local goods and services.

Services such as Directional Surveying Services, Cutting Injections/Cutting Disposal Services, Waste Disposal/Drainage Services and industrial Cleaning Services requires the use of 100% Nigerian man hours while services such as Disposal/Distribution

and Waste Transport Services, procurement of Sickline, Well Head Safety Panels and certain Seismic Data Acquisition and Interpretation Services requires 100% Nigerian expenditure. Operators are permitted to deviate from these specifications where local capacity is inadequate upon authorization by the Minister. Such authorization shall not be given for a period exceeding three years within which time local capacity is expected to have been built in the relevant area.

Additionally under Section 34 of the Act, where a project or contract value exceeds USD100 million, it shall contain a labour clause mandating the usage of a minimum percentage of Nigerian labour in specific cadres as may be stipulated by the Board.

Section 41(2) also requires that a minimum of 50% of the equipment deployed for execution of work carried out by local subsidiaries of international/multinational companies are owned by the subsidiaries.

4.3.3 Consideration of Nigerian Content in Bid Evaluation

Nigerian Content shall be a major factor in bid evaluation and where bid tenders are within 1% of each other, priority shall be given to the bid containing the highest level of Nigerian Content provided such Nigerian content is at least 5% higher than that of the closest competitor.

Furthermore, full and fair opportunities must be given to Nigerian indigenous contractors and companies. These indigenous companies shall be allowed a 10% margin against the lowest bidder provided it has capacity to execute the specified job.

It is pertinent to state here that the concept of full and fair opportunity as required under the Act has not been specifically spelt out and is thus subjective. This makes it difficult for an operator to ascertain whether it has complied with the requirement of the Act in this regard and appears to give the Board unfettered discretionary powers in determining compliance.

4.3.4 Submission of certain documentation for Bid Tenders and Contract Awards for Projects in excess Of USD1million

Sections 17 to 24 of the Act make provisions for documents which must be submitted by operators for the approval of the Board in this regard:

a. advertisements, pre-qualification criteria, technical bid documents, technical evaluation criteria and the proposed bidders lists as well as other relevant information;

b. notification of all contracts, subcontracts and purchase orders which are open for bidding or executed in the upcoming quarter containing specific information as provided under the Act. This must be done 30 days' prior to the first day of each quarter);

c. prior to the issuance of adverts or pre-qualification notification to prospective bidders, operators shall submit details of the scope of work, the relevant notification where necessary, list and Head Office locations of targeted companies and time frame for the pre-qualification stage. This procedure is also required prior to the issuance of an invitation to tender and prior to the award of contract, subcontract or purchase order to the selected bidder with specific information required for each stage.

4.3.5 Establishment of a Project Office within the Project Catchment Area and Community of Operations run by approved Personnel

Sections 25 to 27 of the Act, provides that prior to the carrying out of project in Nigeria, an operator might be required to establish a project office in the catchment area where the project is to be located. This will be managed by approved personnel who shall exercise decision making powers with regard to the project execution and the Board might also require an operator to maintain offices in a community where the operator has significant operations. The application of these provisions appears to be based on the discretion of the Board and is to be determined on a case by case basis.

4.3.6 Employment and Training of Nigerian Personnel and Expatriate Quota Regulation

The Provisions in this regard include the following:

a. operators must give Nigerians first consideration for employment and training in respect of all executed projects and may be required by the Board to maintain a reasonable proportion of employees from areas of significant operations;

b. submission of an Employment and Training Plan which shall include hiring and training needs of the operator and its contractors, breakdown of required skills and shortages in the Nigerian labour force and anticipated training requirements and expenditure for such training;

c. a time frame for employment opportunities for each project phase;

d. specific quarterly reports of the employment and training activities of the operator;

e. evidence of reasonable efforts by operator to within a reasonable time, train Nigerians to fill skills shortages in the industry;

f. submission of succession plan for Nigerians of expatriate positions;

g. Approval of the Board must be sought prior to the application to the relevant authority for expatriate quota positions;

h. a maximum of 5% may be maintained by an operator for expatriates in management positions in respect of each project. The Act also empowers the Minister to make regulations requiring compulsory registration of operators, companies, or its professional employees engaged in the provision of engineering or other professional services in the petroleum industry with relevant professional bodies in Nigeria. This presents another avenue for monitoring importation of expertise and ensuring that this only happens where such expertise is not available locally;

i. operators are mandated to employ only Nigerians in their junior and intermediate cadre.

4.3.7 Research and Development Obligations

The operator is required to carry out a research and development programme in relation to its work programme and activities for every project. This shall include a bi-annual update of the operator's Research and Development (R & D) plans and a quarterly report of its R & D activities.

The R & D obligations of the operator shall be in conformity with the provisions of regulations to be made by the Minister with respect to targets to be met for the growth of R and D in the

industry. We expect that such regulation, when published, will set out the procedure and criteria to be followed in respect of the Operator's R and D programme.

4.3.8 Technology Transfer Obligations

These include:

a. development of an acceptable programme for the promotion of technology transfer;

b. submission of an annual plan for promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies;

c. active encouragement and facilitation of strategic collaboration between Nigerian and foreign contractors and service or supplier companies with the submission of an annual report of such initiatives.

4.3.9 Compliance with Insurance, Financial and Legal Services Provisions

Sections 49 to 53 of the Act mandate operators to utilize local insurance, financial and legal services in their project implementation. Operators must also submit a bi-annual report to the Board detailing the nature of the services so utilized, the budget as well as actual and projected expenditure.

4.3.10 Submission of Annual Nigerian Content Performance Report

This is required to be submitted by the operator to the Board for evaluation within sixty days of the beginning of each year covering all its projects for the relevant year and specifying its category of expenditure and its employment and procurement achievements.

To facilitate proper monitoring and verification of the reported activities, operators and their contractors are required to allow access to their facilities and provide relevant documentation to the Board and its designated agents.

4.3.11 Penalties

Failure by operators and their contractors and sub-contractors to comply with the provisions of the Act in their operations is an offence punishable by a fine of 5% of the project sum for each of the projects in which the violation occurs or the total cancellation of the project. It is noteworthy also that operators' eligibility for the award of licenses, permits and other interests in petroleum operations would be based on the operators' compliance with provisions of the Act.

What we have in essence under the Act is a more stringent regime which subjects the activities of operators to considerable scrutiny by the Board. The success or otherwise of the provisions of the Act would thus be substantially influenced by the rigour and political will exercised by the Board in carrying out its task.

4.4 Implications for Indigenous Operating Companies

For Nigerian operating companies, the Act offers a great opportunity for growth and expansion. A Nigerian company is defined under the Act as a company registered under the Companies and Allied Matters Act and having not less than 51% Nigerian shareholding. Such a company is to be given first consideration in the award of oil blocks, oil field licenses, oil lifting licenses and in all project awards in the Nigerian oil and gas industry. These provisions should ensure a steady growth in Nigerian participation in the industry as well as increase local

capacity and industry knowledge and expertise.

4.5 Implications for Indigenous Service Companies

Indigenous service companies stand to benefit tremendously from the provisions of the Act. This is because they are one of the key targets of the Nigerian Content policy. Skills development and capacity building in core competencies such as Petroleum Engineering and Engineering Support Services, Engineering Designs, Fabrication, Manufacturing and Installation, Seismic Data Processing, Drilling and Exploration Services, Maintenance Services, Health, Safety and Environment etc., will ensure increased employment opportunities, minimal deployment of foreign expertise in project execution, and overall economic development.

By virtue of section 3(2) of the Act, exclusive consideration is to be given to Nigerian indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute the required work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services as contained in the schedule to the Act. The more compliant they are in relation to Nigerian content i.e. their management, shareholding, personnel, etc, the better their chances of being awarded bids. This is so even when they are not the lowest financial bidder, provided, the company in question has the capacity to execute the job. The same goes for Nigerian indigenous contractors and companies in the supply of goods to the industry.

Aside from these special considerations in project awards and regulations, an enabling framework is being put in place to ensure utilization and steady growth of Nigerian companies in the industry's service sector. These include:

a. The establishment of an oil and gas e-marketplace which shall facilitate the effective implementation of the Nigerian content policy.

b. The establishment of a Joint Qualification System which shall constitute an industry data bank.

c. The establishment of the Nigeria Content Consultative Forum to provide a platform for information sharing and collaboration in the industry.

d. Establishment of the Nigerian Content development Fund to fund the implementation of the Nigerian Content policy. This would involve training and empowerment programmes for local service providers as well as deployment of funds for the various Government initiatives directed at increasing Nigerian Content in the industry. These are areas where the NNPC has also developed several key initiatives such as the launch of the Nigeria Content Support Fund and the introduction of the Nigerian Petroleum Exchange.

In addition to these, prospective investors can take advantage of the special consideration given to Nigerian companies especially in the award of bids to form strategic alliances and partnerships which will be beneficial to all parties concerned.

Chapter Five
Nigerian Indigenous Service Companies

5.1 Introduction

A Nigerian Service company is defined by the Act as a company registered under the Companies and Allied Matters Act and having not less than 51% Nigerian shareholding.

For Nigerian companies, the Nigerian Local Content Act offers a great opportunity for growth and expansion. The Act guarantee that indigenous Nigerian service companies are accorded exclusive consideration in the award of contracts and services on land and swamps operating areas of the nation's oil and gas industry.

The Act also provides that Nigerian Service Companies will be given first consideration in the award of oil blocks, oil field licenses, and oil lifting licenses and in all projects award in the Nigerian oil and gas industry. These provisions will ensure a steady growth in Nigerian participation in the industry as well as increase local capacity and industry knowledge and expertise.

5.2 Policy to Support the Growth of Indigenous Service Companies

The Nigerian Content Development Act challenges Nigerian Service Companies to demonstrate capacity to take advantage of the Act by acquiring the necessary technical competence to execute such contracts. At present in Nigeria, operating companies outsource most of the activities to Foreign Service providers. On the other

hand, some Nigerian companies pretend they are working whereas the foreign work done in the oil and gas industry in Nigeria, both in terms of man hours and spend, are done by the service companies.

It is in these service companies that the technology resides, and this is where we can get more people employed and the only way of doing that, is to make sure that substantial value of that work is domiciled in Nigeria and the expenditure is retained in Nigeria. That is the benefit of the Nigerian Content Development Act to indigenous service companies in Nigeria.

It is common knowledge that the well established service companies in the oil and gas industry are not owned by Nigerians. The Nigerian Content Development Act is not intended to drive them out of the country but introduced to ensure that indigenous companies get more opportunities to participate, or make the multinational service companies become more Nigerian.

Multinational Companies in the Oil and Gas industry in Nigeria retains only a paltry 5% to 10% of income earned from its local operations and exports about 90% to the real owners of the companies' assets abroad. This renders the registration of a Nigerian company with no assets meaningless. The Nigerian Content Development Act will test the companies that have Nigerian subsidiaries to ensure they have capacity to work in Nigeria and are owned substantially by Nigerians.

Essentially, the Act will secure our economic fortunes, sustain the activities in the oil and gas industry, improve the sector's cost effectiveness, its ability to service and maintain the assets; employ Nigerian youths, integrate inhabitants of the oil producing communities into industry activities and maintain sustainable peace in the Niger Delta where most of the oil and gas fields are situated.

5.3 Implications of the Nigerian Content Act for Indigenous Service Companies

Nigerian indigenous service companies stand to benefit tremendously from the provisions of the Nigerian local content Act. This is because they are one of the key targets of the Nigerian content policy.

5.3.1 Skill development and capacity building

One of the basic targets of the Nigerian Content Act for indigenous service companies is skills development and capacity building in core competencies such as Petroleum Engineering and Engineering Support Services, Engineering Designs, Fabrication, Manufacturing and Installation, Seismic Data processing, Drilling and Exploration service, maintenance services, Health, Safety and Environment etc.

It is the hope of Government that with the commencement of the Act, the active participation of indigenous companies in the oil and gas industry will assist to generate employment opportunities and minimize the deployment of foreign expertise in project execution. Furthermore, the foreign exchange hitherto expended on foreigners will be curtailed and deployed to other purposeful uses for the economic development of the country.

5.3.2 Principles of first consideration

The entrenchment of this principle is another very important aspect of the Act to indigenous service companies in Nigeria. By virtue of section 3(2) of the Act, exclusive consideration is given to Nigerian indigenous service companies which demonstrate ownership of equipment, indigenous personnel and the capacity to execute such work, in relation to bids for contracts and services contained in the schedule relating to land and swamp operating areas of the Nigerian oil and gas industry. The Act entrenches the principle of first consideration which must be given to Nigerian

indigenous service companies in the award of oil blocs, licenses and contracts.

5.3.3 Regulations and enabling framework

The Act provides regulations and the enabling framework to ensure yhe utilization and steady growth of Nigerian companies in the industry's service sector. The regulatory framework include the establishment of an oil and gas e-market place that will facilitate the effective implementation of the Nigerian content policy in respect to indigenous service companies, and the establishment of a joint qualification system which will constitute the indigenous service companies' data bank.

5.3.4 Full and fair opportunity in bid processes

The Act requires operators to demonstrate that in the bid processes for acquiring goods and services that Nigerian indigenous contractors and companies were given full and fair opportunity in the bidding processes. The Act specifically prescribes that contract award should not be based solely on the principle of the lowest bidder. It further prescribes that where a Nigerian indigenous company has the capacity to execute such work, the company should not be disqualified exclusively on the basis that it is not the lowest financial bidder.

5.3.5 Opportunities for indigenous service companies

Several opportunities abound in the following areas for Nigerian indigenous service companies in the oil and gas industry:

i. Provision of critical facilities such as steel pipes and plate mills, Umbilical Spool Bases, Deepwater Logistics Facilities, FPSO Topside Integration Facility, and Offshore/Onshore Module Fabrication Yards.
ii. Other facilities are, repair and dry-docking facilities for marine vessels drilling Rigs, ship building activities, Heat

Exchangers Assembly Plants, wellhead and valves manufacturing and assembly plants and Subsea Production Systems Testing Facilities.

When Nigerian indigenous service companies take advantage of these opportunities which abound in the industry, then they can create job opportunities for our youths, other able bodied indigenes of the oil producing communities and indeed other Nigerians.

Furthermore, the Act stipulates that the Minister shall make regulations setting out targets to ensure full utilization and steady growth of indigenous companies capacity engaged in exploration, seismic data processing, engineering design, reservoir studies, manufacturing and fabrication of equipment, and other facilities as well as the provisions of other support services for the Nigerian oil and gas industry.

Chapter Six

Employment And Training

6.1 Introduction

Our concern in this chapter is to consider the employment, training, research and development benefits of the Nigerian Content Act to the people of Nigeria. Following the presidential assent of the Act, there are already positive indications of project offices to be established in catchment areas/host communities where projects are to be located with the attendant benefits of creating employment for the teaming youths.

6.2 Establishment of project office

The Act made it mandatory for all regulatory authorities, operators, contractors, sub-contractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry to establish in the catchment Area where the project is to be located, a project office where project management and procurement decision making are to take place, to the satisfaction of the Nigerian Content Monitoring Board. The operator shall in addition locate, within the project office personnel with decision-making authority in accordance with a list of personnel to be approved by the Board. The Act extends its sphere of influence to the maintenance of an office in a community where the operator has significant operations.

6.3 Employment and Training

Another significant benefit of the Nigerian Content Act, is the possibility of offering employment and training opportunities to Nigerians. Section 10 (1b) of the Act provides that Nigerians must be given first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian oil and gas industry. The Nigerian Content Monitoring Board must ensure that the operator or project promoter maintains a reasonable number of personnel from the where area it has significant operations.

The Act acknowledges the importance of training in work organization hence it made it mandatory for an operator or project promoter to submit a training and employment plan to the Board. Thus opportunities for the teaching of lower level employees on how to perform their current tasks or jobs are available. It is the aim of Government that acquiring specific knowledge and skills for the purposes of an occupation or task will that organization to gain competitive advantage while creating intellectual capital. Training focus is on performing efficiently, effectively and safely on a current job or task.

The submission of employment and training plan of the operator or project promoter shall include an outline containing hiring and training needs of the operator or project promoter. The major contractors of an operator as well as a breakdown of the skills needed, anticipated skill shortages in the Nigerian labour market, project specific training requirements and anticipated expenditures to be made directly by the operator in implementing the employment and training plan must accompany such plan as a forecast and actual expenditure.

The Act further expects a time frame for employment opportunities for each phase of project development and operations, to enable members of the Nigerian workforce to prepare themselves for such

opportunities.

The operator or project promoter shall report to the Board quarterly on employment and training activities for the reporting period and compare this to the employment and training plan and the report shall include-number of new employees hired during the year and other place of residence at the time of living, and their employment status, and any other information required by the Board for the purposes of implementing the provisions of this Act.

It is compulsory under the Act for Nigerians to be trained where Nigerians are not employed because of their training. The operator shall ensure, to the satisfaction of the Board that every reasonable effort is made within a reasonable time to supply such training locally or elsewhere and such effort and the procedure for its execution shall be contained in the operator's Employment and Training plan.

Additionally, the operator shall submit a succession plan to the Board for any position not occupied by Nigerians and the plan shall provide for Nigerian to understudy each incumbent expatriate or being mentored for a maximum period of four years and at the end of the four years period the position shall become Nigerianized. All Nigerianized positions shall attract salaries, wages and benefits as provided for in the operator's conditions of service for Nigerian employees.

Finally on employment, all operators and companies operating in the Nigerian oil and gas industry shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designed by the operator or company.

6.4 RESEARCH AND DEVELOPMENT

Research by definition is the collection, analysis and interpretation of information for updating of knowledge while development on

the other hand, refers to the teaching of managers and professional employees' broad skills necessary for their current and future jobs. It is a learning activity aimed at mostly future needs rather than current performance. It is concerned with employee career growth and the satisfaction of future organization's manpower requirement. Research and development are very necessary to improve employees' performance in work place (Amah, 2006).

Based on the importance of research and development in work organizations, the Nigerian content Act made it mandatory for the Minister to make regulations with requirements and targets for the growth of research and development in the Nigerian oil and gas industry. Operators are expected to carry out a programme and make expenditure to the satisfaction of the Board, for the promotion of education, attachments, training, research and development in Nigeria in relation to its work programme and activities.

Development activities range from teaching employees basic reading skills to advance courses in executive leadership to creating and sharing of knowledge. Cole (2002) defined skills as "the capacity to apply knowledge in a practical, demonstrable way" An individual's skill is a product of his store of knowledge and his personal attributes. The importance of Research and Development in the Nigerian oil and gas industry cannot be over emphasized. In this regard an operator shall submit to the Board an update every six months of its Research and Development plan.

The Research and Development plan shall outline a revolving 3 to 5 year plan for oil and gas related R and D initiative to be undertaken in Nigeria. A breakdown of the expected expenditures that will be made in implementing the R and D plan as well as a provision for public calls for proposals for research and development initiatives associated with the operator's activities should also be included. In

addition to the above, the operator shall report to the Board, on a quarterly basis, with respect to its research and development activities.

The petroleum industry is complex and dynamic in nature. Its training and re-training requirements are always in high demand. The Act provides that the Minister shall make regulations establishing the minimum standards facilities, personnel and technology for training in the oil and gas industry.

From the above, the Nigerian Content law has the potential to generate over 30,000 jobs in the next 5 years and has far reaching implications for the issues of technological advancement, long term cost effectiveness, post amnesty programs in the Niger Delta and the improved impact of the oil and gas industry on our National Gross Domestic Product.

Chapter Seven
Technology Transfer

7.1 Introduction

The Act prescribes technology transfer to Nigerians and Nigerian companies. Technology transfer is a process of sharing of skills, knowledge, technologies, methods of manufacturing, samples of manufacturing and facilities among governments and other institutions to ensure that scientific and technological developments are accessible to a wider range of users who can then further develop and exploit the technology into new products, processes, applications, materials or services. It is closely related to knowledge transfer (en.wiki pedia.org/tc).

Technology transfer occurs at all level or stages of the technology innovation process, from initial idea to final product. These processes integrate multiple functions, including organized research and development, design, production engineering, manufacturing, marketing, and other value-adding activities in a complex web containing multiple feedback loops. Like the innovation process, technology transfer is usually iterative, involving multiple transfer steps. Whereas they are usually welcomed, the idea of change that they advocate is frequently resisted. Moreover, it is nearly always impossible to measure, by any commonly accepted method, whether the technology they profess has actually transferred.

7.2 Technology transfer and the Nigerian Content Act

Section 43 of the Act stipulates that each operator shall carry out a programme in accordance with the country's own plans and priorities to the satisfaction of the Board, for the promotion of technology transfer to Nigeria in relation to its oil and gas activities.

The technology transfer obligations for operators include the following:

1. Development of acceptable programmes for the promotion of technology transfer from the operator and alliance partners to Nigerian individuals and companies;
2. Submission of an annual plan for promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies;
3. Active encouragement and facilitation of formation of joint ventures, partnership, and the development of licensing agreements between Nigerian and foreign companies.

From our earlier definition of technology transfer, we can deduce that, the Act gives our people the opportunity in the processes of sharing skills, knowledge, technologies, methods of manufacturing, samples of manufacturing and facilities among operators and alliance partners. In other words the Act provides that scientific and technological developments are accessible to a wider range of users who will further develop and exploit the technology into new products, processes, application, materials or services.

Although, the Act has stipulated that technologies should be transferred from the operators and their alliance partners to Nigerians, such transfer may not really qualify as technology transfer unless and until it results in change. The challenge therefore is insistence on having successful technology transfer and not simply an exchange of information between the operators and the beneficiaries.

7.3 The Practice of Technology Transfer

Although, the Act prescribes technology transfer to Nigerians and Nigerian companies, it should not be seen as mere training of Nigerians alone. Technology transfer is more than just training, but training certainly is an integral part of technology transfer. Technology transfer involves amongst others:

(i) Identification of user (Nigerian) needs via questionnaires, focus groups, market research and direct contact.
(ii) Information exchange via newsletter, manuals, videos, training courses, demonstrations, direct technical assistance, software etc.
(iii) Implementation of research findings which can include licensing, training, marketing and more, and
(iv) Feedback to the operator concerning problems identified suggestions for improvement, etc.

In the broadest sense, technology transfer is a process of communication that results in putting research findings or new information into practice. Implementation of research is more likely to occur, however, when technology transfer is practiced formally and purposefully. To be most successful, technology transfer must engage all those involved in the research and implementation process(Lynne, 1998)

Despite the provisions of the Act on technology transfer to Nigerians it cannot be done in a vacuum. The various companies should create a department that will be responsible for transfer of technologies. Commercial fees should be waived. Transfer of technology has potential complexity process, and therefore the technology transfer department should be multidisciplinary which should include engineers, scientists, economist, lawyer and marketers, etc.

7.4 Barriers to technology transfer

It is one thing to transfer technology and it is another thing to accept the technology transfer. If success is defined as accomplishing change, what are the barriers to success? The principal barrier is resistance to change. Change is dangerous, change is risky, change forces one to abandon a comfortable position.

Although the Act has prescribed technology transfer to Nigerians and Nigerian companies, some barriers exists which may be self-imposed. They range from technological, economical, and institutional to political. They may be caused by the provider (operators and alliance partners), the intended receiver (Nigerians and Nigerian Companies) or both.

The most obvious barriers are institutional and may include factors like lack of resources, lack of operators' full support to implement, lack of organizational infrastructure to impact the transfer, inflexible regulations, incentives and rewards; and resistance to risk-taking and change.

Likewise, barriers may also arise from the technology suppliers' impediments like misunderstanding the needs of the receivers, the unsuitability of the technology for the conditions or the environment, the inappropriate presentation of the technology, that is, the right amount of information is not given to the right people.

On the other hand, human behavior barriers like Language, Pride, Culture, Lack of interest or perceived need and poor attitudes from provider and recipient toward one another may also exist.

7.5 Opportunities of technology transfer

The barriers we have discussed notwithstanding, opportunities abound in technology transfer. Observed changes in the

communication and information technology sector in the country in the past decade alone, reveals the bright and clearly challenging future for technology transfer. Building new opportunities in the oil and gas industry through technology transfer, we need experience sharing, development of knowledge, exchange of skills across organizations.

The world is geographically, culturally, politically, economically and technologically diverse – yet globalization has exposed most of the world to its neighbours. In recent years a great deal of thought, effort and sharing has boosted technology around Nigeria and the world. We therefore need appropriate human resource development in the creation, support, and preservation of a national scientific and technological capacity to absorb, adapt, and manage the knowledge, products, and techniques to be transferred.

The adaption to changing technology requires a continuing process of adjustment throughout the oil and gas industry in the country. To ensure the necessary increase in personnel skills development in the industry, a major educational and training effort will need to be undertaken. Nigerians and Nigerian companies can take advantage of the Nigerian Content Development Act in this respect.

Chapter Eight
Insurance, Financial And Legal Services

8.1 Introduction

Sections 49 to 53 of the Act specifically require operators and their alliance partners to utilize local or indigenous insurance, financial and legal services in their project implementation. Operators are required to submit a biannual report to the Board detailing the nature of the services so utilized, the budget as well as actual and projected expenditure.

8.2 Insurance Services

Risk is associated with the oil and gas industry and this risk need to be managed. Section 49 require all operators project promoters, alliance partners and Nigerian indigenous companies engaged in any form of business, operations in the Nigerian oil and gas industry to insure all insurable risks related to its oil and gas business operations or contractors with an insurance company, through an insurance broker registered in Nigerian under the provisions of insurance Act as amended.

Each operator shall submit to the Board, a list of all insurance companies and insurance brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained and the expenditures made by the operator.

The insurance programme of an operator shall include a comprehensive report of insurance covers obtained in the past six

months of all insurance by expenditure, a forecast of insurance covers required during the next six months, and the projected expenditure for the covers.

The Act also stipulates that a comprehensive report of a list of all insurance companies brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained, and the expenditure made by the operator and the annual insurance premium budget for the past one year in naira and foreign currencies.

The prior written approval of the insurance industry regulator, the National Insurance Commission, which is charged with ensuring that Nigerian local capacity is exhausted, is required before any insurance risk can be placed offshore. No insurance risk in the Nigerian oil and gas shall be place offshore without the written approval of the National Insurance Commission which shall ensure that Nigerian local capacity has been fully exhausted.

8.3 Financial Services

Section 52 of the Act provides that operators, contractors and other entities in the Nigerian oil and gas industry that require financial services must retain only the services of a Nigerian financial institution or organization, except where the Nigerian Content Monitoring Board is satisfied that it is impracticable to do so.

The minimum requirements for financial services set out in the schedule to the Act suggest that Service Providers may still be able to provide such services to oil and gas industry participants if the minimum capacity for Nigerian content prescribed by the schedule has been exhausted.

All operators shall submit to the Board every six months its financial services plan. The plan shall include financial services utilized in the

past six months by expenditure, a forecast of financial services required during the next six months and the projected expenditure for the services.

8.3.1 Mandatory retention of 10% of revenue in country

In addition, Operators, contractors and subcontractors must retain 10% of total revenue accruing from Nigerian operations in a Nigerian bank account. The retention of mandatory 10% in banks in Nigeria will increase the financial position of the banks, and this will enhance economic growth.

8.4 Legal Services

All operators, contractors and other entities engaged in any operation, business or transaction in the Nigerian oil and gas industry must retain the legal services of only a Nigerian legal practitioner or a firm of Nigerian legal practitioners whose office is located within Nigeria. However, the schedule provides that the minimum Nigerian content compliance requirement or legal consultancy services is "50% contracts".

Section 51 (2) of the Act provides that all operators shall summit to the Board, every six months, its legal services plan. The legal services plan shall include a comprehensive report on legal services utilized in the past six months by expenditure, and a forecast of legal services required during the next six months and a list of external solicitors utilized for legal service in the past six months, the nature of work done, the expenditure made by the operator and the annual legal services budget for the past one year in naira and foreign currencies.

Conclusion

The retention of 10% of total revenue accruing from Nigerian operations in a Nigerian bank account, insuring all insurable risks related to its oil and gas business with an insurance company registered in Nigeria and retaining legal services in the oil and gas

industry to Nigerian legal practitioners will bring about economic boost to the country. This stems from the employment generation opportunities derivable which will increase our growth potentials in the country.

Chapter Nine
Petroleum E-Marketing

9.1 Introduction

This is an important provision of the legislation. The Act established the petroleum e-marketing to help contractors to Bid for contracts. Section 54 stipulates that, the Board shall establish oil and gas electronic market place for contractors to bid for contracts.

It is important to explain the meaning of e-market place at this point. It is an organizational effort to communicate, promote and sell products and services over the internet. Exchange of goods and services, information, ideas are traded on the internet without physically seeing either the seller or the buyer. It therefore refers generally to all forms of commercial transactions involving both organizations and individuals that are based upon the electronic processing and transmission of data, including text, sound and visual images(Grewal, 2001).

9.2 Establishment of petroleum e-market place

E-market facilitate the globalization of business by providing more economic access to distant markets and by supporting new opportunities for firms and individuals to increase economies of scale and scope of operations (Grewal, 2001). This is why the Act prescribes the establishment of petroleum e-market place to help contractors to Bid for contracts.

This petroleum e-market place will provide more economic access to distant markets and this will offer new opportunities for our Nigerian contractors to increase their economies of scale and scope of operations. It will bring about increased responsiveness, flexibility, efficiency and accountability in the oil and gas business. The e-market place will provide a virtual platform to facilitate the transactions required for efficient delivery of goods and services in the industry. There will be no hidden agenda in the market place for operators and their alliance partners.

According to **Sanchez (2007),** an e-market transaction brings about increased business efficiency, coupled with the development of new kinds of products, information and ideas. All these have many positive implications for the health of our economy as a whole. The implication of the petroleum e-market provision is that the electronic market place will host the joint qualification system as an integral part of the e-market place and provide a universal and transparent governance structure drawn from industry stakeholders. This clause is beneficial to our indigenous contractors as they will no longer queue at the gates of oil and gas companies in search of contract. Businesses in the oil and gas industry can now be easily accessed on the internet as well as bid for contracts

9.3 Incentives for contractors engaged in petroleum e-marketing

There are several incentives for Nigerian contractors engaged in e-marketing and they transcend corporate and sector boundaries. They include but are not limited to the following:

9.3.1 Savings in transaction costs

In e-marketing, many of the separate steps that normally intervene between a buyer and a seller (operators and contractors) in a

commercial transaction can be integrated and automated electronically. For example, the steps in a typical non-electronic contract transaction may include submission of quotations, pre-qualification opening of bids, awarding of contracts, ordering and invoicing, arranging terms of delivery and making payment.

Many of these steps involve various forms of intermediation by third parties but each step in a transaction involves an exchange of information and it involves costs. Basically, these costs tend to increase in relation to time and distance. However, the establishment of petroleum e-market place will minimize many of the economic impacts of time and distance thereby reducing or saving transaction cost.

9.3.2 Efficient Transaction Management

Another important incentive for Nigeria in relation to e-market place transaction in the oil and gas activities is the need for more efficient transaction management. The oil and gas industry has complex transactions which needs swift response. This provision of the Act is especially critical because these complex and interactive logistical arrangements will be better maintained with e-transactions. The documentation and distribution complexities will be met with ease.

9.3.3 Business Efficiency

All contemporary production methodologies in the oil and gas industry are dependent upon highly dynamic information flows in supply chains because of their desire to achieve greater production and distribution efficiencies. Organizations deploy Information and Communication Technology as part of programmes to support and/or promote organizational and process change in order to meet the challenges of what they see as an increasingly global business environment. E-market support advanced design and

manufacturing concepts like just-in-time, Quick Response and concurrent engineering-all oriented to coordinating and often integrating various aspects of the production and distribution processes in oil and gas activities.

9.3.4 New market development

This is the most significant incentive or benefit for engaging in e-market transaction in the petroleum industry. This involves extending the business for new entrants without any barriers. E-market place establishment will generate transaction that will capture and achieve immediate form thus permitting sophisticated processing and quick distribution of information. This information can then be used to plan and support changes designed to increase the responsiveness, flexibility, efficiency and accountability of business in the oil and gas industry(Amue, 2009).

In this respect, the development and creative use of customer information database has assumed greatly increased importance in the operations and strategies of firms. This is why the Act in Section 55 establishes a joint qualification system that will constitute an industry databank of available capacities and shall be used for the verification of contractors' capacities and capabilities, tracking and monitoring of performance with provision of relevant feedback and ranking and categorization Oil Service companies based on capabilities and Nigerian content.

The maintenance of contractors' database, verification, tracking and monitoring of performance will lead to the development of new contractors. In those days, doing business in oil and gas was an exclusive right of some privileged individuals whether they are performing or not. But by this Act, there is no automatic business for anybody as performance will be the yardstick to remain in the industry. There will be new business development every day and it

will enhance economic growth of the industry.

At a more mature level, the nature of the business can expand and new types of business can substitute for non-performing operators and contractors where it becomes possible to exploit performing commercial potentials. Many highly visible new markets can be created around changing patterns as a result of this Act.

Finally, one of the most important areas of new business development in an e-marketing environment is education and training. Of particular importance is the reciprocal nature of this activity. Our Nigerian contractors should take advantage of educating and training themselves to catch up with the benefit.

Chapter Ten

Summary Of The Benefits Inherent In The Nigerian Oil And Gas Industry Content Development Act

10.1 Introduction

We have in the preceding chapters attempted to give an exposition of the various inherent benefits and potentials in the Act. In this concluding chapter we have succinctly summarized the foregoing.

10.2 Benefits under the Act.

a. First consideration and exclusive consideration

The Act entrenches the principle of first consideration, which must be given to Nigerians and Nigerian companies in the award of oil blocs, licences and contracts. In addition, in bids for contracts and services, exclusive consideration should be given to Nigerian indigenous services companies that demonstrate ownership of equipment, Nigerian personnel and the capacity to execute such work, in relation to bids for contracts and services contained in the schedule relating to land and swamp operations areas of the Nigerian oil and gas industry.

Adverts pre-qualification criteria, bid documents and proposed bidders and services provider lists for projects, contracts, subcontracts and purchase order in excess of $1 million are subject to prior review and approval from the Nigerian Content Monitoring Board, which must indicate

how, in its evaluation of bids for goods and services for each project, it will assess and give first consideration to services provided in Nigeria, goods manufactured in Nigeria, Nigerians for training and employment in the work programme for which the plan was submitted or any project executed by any operation or project promoter in the Nigerian Oil and Gas industry.

b. Bid Processes to give full and fair opportunity to Nigerian Indigenous Contractors and Companies

The Act provide that when evaluating bids for projects, all operators and project promoters shall consider Nigerian content, and the bid having the highest level of Nigerian content will be selected provided the Nigerian content in the selected bid is at least 5% higher than its closest competitor. In addition, during the bidding process for the acquisition of goods and services, operators are mandated to give full and fair opportunity to Nigerian indigenous contractors and companies.

Indigenous companies shall not be disqualified from the award of the contract solely because it is not the lowest bidder provided the indigenous company has the capacity to execute the job and the value of the contract does not exceed the lowest bid price by 10 percent.

c. Research and Development & Technology transfer obligation

Operators are required to carry out Research and Development programmes in relation to their work programmes and activities for every project. This requirement is aimed at the promotion of education, training, research and development in Nigeria in relation to the operators' works programmes and activities. In carrying

out its research and development obligations the operators shall comply with the provisions of regulations made by the Minister of Petroleum Resources with respect to targets to be met for the growth of research and development in the industry.

The technology transfer obligations for operators include the following:

- Development of an acceptable programme for the promotion of technology transfer from the operation and alliance partners to Nigerian individuals and companies.
- Submission of an annual plan for promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies; and
- Active encouragement and facilitation of formation of joint ventures, partnership, and the development of leasing agreement between Nigerian and foreign companies;

d. Employment, Training and Expatriate Quota

Another very serious benefit of the Act is the employment and training opportunities. There is shortage of skills in the industry. In order to fill the skills shortage in the industry, the Act stipulates that operators give Nigerians first consideration for employment and training in any project executed in the Nigerian oil and gas industry whilst ensuring that a reasonable number of personnel are employed from area with significant operations. In the event that Nigerians are not employed because of their lack of training, operators are required to make reasonable efforts to supply such necessary training locally or elsewhere.

Also, the Act spelt out the quota belonging to expatriates. Under the provisions of the Act, operators are required to submit a succession plan for every position held by an

expatriate. Expatriates can only occupy any position for a maximum of four (4) years during which the expatriate occupying that position is obligated to have mentored a Nigerian who will fill in the vacant position at the end of the stipulated four years time period.

The Act also makes an allowance of a maximum of 5% expatriates for management positions in respect of the operator for each of its operations and requires that the Board must pre-approve any application for expatriate quota with the relevant authority. Operators are also mandated to employ only Nigerians in their junior and intermediate job cadres.

e. Utilization of Indigenous Insurance, Financial and Legal Services.

Specific provisions of the Act require operators to utilize local insurance, financial and legal services in their project implementation. The prior written approval of the insurance industry regulator, the National Insurance Commission required where the Nigerian local capacity is exhausted, before any insurance risk can be placed offshore. In addition, as a general principle legal and financial services are required to be sourced locally.

Operator, contractors and other entitles in the Nigerian oil and gas industry that requires financial services must retain only the services of a Nigerian financial institution or organization, except where the Nigerian Content Development and Monitoring Board is satisfied that it is impracticable to do so. Whether these provisions apply to prohibit for instance, the growing crop of predominantly foreign-owned banks and financial institutions from providing financial services to Nigerian oil and gas industry

participants without the approval of the Nigerian Content Monitoring Board is not immediately clear, although the minimum requirements for financial services set out in the Schedule to the Act suggest that even service provider such as these may still be able to provide such services to oil and gas industry participants if the minimum capacity for Nigerian content prescribed by the schedule has been exhausted.

Also operators, contractors and subcontractors must retain 10% of total revenue accruing from Nigerian operations in a Nigerian bank account.

All operators, contractors and other entities engaged in any operation, business or transition in the Nigerian oil and gas industry must retain the legal services of only Nigerian Legal practitioners or a firm of Nigerian legal practitioners whose office is located within Nigeria.

f. Mandatory Contribution of 1%of Contract value to Nigerian Content Development Fund

Operators must deduct 1% of the value of every contract awarded for upstream operations at source and pay it to the Nigerian Content Development Fund established by the Act. The fund shall be managed by the Nigerian Content Development Board and the deployment of the fund for management of projects, programmes, and activities directed at increasing Nigerian content in the oil and gas industry.

g. Ownership of equipment by Nigerian Subsidiaries of foreign participants

International and multinational companies working through their Nigerian subsidiaries within the sector are required to

demonstrate that a minimum of 50% of the equipment deployed by them for the execution of work is owned by their Nigerian subsidiaries. The benefit here is that, a Nigerian subsidiary now owns 50% of the equipment and no longer renting the equipment from their foreign participants.

h. Mandatory in-country welding and fabrication

All contractors and entities engaged in the Nigerian oil and gas industry shall carry out any required fabrication and welding activities in Nigeria. This will bring about skills development and capacity building for professionals of this trade and will generate employment opportunities.

i. Opportunities for Development of Niger Delta Region

The Act requires operators and their alliance partners in the Nigerian oil and gas industry to have a project office in the community where it is executing the project. Location of project offices in the oil and gas producing communities will ensure that indigenes have firsthand knowledge of support services required for project which they can participate in.

The Act has created a conducive environment for investment in key facilities in the areas of operations such as line pipe mills, dry docking facilities; onshore/offshore equipment assembly plants etc. These facilities will guarantee provision of thousands of jobs for locals. These facilities will be naturally located close to oil and gas production facilities to supply their power requirements. Their establishment will therefore bring development and industrialization to communities.

The employment and training plan to be submitted by operators for all projects will provide for Nigerians to be

trained in specialized skills areas of direct relevance to the oil and gas operations such as welding, drilling and well services, offshore and subsea technology, marine operations, Health, safety, Environment and environmental remediation techniques etc.

These programmes will empower the youths to take hold of their destines so that demands will not be only for compensation but will insist on specific level of remediation of their lands and participate in these remediation activities.

j. Planned Industry Investment

Another obvious benefit of the Act is investment opportunities in the Nigerian oil and gas industry. Over 20 million man-hours and 500,000 MT of fabrication opportunity in Engineering, Procurement, construction and installation (EPCI) of platforms, FPSOs and other oil filed facilities for Exploration & production in Greenfield projects;

Over 10,000km of gas gathering and transmission pipelines under the gas infrastructure development master – plan, replacement of aging pipelines and facilities in our national distribution system;

Operation and maintenance services contracts for the facilities and systems both onshore and offshore including cutting – edge deepwater technology which frequently, involves remote interventions and Robotics score of drilling Rigs and hundreds of pipe – lay Barges, Remote operation vessels, Marine support vessels, Installation Vessels, House and services Boats;

CONCLUSION

There is no doubt, that the Nigerian oil and gas industry content Development Act, will achieve sustainable development of the nation's economy through the stimulation of industrial development, growth of local capacities, building of a skilled national work force and the creation of a competitive supplier base.

To achieve the laudable benefits of the Act however, it is vital that we continually collaborate with the industry stakeholders to ensure the effective implementation and enforcement of the provisions of the Act.

It is also important to ensure that these benefits are realized by local companies participating directly in the oil and gas operations, rather than through farming it out to foreign partners due to lack of financial or technical expertise. Indigenous companies must live up to the expectations of the Act by maximizing local capacity.

Finally, it is imperative that the interest of various stakeholders are protected continuously to guarantee the economic drive and growth that will result in local capacity building and return on investment for both operators and their alliance partners and Nigerian individuals and companies.



Senator Maeba laying the Nigerian Oil and Gas Industry Content Development Bill before the Senate



NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010.

Sponsored by

SENATOR LEE LEDOGO MAEBA, JP

NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010.

EXPLANATORY MEMORANDUM

This Act provides for the development of Nigerian content in the Nigerian oil and gas industry, Nigeria content plan, supervision, coordination, monitoring and implementation of Nigerian content.

NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010.

ARRANGEMENT OF SECTIONS

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1. Application
2. Nigerian content as management philosophy for project execution
3. First consideration to be given to Nigerian operators.
4. Role of Nigerian Content Monitoring Board.
5. Promotion of measurement growth of Nigerian content.
6. Conformity of petroleum arrangements and other agreements.
7. Submission of Nigerian content plan for all projects.
8. Certificate of authorization.
9. Public review of plan.
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61. Content of performance report.
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Schedule.

NIGERAIN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT 2010.

A bill for An act to provide for the development of Nigeria content in the Nigerian oil and gas industry, Nigerian content plan, supervision, coordination, monitoring and implementation of Nigerian content, and for related matters.

ENATED by the National Assembly of the Federal Republic of Nigeria-

PART I – NIGERIAN CONTENT DEVELOPMENT IN OIL AND GAS INDUSTRY

Application Cap. P10, LFN 2004

1. Notwithstanding anything to the contrary contained in the petroleum Act or in any other enactment of law, the provision of this Act shall apply to all matters pertaining to Nigerian content in respect of all operations or transaction carried out in or connected with the Nigerian oil and gas industry.

Nigerian Content as management philosophy for project execution.

2. All regulatory authorities, operators, contracts, subcontracts, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry shall consider Nigerian content as an important element of their overall project development and management philosophy for project execution.

First consideration to be given to Nigerian operators .

3. (1) Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licenses, oil lifting licensees and in all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfillment of such conditions as may be specified by the Minister.

Schedule

(2) There shall be exclusive consideration to Nigeria indigenous service companies which demonstrate ownership of equipment, Nigeria personnel and capacity to execute such work to bid to land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the Schedule to this Act.

(3) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licenses, permits and any other interest in bidding for oil exploration, production, transportation and development or any other operations in Nigerian oil and gas industry.

4. Te Nigerian Content Development and Monitoring Board ("the Board") established in accordance with this Act shall make procedure that will guide, monitor coordinate and implement the provisions of this Act. — Role of Nigerian Conten Monitoring Board.

5. The Board shall implement the provisions of this Act with a view to ensuring a measurable and continuous growth of Nigerian content in all oil and gas arrangements, projects, operations, activities or transactions in the Nigerian oil and gas industry. — Promotion of measurable growth of Nigerian content.

6. Upon the commencement of this Act, all subsequent oil and gas arrangements, agreements, contracts or memoranda of understanding relating to any operation or transaction in the Nigerian oil and gas industry shall be in conformity with the provisions of this Act. — Conformity of petroleum arrangements and other agreements.

7. In the bidding for any license, permit or interest and before carrying out any project in the Nigerian oil and gas industry, as operator shall submit a Nigerian Content Plan ("the Plan") to the Board demonstrating compliance with the Nigerian content requirements of this Act. — Submission of Nigerian content plan for all projects.

8. The Board shall review and asses the plan and, if satisfied that the plan comp0lies with the provisions of this Act, issue a Certificate of Authorization ("the Certificate") to the operator for that project. — Certificate of authorization.

9. For the purposes of reviewing or assessing the plan, the Board may conduct a public review in relation to the exercise of any of its functions under this Act provided that any such review or assessment is completed and certificate issued or denied within 30 days from the date of commencement of such review or assessment. — Public review of plan

10. (1) A plan shall contain provisions intended to ensure that – — Contents of the plan.

(a) First consideration shall be given to services from within Nigeria and to goods manufactured in Nigeria; and

(b) Nigerians shall be given first consideration for training and employment in the work programme for which the plan was submitted.

(2) Any Collective agreement entered into by the operator, project promoter or other body submitting the plan with any association of employees respecting terms and conditions of employment in the project shall contain provisions consistent with this section.

11.	(1) As from the commencement of this Act, the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall be consisted with the level set in Schedule to this Act.	Minimum and specification of Nigerian content.
(2)	Where a project description is not specified in the Schedule to this Act, the board shall set the minimum content level for that project or project item pending the inclusion of the minimum content level for that project item through an amendment of the Schedule to this Act by the National Assembly.	Schedule.
(3)	All operators, alliance partners and contractors shall comply with the minimum Nigerian content for particular project item, service or product specification set out in the schedule to this Act.	Schedule
(4)	Notwithstanding the provision of subsection (1) of this section, where there is inadequate capacity to any of the targets in the schedule to this Act, the Minister may authorize the continued importation of the relevant items and such approval by the Minister shall not exceed 3 years from the commencement of this Act.	Schedule
12.	Subject to section 7 of this Act. Nigerian Content Plan submitted to the Board by an operator shall contain a detailed plan, satisfactory to the Board, setting out how the operator and their contractors will give first consideration to Nigerian goods and services including specific examples showing how first consideration is considered and assessed by the operator in its evaluation of bids for goods and services required by the project.	First consideration for Nigerian goods and services.
13.	The Nigerian content plan submitted by any operator or alliance partner shall contain detailed plan on how the operator or its alliance partner intend to ensure the use of locally manufactured goods where such goods meet the specifications of he industry.	Contents of the plan to contain details.
14.	All operators and project promoters shall consider Nigerian content when evaluating any bid where the bids are within 1% of each other at commercial stage and the bid containing the highest level of Nigerian content shall be selected provided the Nigerian content in the selected id is at least 5% higher than its closest competitor.	Nigerian content in bid evaluation.
15.	All operators and alliance partners shall maintain a bidding process for acquiring goods and services which shall give full and fair opportunity to Nigerian indigenous contractors and companies.	Full and fair opportunity for Nigerians.
16.	The award of contract shall not be solely based on the principle of the lowest bidder where a Nigerian indigenous company has capacity to execute such job and the company shall not be	Principle of bid evaluation.

disqualified exclusively on the basis that it is not the lowest financial bidder, provided the value does not exceed the lowest bid price by 10 percent.

17. (1) For all proposed projects, contracts, subcontracts and purchase orders estimated by operator to be in excess of $1,000,000 (USD), the operator shall provide to the Board for approval, advertisements, pre-qualification criteria, technical bid documents, technical evaluation criteria and the proposed bidders lists.

List of contracts to be submitted to the Board.

(2) The operator or project promoter shall submit sufficient information with the notifications to enable the Board asses the subject matter and to be satisfied that the requirements for Nigerian content have been complied with by the operator or project promoter.

18. (1) The operators shall submit to the board, 30 days prior to the first day of each quarter, a list of all contracts, subcontracts an purchase orders exceeding $1,000,000 (USD) which will be bided or executed in the upcoming quarter.

Submission of job forecasts, etc, to Board.

(2) For each contract, subcontract and purchase order, the list shall provide –

(a) a description value of the service or item to be contract Ed or purchased (material and equipment specifications shall be provided upon request);

(b) Estimated value of contract, subcontract or purchase order;

(c) The Invitation To Tender (ITT) issuance date, ITT closure date and award date; and

(d) Any other information requested by the Board for the purposes of implementing the provisions of this Act.

19. Subject to section 17 of this Act, the Board shall advice the operator, by the first day of each quarter, which contracts and sub-contracts have been designated by the Board for review and shall advise the operator of the outcome of such review.

Designing of contract for review.

20. Prior to issuing of adverts or pre-qualification notification to prospective bidders, the operator or the project promoter shall submit to the Board the following for review and approval:-

(a) A description of the scope of work;

(b) A copy of the pre-qualification notification, if these

Document to be submitted to the board during pre-qualification stage.

document s differ from the standard pre-qualification notification previously reviewed by the Board;

(c) A list of companies, indicating locations of head offices, to whom questionnaires shall be issued; and

(d) Anticipated dates for closure of prequalification and commencement of technical evaluation, issuance of an Invitation To Tender (ITT).

21. For the purposes of compiling a bidding list for any project, the operator, project promoter or alliance partner shall submit to the Board, prior to issuing an Invitation To Tender (ITT).

Document to be submitted to the Board during bidders' list stage.

(a) A list of bidders;

(b) A copy of the Invitation To Tender (ITT) (the Board shall advise the operator of its requirements in this regard on a case by case basis)

(c) A description of corporate ownership (main shareholders by percentage) of bidders;

(d) Location of any Nigerian based office, plant or facility;

(e) Anticipated dates for closure of bids and award of contract or purchase order; and

(f) Any other information requested by the Board.

22. Prior to the award of contract, subcontract or purchase order to the selected bidder, the operator shall submit to the Board –

Documents to be submitted to the Board during award stage.

(a) The name of the selected contractor or vendor;

(b) A list of designated sub-contractors or sub-vendors;

(c) Where applicable, a list of proposed sub-suppliers;

(d) For construction or service contracts; the estimated Nigerian employment (in person-hours);

(e) Contract or purchase order commencement and completion dates;

(f) Award Notification Form signed by an appropriate official of the operation dates;

(g) Statement of award rationale (evaluation of bids) showing–

(i) Percentage difference in price between selected bidder and each bid,

(ii) A primary location of work associated with each bidder,

(iii) Estimates of Nigerian content associated with the bid of each bidder calculated in accordance with the definition of Nigerian content to be provided by the Board, and

(iv) Other information relevant to the evaluation of bidders including where applicable, a summary of the technical, commercial and Nigerian content aspects of the bid evaluations.

23. Upon assessment of the documentation received in compliance with section 19 of this Act, the Board shall advise the operator, within 10 days, which contracts, subcontracts and purchase orders have been designated by the Board for review, and the designated contracts, subcontracts and purchase orders shall be reviewed to the satisfaction of the Board

Designation and review of contracts.

24. (1) the operator shall submit to the Board, within 30 days at the end of each quarter, a listing of all contracts, subcontracts and purchase orders exceeding $1,000.000 (USD) or such other limit as the Board may determine, awarded in the previous quarter.

Quarterly procurement report

(2) this listing shall provide –

(a) A list of all items and services;

(b) Value of contract or purchase order;

(c) Name of successful contractor or vender;

(d) A primary location of work;

(e) Estimates of Nigerian content;

(f) Commencement and completion date; and

(g) Any other information required by the Board for the purposes of implementing the provisions of this Act.

25. Where applicable, before carrying out any work or activity in Nigerian, the operator or other submitting a plan shall establish in the Catchment Area where the project is to be located, a project office where project management and procurement decision making are to take place, to the satisfaction of the Board.

Establishment of project office.

26. The operator shall locate, within the project office, personnel with decision-making authority in accordance with a list of personnel to be approved by the Board. — Personnel for local office.

27. Subject to section 25 of this Act, the Board shall have powers to require any operator to maintain an office in a Community where the operator has significant operations. — Office in community of operation.

28. (1) Subject to section 10(1)(b) of this Act, Nigerians shall be given the first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian oil and gas industry. — First consideration for employment and training.

(2) The Board shall ensure that the operator or project promoter maintains a reasonable number of personnel form areas it has significant operation.

29. The plan submitted by any operator or project promoter for any project shall contain an Employment and training Plan (E and T Plan) which shall include – — Submission of employment and training plan.

(a) An outline of the –

i. Hiring and training needs of the operator or project promoter and operator's major contractors with a breakdown of the skills needed,

ii. Anticipated skill shortages in Nigerian labour force.

iii. Project specific training requirements, and

iv. Anticipated expenditures that will be made directly by the operator in implementing the E and T Plan as a forecasted and actual expenditure;

(b) a time frame for employment opportunities for each phase of project development and operations, to enable members of the Nigerian workforce to prepare themselves for such opportunities;

(c) the operator or project promoter shall report to the Board quarterly on employment and training activities for the reporting period and compare this to the E and T Plan and the report shall include -

(i) number of new employees hired during the year,

(ii) Their place of residence at the time of hiring, and

(iii) Their employment status, and

(d) any other information required by the Board for the purposes of implementing the provisions of this Act.

30. Where Nigerians are not employed because of their training, the operator shall ensure, to the satisfaction of the Board, that every reasonable effort Is made within a reasonable time to supply such training locally or elsewhere and such effort and the procedure for its execution shall be contained in the operator's E and T Plan. — Training of Nigerians.

31. (1) For each of its operations, the operator shall submit to the Board a succession plan for any position not held by Nigerians and the plan shall provide for Nigerians to understudy each incumbent expatriate for a maximum period of four years and at the end of the four year period the position shall become Nigerianised. — Requirement for succession plan.

(2) All indigenous (Nigerianised) positions shall attract salaries, wages and benefits as provided for in the operators' conditions of service for Nigerian employees.

(3) All conditions of service and staff demography for all operators shall be made available to the board.

32. For each of its operations, an operator or project may retain a maximum of five percent of management positions as may be approved by the Board as expatriate positions to take care of investor interests. — Allowance for expatriate position.

33. (1) upon the commencement of this Act, the operators shall make application to, and receive the approval of, the Board before making any application for expatriate quote to the Ministry of Internal Affairs or any other agency or Ministry of the Federal Government. — Approval of Board for application for Expatriates.

(2) The application shall be detailed and shall include

(a) job titles;

(b) description of responsibilities;

(c) The duration of the proposed employment in Nigerian; and

(d) Any other information required by the Board for purposes of implementing the provision of this Act.

34. Notwithstanding the provisions of the schedule to this Act, all projects or contracts whose total budget exceeds $100 million (USD) shall contain a “Labour Clause” Mandating the use of a — Requirement for Labour Clause.

	minimum percentage of Nigerian labour in specific cadres as may be stipulated by the Board.	Schedule
35.	All operators and companies operating in the Nigerian oil and gas industry shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company.	Compliance by the operators.
36.	The Minister shall make regulations with requirements and targets for the growth of research and development in the Nigerian oil and gas industry.	Research and development regulations.
37.	For very project for which a plan is submitted, an operator shall carry out a programme and make expenditure, to the satisfaction of the Board, for the promotion of education, attachments, training, research and development I Nigeria in relation to its work programme and activities.	Programme for research and development
38.	(1) the operator shall submit to the board and update, every six months, the operator's Research and development Plan (R and D Plan). (2) The R and D Plan shall – (a) Outline a revolving three to five year plan for oil and gas related research and development initiative to be undertaken in Nigeria, together with a breakdown of the expected expenditures that will be made in implementing the R and D Plan; and (b) Provide for public calls for proposals for research and development initiatives associated with the operator's activities.	Submission and content of R and D Plan.
39.	The operator shall report to the Board, on quarterly basis, with respect to its R and d activities and the Board shall compare these activities to the operators R and D Plan.	Report on R and D plan
40	(1) The Minister shall make regulations establishing the minimum standards, facilities, personnel and technology for training in the oil and gas industry.	Regulations for training
(2)	The regulations shall specify modalities for involving operators as partners in training and development.	
41.	(1) The Minister shall make regulations setting out targets to ensure (a) Full utilization and steady growth of indigenous companies engaged in exploration;	Regulations for further growth of indigenous capacity

(b) seismic data processing;

(c) engineering design;

(d) reservoir studies,

(e) manufacturing and fabrication of equipment; and

(f) other facilities as well as the provisions of other support services for the Nigeria oil and gas industry.

(2) International or multinational companies working through their Nigerian subsidiaries shall demonstrate that a minimum of 50% of the equipment deployed for execution of work are owned by the Nigerian subsidiaries.

42. The Minister shall make regulations which shall require any operator or company or its professional employees engaged in the provision of engineering or other professional services in the Nigerian oil and gas industry to be registered with the relevant professional bodies in Nigeria.

Regulations for registration with Nigerian professional bodies.

43. Each operator shall carry out a programme in accordance with the country's own plans and priorities, to the satisfaction of the Board, for the promotion of technology transfer to Nigeria in relation to its oil and gas activities.

Programme for technology transfer plan

44. The operator shall submit to the Board annually a plan, satisfactory to the Board, setting out a programme of planned initiatives aimed at promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies.

Submission of technology transfer plan.

45. The operator shall give full and effective support to technology transfer by encouraging and facilitating the formation of joint ventures, partnering and the development of licensing agreements between Nigerian and foreign contractors and service or supplier companies agreements for all such joint ventures or alliances shall meet the requirements of Nigerian content development to the satisfaction of the Board.

Support of technology transfer

46. The operator or project promoter shall submit a report to the board annually describing its technology transfer initiatives and their results and the Minister shall make regulations setting targets on the number and type of such joint venture or alliances to be achieved for each project.

Technology transfer report.

47. The Minister shall make regulations which shall require any operator to invest in or set up a facility, factory, production unit or other operations within Nigeria for the purposes of carrying out any production, manufacturing or for providing a service otherwise imported into Nigeria.

Regulations to establish operations in Nigeria.

48. The Minister shall consult with the relevant arms of Government on appropriate fiscal framework and tax incentives for foreign and indigenous companies which establish facilities, production units or other operations in ingrain for purposes of carrying out production, manufacturing or for providing services and goods otherwise imported into Nigeria.

Fiscal incentives.

49. (1) All operators, project promoters, alliance partners and Nigerian indigenous companies engaged in any form of business, operations in the Nigerian oil and gas industry, shall insure all insurable risks related to it oil and gas business, operations or contracts with an insurance company, through an insurance broker registered in Nigeria under the provisions of insurance Act as amended.

Insurance and reinsurance business Cap. 117 LFN 2004.

(2) Each operator in subsection (1) of this section shall submit to the Board, a list of all insurance companies and insurance brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained and the expenditures made by the operator

(3) The Insurance programme shall include -

(a) A comprehensive report of –

(i) Insurance covers obtained in the pass six months of all insurance by expenditure,

(ii) a forecast of insurance covers required during the next six months, and

(iii) the projected expenditure for the covers;

(b) a list of –

(I) all insurance companies brokers through which insurance covers were obtained in the past six months,

(ii) the class of insurance cover obtained, and

(iii) the expenditure made by the operator; and

(c) The annual insurance premium budget for the past one year in

naira and foreign currencies.

50. No insurance risk in the Nigerian oil and gas shall be place offshore without the written approval of the National Insurance Commission which shall ensure that Nigerian local capacity has been fully exhausted.

Approval for offshore insurance.

51. (1) All operators, contractors and other entities engaged in any operation, business or transaction in the Nigerian oil and gas industry requiring legal services shall retain only the services of a Nigerian legal practitioner or a firm of Nigerian legal practitioners whose office is located in any part of Nigeria

Legal services.

(2) All operators shall submit to the Board, every six months. Its Legal Services Plan (LSP).

(3) The LSP shall include –

(a) Comprehensive report –

(i) Legal services utilized in the past six months by expenditure,

(ii) A forecast of legal services required during the next six months, and

(iii) The projected expenditure for the services;

(b) a list of –

(i) external solicitors utilized for legal services in the past six months

(ii) the nature of work done, and

(iii) the expenditure made by the operator; and

(c) the annual legal services budget for the past one year in naira and foreign currencies.

52. (1) All operators, contractors and any other engaged in any operation, business or transaction in the Nigerian oil and gas industry requiring financial services shall retain only the services of Nigerian financial institutions or organizations, except where, to the satisfaction of the Board, this is impracticable.

Financial services

(2) All operators shall submit to the Board every six months its financial services plan. (FSP)

(3) the FSP shall include –

(a) financial services utilized in the past six months by expenditure.

(b) a forecast of financial services required during the next six months

(c) the projected expenditure for the services.

(d) a list of –

(i) Financial services utilized in the past six months

(ii) The nature of financial services provided, and

(iii) The expenditure for financial services.

(e) a list of –

(i) Financial services utilized in past six months,

(i) The nature of financial services provided, and

(ii) The expenditure for financial services made by the operator or its main contractors;

(f) all operators, contractors and sub-contractors shall maintain a ban account in Nigeria in which it shall retain a minimum of 10 percent of its total revenue accruing from its Nigerian operations.

53. As from the commencement of this Act, all operators, project promoters, contractors and any other entity engaged in the Nigerian oil and gas industry shall carry out all fabrication and welding activities in the country.

Prohibition of importation of welded products.

54. The Board shall establish an oil and gas e-marketplace which shall –

Petroleum e-marketplace.

(a) Provide a virtual platform to facilitate the transactions required for efficient delivery of goods and services in the industry;

(b) Provide functional interface with he Joint Qualification System and provide a universal transparent governance structure drawn from industry stakeholder;

(c) Perform all other function, roles and responsibilities to be set out in the regulations to be made by the Minister in accordance with the provisions of this Act.

(d) Track and monitor the Nigerian content performance of operators, project promoters as well as suppliers and service providers with the provision of relevant feedback.

55. The Board shall establish, maintain and operate a Joint Qualification System (JQs) in consultation with industry stakeholders which shall be administered in accordance with provisions set out in the regulations to be made by the Minister in accordance with the provisions of this Act..

Establishment of joint Qualification System.

56. The Joint Qualification System shall constitute an industry databank of available capabilities and shall be used for –

Functions of the Joint Qualification System.

(a) Sole system for Nigerian content registration and pre-qualification of contractors in the industry;

(b) Verification of contractors' capacities and capabilities;

(c) Evaluation of application of Nigerian content in the operation of oil companies and contractors;

(d) Data base for national skills development pool; and

(e) Ranking and categorization of old service companies based on capabilities and Nigerian content.

57. The Board shall set up a consultative body to be known as the Nigerian Content Consultative Forum (NCCF) which shall provide a platform for information sharing and collaboration in the Nigerian oil and gas industry with respect to –

Setting up of Nigerian Content Consultative Forum.

(a) Upcoming projects in the oil and gas industry;

(b) Information of available local capabilities, and

(c) Other policy proposals that may be relevant to Nigerian content development.

58. The Nigerian Content Consultative Forum shall be made up of key industry stakeholders, government agencies and representatives from the following sectors –

Composition of Nigerian Content Consultative Forum.

(a) Fabrication;

(b) Engineering;

(c) Finance services, legal and insurance;

(d) Shipping and logistics;

(e) Materials and manufacturing;

(f) Information and communication technology;

(g) Petroleum association of Nigeria;

(h) Education and training; and

(i) Any other professional services nominated by the Board.

59. The Nigerian Content Monitoring Board shall undertake an effective monitoring of the implementation of the provisions of this Act. — Powers of NCMB to monitor implementation of this Act.

60. Within sixty days of the beginning of each year, each operator shall submit to the Board their annual Nigerian Content Performance Report covering all its projects and activities for the year under review. — Requirements for submission of Nigerian Content Performance Report.

61. Subject to section 60, the report shall specify by category of expenditure the Nigerian content on both a current and cumulative cost basis and shall set out – — Content of performance report.

(a) employment achievement in terms of hours of days worked by Nigerian and foreign workers and their status; and

(b) (Procurement achievement in terms of quantity, tonnage of locally manufactured materials and materials of foreign origin.

62. The Board shall undertake regular assessment and verification of the Nigerian Content Performance Report field by all operators in compliance with the provision of this Act as may be considered appropriate by the Board. — Assessment and verification of performance report.

63. The Board shall issue directives to operator, contractors and other entities or persons in order to develop a process to finance reporting of activities relating to any aspect of this Act. — Directives to facilitate reporting.

64. For the purposes of assessment and verification, all operators and contractors shall provide the Board or its designated agent with access to their facilities and all documentation and information required for submitting the Nigerian content reported. — Access to facilities for assessment and verification purposes.

65. The operator shall ensure that its partners, contractor and subcontractors are contractually bound to report Nigerian content information to the operator and, if so requested by the Board, directly to the Board, and to allow the Board or its designated agent access to their records for the purposes of assessment and verification of Nigeria content information reported to the operator of the Board. — Requirements for third party access and reporting.

66. The operator shall effectively communicate its Nigerian content policies and procedures to its contractors and subcontractors and to monitor and enforce their compliance.

Responsibility to communicate on Nigerian content policies to contractors.

67. The Board shall conduct workshops, conference, seminars, symposia and any other public forum considered as appropriate for the benefit of operators, contractors, the public and other stake holders to enhance the implementation of the provisions of this Act.

Responsibility of Board for enlightenment on Nigerian content .

68. An operator, contractor or subcontractor who carries out any project contrary to the provisions of this Act. Commits an offence and is liable upon conviction to a fine of five percent of the project sum for each project in which the offence is committed or cancellation of the project.

Offences and penalties.

PART II – ESTABLISHMENT OF THE NIGERIAN CONTENT MONITORING BOARD

69. (1) There is established the Nigerian Content Monitoring Board (in this Act referred to as "the Board") which shall have the functions and powers confirmed on it by this Act.

Establishment of the Nigerian Content Monitoring Board.

(2) The Board –

(a) Shall be a body corporate with perpetual succession and a common seal; and

(b) May sue and be sued in its corporate name.

70. The functions of the Board shall be to –

Functions of the Board.

(a) Implement the provisions of this Act;

(b) Implement the regulations made by the Minister in relation to any aspect of this act;

(c) Supervise, coordinate, administer, monitor and manage the development of Nigerian content in the Nigerian oil and gas industry;

(d) Supervise, coordinate, administer and monitor the implementation and development of Nigerian content as specified in the Schedule to this Act in the operations of operators, contractors and all other entities in the Nigerian oil and gas industry;

Schedule

(e) Appraise, evaluate and approve the Nigerian content plans and

reports submitted to the Board in compliance with the provisions of this Act;

(a) Award Certificate of Authorization and content reviews of the Nigerian content plans and reports submitted to the Board in compliance with the provisions of this Act.

(b) Administer an operate the e-market place and Joint Qualifications Systems set up in accordance with the provisions of this Act;

© Assist local contractors and Nigerian companies to develop their capabilities to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;

(d) Make procedures to guide the implementation of this Act and ensure compliance with all the provisions of this Act;

(e) Monitor and coordinate the Nigerian content performance of all operators in accordance with the provisions of this Act.

(f) Make auditing procedures and conduct regular audits for the purposes of monitoring and implementing compliances with the provisions of this Act;

(g) Provide guidelines, definitions and measurement on Nigerian content and Nigerian content indicator to be utilized throughout the industry;

(h) Conduct studies, researches and investigations that may further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;

(I) Organize conferences, workshops, seminars, symposia, training and shows and other public education for a to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry.

(j) Delegate any of its functions to any agent or operative appointed by the Council; and

(k) Do legally anything necessary to be done to facilitate the carrying out of its functions.

71. (1) There is established for the Board the Governing (in this Act referred to as the "Council") which shall conduct the affairs of the Board.

Establishment of the Governing Council of the Board.

(2) The head office of the Council and the Board shall be located in any of the oil or gas producing States of the Federation.

(3) The council may establish branch offices of the Board in any of the gas or oil producing states of the Federation.

72. The Council shall consist of – Composition of the Council.

(a) A Chairman who shall be the Minister of Petroleum Resources;

(b) A representative of –

(i) Nigerian National Petroleum Corporation,

(ii) The agency in charge of technical regulation of the industry,

(iii) Ministry of Petroleum Resources,

(iv) Petroleum Technology Association of Nigeria,

(v) Nigerian Content Consultative Forum.

(vi) Council of Registered Engineers of Nigeria.

(vii) National Insurance Commission; and

(c) Executive Secretary who shall be the Secretary of the Council;

73. (1) The Chairman and members of the Council shall be appointed by the President and shall be persons of proven integrity and ability. Appointment of Chairman and membership of the Council.

(2) The membership of the Council shall be on part time basis.

74. The Executive Secretary shall be on full time status. Status of appointment of Executive Secretary.

75. (4) The Council shall have power to – Powers of the Council.

(a) Manage and superintend the affairs of the Board;

(b) Make rules and regulations for the proper functioning of the Board;

© Employ and pay the staff of the Board appropriate remuneration commensurate in scale with that of staff in organizations of similar nature; and

(d) Enter into any negotiation, agreement and contractual

relationship as may be necessary or expedient for the discharge of the functions of the Board.

76. Subject to the provisions of section 75 of this Act, the chairman and members of the Council shall each hold office – Tenure of office.

(a) For a term of four years and may be re-appointed for a further term of four years and no more; and

(b) On such terms and conditions as may be specified in their letters of appointment.

77. A person shall cease to hold office as a member of the Council if Cessation of membership of Council.

(a) He dies;

(b) He becomes bankrupt;

(c) He is convicted of a felony or any offence involving dishonesty or fraud;

(d) He becomes of unsound mind or is incapable for any reason of carrying out his duties;

(e) He is guilty of a serious misconduct in relation to his duties;

(f) In the case of a person possessed of a professional qualification, he is disqualified or suspended, other than at his own request, from practicing his profession in nay part of the world by an order of a competent authority made in respect of that member; or

(g) He resigns his appointment by written notice under his hand to the President.

78. Where a member cases to build to hold office for any reason before the expiration of his term another person representing the same interest as that member shall be appointed in his place to finish the unexpired resident of the term. Replacement of membership.

79. The President may remove a member if he is satisfied that it is not in the interest of the Board or the public that the member continues in that office. Removal of members.

80. A member of the Council shall be paid such allowances and expenses as may be determined by revenue Mobilization, Allowance and fiscal Commission using the scale applicable in Nigerian oil and gas industry. Remuneration of members.

81.	(1) there shall be an Executive Secretary for the Board, who shall be appointed by the President (2) The Executive Secretary shall be – (a) The Chief Executive and Accounting officer of the Board. (b) Responsible to the Council for the execution of the policies and the administration of the daily affairs of the Board; and (c) A graduate of at least 15 years with cognate experience in the Nigerian oil and gas industry. (3) The Executive Secretary – (a) Shall be appointed for a term of four years in the first instance; and (b) May be appointed for a further term of four years and no more.	Appointment of Executive Secretary, his functions and tenure Secretary. Terms of office.
82.	The Executive Secretary shall be paid such remuneration as may be specified in his letter of appointment or as determined by the Revenue Mobilization, allocation and fiscal Commission using the scale applicable in the Nigeria oil and gas industry.	Remuneration of the Executive Secretary.
83.	The Executive Secretary shall cease hold of office if any of the conditions specified in section 77 pertaining to cessation of membership of the Council applies to him.	Cessation of office.
84	The Executive Secretary may resign his appointment by a written notice under his hand delivered to the president.	Resignation of appointment.
85.	The Council may appoint for the board such number of employees as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the functions of the Board and shall pay them remunerations and allowances as it determines using the scale applicable in the Nigeria oil and gas industry.	Other staff.
86.	The Council shall have power to appoint for the Board either directly or on secondment from the public Service of the Federation, such number of employees as may, in the opinion of the Council, be required to assist the board I the discharge of any of its functions under this Act.	Direct appointment and secondment
87.	The person seconded under section 85 may elect to be transferred to the service of the Board and the previous service he may have rendered in the public service shall count as service to the Board for the purpose of any pension subsequently payable by the Board.	Transfer of service.

88. There shall be established in the head office of the Board. — Directorates

(a) The Directorate of finance and personnel Management;

(b) The Directorate of Planning, Research and Statistics;

(c) The Directorate of Monitoring and Evaluation;

(d) The Directorate of Legal Services; and

(e) Any other Directorate which the Council may establish.

89. (1) The Service in the Board shall be approved service for the purpose of the Pension Reform Act. — Service in the Board.

(2) The offices and other persons employed in the Board shall entitled to pension, gratuities and other retirement benefits as are enjoyed by persons holding equivalent ranks in the Civil Service of the Federation. — Act No. 2, 2004.

(3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

90. (1) the Board shall establish and maintain a fund to which all monies accruing to it shall be paid into or from which shall be defrayed all expenditure incurred by the Board. — Funds of the Board.

(2) the fund of the Board shall consist of –

(a) All subventions and budgetary allocations provided by the Federal Government;

(b) Sums accruing to the Board by way of donations, gifts, grants, endowment, bequest or otherwise;

(c) Interest and revenue accruing from savings and investments made by the Board;

(d) Loans, which may be required from time to time for the objects of the Board, provided that the Board shall not, without the prior approval of the President, borrow money in compliance with the provisions of the fiscal responsibility Act; and — Act No. 31 of 2007.

(e) Other revenues accruing to the board from any other source.

91. The Council shall, not later that 30th September of each year, submit to the National Assembly, through the Minister, an estimate of the projected expenditure of the Board during the next succeeding year — Budgetary and estimates report.

and shall include a copy of the audited accounts of that year and a copy of the auditor's report.

92. (1) The Board may accept gifts of money. Land or other property on such terms and conditions, if any as may be specified by the person or organization making gift. — Gift to the Board.

(2) The Board shall not accept any gift if the conditions attached thereto are inconsistent with the functions of the Board under this Act.

93. The Council shall approve any expenditure of the Board and shall – — Expenditure and account.

(a) Issue proper accounts and records of the transactions and affairs of the Board and ensure that all expenditure is duly authorized;

(b) Prepare in respect of each financial year, a statement of account in such form as the Auditor-General may direct.

94. The audit of the Council shall be in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, 1999. — Audit.

95. (1) For the purpose of providing offices and premises necessary for the performance of its functions under this Act. The Board may, subject to the Land Use Act – — Acquisition of land or interest in land for office use. Cap. L5 LFN, 2004.

a) Purchase or lease ay interest in land or other property; and

(b) Construct offices and premises, equip and maintain same.

(2) the Board may, subject to the Land Use Act, sell or lease out any office or premises held by it, which office or premises is no longer required for the performance of its functions under this Act.

96. The provisions of the Public Officer's Protection Act shall apply in relation to any suit instituted against any officer or employment of the board in his capacity as such. — Legal proceeding Cap P41 LFN, 2004.

97. A member of the Council, the Executive Secretary, any officer or employee of the Board shall be indemnified out of the assets of the Board against any proceeding, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member, Executive Secretary, officer or employee of the Board. — Indemnity of offices.

98.	A notice, summons or other document required or authorized to be served upon the Board under this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the head office of the Board.	Service of documents.
99.	The Executive Secretary may with the approval of the Council engage persons with knowledge or experience in Nigerian contents development or in matters relevant to the functions of the Board to assist the board in the performance of its functions.	Engagement of professionals and other staff.
100.	The Minister man issue to the Board directives in relation to Nigerian content development with respect to the application, administration and implementation of this Act.	Power of the Minister to give directive to the Board.
101.	(1) The Minister shall make regulations generally for the purpose of carrying out or giving effect to the provisions of this Act.	Regulation.
	(2) The Minister shall conduct a review of the Schedule to this Act every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry.	Schedule.
	(3) the Council shall make standing orders regarding its proceeding or those of its standing committees in consultation with the Minister.	
102.	Subject to the approval of the Minister, the Board shall conduct a review of the Schedule to this Act at such intervals as it may determine but not later than every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry for onward transmission to the National Assembly.	Review of the Schedule.
103.	Open the commencement of this Act, all functions and powers conferred on any agency or department of the Federal Government of Nigerian to carry out the implementation of Nigerian content development or policy in the Nigerian oil and gas industry by any law or enactment is hereby transferred to the Nigerian Content Monitoring Board established under this Act.	Savings and transitional provision.
104.	(1) A fund to be known as the Nigerian Content Development Fund (the "Fund") is established for purposes of funding the implementation of Nigerian content development in the Nigeria oil and gas industry.	Establishment of Nigerian Content Development Fund.

(2) The sum of one per cent of every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any project, operation, activity or transaction in the upstream sector of the Nigerian oil and gas industry shall be deducted at source and paid into the Fund.

(3) The Fund shall be managed by the Nigerian Content Development Board and employed for projects, programmes, and activities directed at increasing Nigerian content in the oil and gas industry.

105. The Nigerian Content Monitoring Board in conjunction with NIMASA shall have powers to enforce compliance with relevant sections of Coastal and Inland Shipping (Cabotage) Act in relation to matters pertaining to Nigerian content development.

Enforcement of compliance Act No. 5, 2003

106. In this Act –

Interpretation.

"Joint Qualification System" means the industry databank of available capacities and capabilities in the Nigerian oil and gas industry. "Labour Clause" means a clause mandating the use of a minimum percentage of Nigerian Labour in professional cadres in all contracts awarded in the Nigerian petroleum industry above a threshold value as stipulated by the Minister from time to time;"Minister" means the Minister of Petroleum Resources;

"Nigerian company" means a company formed and registered in Nigeria in accordance with the provision of Companies and Allied Matters Act with not less than 51% equity shares by Nigerian;

"NNPC" means Nigeria National Petroleum Corporation;

"NNPC Joint Ventures Partners" means oil companies that executed various petroleum agreements with NNPC;

"Nigerian content" means the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry;

"Nigerian content indicator" means a percentage rating of a company based on specific criteria defined on the basis of values ascribed to each criterion;

"Nigerian oil gas industry" means all activities connected with the exploration, development, exploitation, transportation and sale of

Nigerian oil and gas resources including upstream and downstream oil gas and gas operations; "Operators" means the Nigeria National Petroleum Company (NNPC), its subsidiaries and joint venture partners and any Nigerian, foreign or international oil and gas company operating in the Nigerian oil and gas industry under any petroleum arrangement;

"Partner" means any foreign company working on any project in partnership or as major contractor to an operator;

"Plan" means a Nigerian content plan submitted in compliance with any aspect of this Act;

"oil and gas e-marked place" means a virtual platform for buyers and sellers of goods and services in the oil and gas industry that allows for speedy and transparent transactions.

107. This Act may be cited as the Nigerian Oil and gas Industry Content Development Act, 2010. Citation.

SCHEDULE

Sections 3(2), 11(1), (2), (3) and (4), 34 and &0(d)

CODE DESCRIPTION	NIGERIAN CONTENT (NC) LEVEL	
FEED AND DETAILED ENGINEERING AND OTHER ENGINEERING SERVICE		
Description	NC%	MEASURED UNIT
FEED and Detailed engineering on Onshore facilities	90%	Man-Hour
FEED and Detailed engineering on offshore facilities Shallow Water		
FEED and Detailed engineering on LNG facility	90%	Man-Hour
FEED and Detailed engineering on Gas gathering	50%	Man-Hour
Facilities	90%	Man-Hour
FEED and Detailed engineering on Deep Offshore Facilities – Hull and topside modules	80%	Man-Hour
FEED and Detailed engineering on Deep Offshore Floating concrete structure	80%	Man-Hour
FABRICATION AND CONSTRUCTION		
Description		
Terminal/Oil Movement Systems	80%	Volume
Drilling Modules/packages		75% Tonnage
Piles, Anchors, Buoys, Jackets bridges, Flare Booms, Storage Tanks, Pressure Vessels	80%	Tonnage
Umbilical	60%	Tonnage
Topside module (process modules and storage modules)	50%	Tonnage
Accommodation module	70%	Tonnage
Subsea systems	60%	Tonnage
Pipeline systems	100%	Tonnage
Risers	100%	Tonnage
Utilities module/package	50%	Tonnage

MATERIALS AND PROCUREMENT

Description		
Steel plates, flat sheets, sections	100%	Tonnage
Steel pipes	100%	Tonnage
Low Voltage Cables	90%	Length
High Voltage Cables	45%	Length
Valves	60%	Number
Drilling Mud – Baryte, Bentonite	60%	Tonnage
Cement (Portland)	80%	Tonnage
Cement (Hydraulic)		60%
Tonnage		
Heat exchangers	50%	Number
Steel ropes	50%	Tonnage
Protective paints	60%	Litres
Glass Reinforced Epoxy (GRE) pipes	60%	Tonnage

WELL AND DRILLING SERVICES/PETROLEUM TECHNOLOGY

Description		
Reservoir services	75%	Spend
Well completion services (permanent gauges and Intelligent wells)	80%	Spend
Wire line services (electric open holes, electric Cased hole, slickline)	45%	Spend
Logging while Drilling (LWD) services	75%	Man-Hour
Measurement While Drilling (MWD) (direction and Inclination/Gamma ray)	90%	Man-Hour
Production drilling service	85%	Man-Hour
Performance services (T and P)	90%	Man-Hour
2D seismic data acquisition services	85%	Length
Well Overhauling/Stimulation Services	85%	Man-Hour
Wellhead Services	85%	Man-Hour
Directional Surveying Services	100%	Man-Hour
Cutting Injections/Cutting Disposal Services	100%	Man-Hour

Recutting Inspection Services	85%	Man-Hour
Cased Hole Logging Services (Gyro, perforation, Gauges, Gyru, PLT, perforation, PLT, Gauges)	90%	Man-Hour
Well, Watch Services	70%	Man-Hour
Cement service	75%	Man-Hour
Coiled Tubing Services	75%	Man-Hour
Pumping Services	95%	Man-Hour
Fluid/Bottom Hole Sampling Services	80%	Man-Hour
OCTS Services (Cleaning, hardbanding, recutting Rethreading, storage)	95%	Man-Hour
Well Crisis Management Services	90%	Man-Hour
Directional Drilling Services	90%	Man-Hour
Other Drilling Services	80%	Man-Hour
Petroleum Interpretation Services	75%	Volume/Man-Hour
Extended Well Test/Early Production Services including Provision of Floating or Jackup Production Unit	50%	Spend
Provision of all Catering, Office and Security Service at Location/Platform	80%	Spend
Rental of Drill Pipe	75%	Soend
Electric Open Hole	45%	Spend
Electric seased Holes	100%	Spend
Slickline	100%	Spend
Well head safety panels	100%	Spend
Chemical:		
Drilling, process, Maintenance	90%	Spend
RESEARCH & DEVELOPMENT SERVICES (R and D) – Related in Operator's in-country		
Description		
Engineering Studies – Reservoir, facilities, Drilling etc	60%	Spend
Geological and Geophysical Services	80%	Spend
Safety and environmental Studies	75%	Spend
Local Materials substitution studies.	75%	Spend
EXPLORATION, SUBSURFACE, PETROLEUM ENGINEERING AND SEISMIC		

Description		
3D Seismic data acquisition services	100%	Spend
4D Seismic data processing services	55%	Spend
2D Seismic data processing services	100%	Spend
Geophysical interpretation services	90%	Spend
Geological evaluation services (Organic Geochemistry, Petrology, Digenesis, Giostratigraphy, Find Characterization PVT, Core Analysis, Flooding)		80% Spend
Mud Logging Services	90%	Spend
Coring services	90%	Spend
Well testing service	55%	Spend
Drilling rigs (swamp)	60%	Man-Hour
Drilling rigs (Semi submersibles/Jack ups/Others)	55%	Man-Hour
Drilling rigs (land)	70%	Man-Hour
Work-over Rigs (Swamp)	70%	Spend
Snubbing Services	80%	Spend
Liner Float, Hangers and Running Equipment Services	55%	Spend
Field Development Plan	100%	Spend
2D Seismic Data Interpretation Services	100%	Spend
3D Seismic Data Interpretation Services	100%	Spend
4D Seismic Data Interpretation Services	55%	Spend
Drilling rigs (land)	70%	Man-Hour

TRANSPORTATION/SUPPLY/DISPOSAL SERVICES

Description		
Tugs/Remotely operated Vehicle (ROV) support/ Diving support vessels	65%	Spend
Barges	95%	Spend
Accommodation platforms/vessels	90%	Spend
Disposal/distribution and waste transport services	100%	Spend
Rental of Cranes and Special Vehicles	75%	Spend
Freight Forwarding/logistics Management Services	65%	Spend
Supply Base/Warehouse/Storage Services	75%	Spend
Track Package/product Transportation Services	100%	Spend

HEALTH, SAFETY AND ENVIRONMENT

Description		
Site clean up service	100%	Man-hour
Pollution control	45%	Spend
Waste Water Treatment Services	65%	Man-Hour
Fire and Gas Protection System Services	50%	Man-Hour
Ventilation/Healing/Sanitary Services	85%	Man-Hour
Waste Disposal/Drainage Services	100%	Man-Hour
Industrial Cleaning Services	100%	Man-Hour
Disposal/Distribution and Waste Transport Services etc	100%	Spend
Safety/Protection/Security/Firefighting System Services	90%	Man-Hour
Preservation of Mechanical and electrical Components Services	95%	Man-Hour
Equipment brokerage services		75% Spend
Temporary Accommodation/Camp Services	80%	Spend
Catering Services	100%	Spend
Cleaning and Laundry Services		100% Spend
Security Services	95%	Spend
Medical Services	60%	Spend
Equipment Brokerage Services		75% Spend
Other Supporting Services	85%	Spend
Pollution Control	90%	Man-Hour/Spend

INFORMATION SYSTEMS/INFORMATION TECHNOLOGY/COMMUNICATION SERVICES

Description		
Network Installation/Support Services	85%	Spend
Software Development and Support services	45%	Spend
Computer Board Modeling Services	51%	Spend
Computer Based Simulation/training Progress Services	51%	Spend
CAL/CAP Services	51%	Spend
Hardware Installation Support Services	50%	Spend
Operating System Installation/Support Services	50%	Spend
User Support/Help Desk Services	60%	Spend
Library Services	70%	Spend
IT Management Services	50%	Spend
Data Management Services	50%	Spend
Telecommunication Installation/Support Services	60%	Spend
Data and Message transmitting Services	60%	Spend
Rental of Telecommunication Lines	75%	Spend
Telecommunication Subscription Services	85%	Spend
Public Address System Services	95%	Spend
Other Information Systems (IS)/Information Technology (IT) Services	75%	Spend

MARINE, OPERATIONS AND LOGISTICS SERVICES

Description		
Telecommunication Services	90%	Man-Hour
Supply of crew men for domestic coastal services	80%	Number
Diving/ROV/Submersible operations	70%	Man-Hour
Hook-up and Commissioning including Marine Installation Services	75%	Man-Hour
Dredging Service	55%	Man-Hour Spend
Gravel and rock Dumping Services	65%	Man-Hour
Floating Storage units (FSU)	45%	Man-Hour
Subsea pipeline Protection services	55%	Man-hour
Installation of Subsea package	60%	Man-Hour
Mooring System Services	50%	Man-hour
Ship Chandler Service	90%	Spend
Moving Services	100%	Man-Hour Spend
Supply Vessels	45%	Man-Hour Spend
Stand-by Vessels	55%	Spend
Domestic Clearing of Cargos	30%	Spend
Bunkering Services	60%	Spend
Marine Insurance	40%	Spend
Marine Consulting	40%	Spend
Marine Logistic	30%	Spend

FINANCE AND INSURANCE

Description		
General Banking Services	100%	Usage
Monetary Intermediation Services	70%	Usage
Credit Granting Services	50%	Loan Amount
Security Broking and Fund Management Services	100%	Spend
Financial Management Consultancy Services	70%	Spend
Accounting Services	70%	Man-Hour
Auditing Services	100%	Spend
Life insurance Services	100%	Spend
Pension Funding Services	100%	Spend
Non-Life Insurance services	70%	Spend
Insurance Broking Services	100%	Spend.

INSTALLATION, HOOKUP AND COMMISSIONING

Description		
Surface treatment, sandblasting, painting	80%	Man-Hour
Coating and fire proofing services	45%	Man-Hour
Subsea construction services		
Hookup and commissioning including marine	75%	Man-Hour
Installation services	45%	Man-Hour
Installation fo subsea packages	45%	Man-hour
Electrical/instrument services	50%	Man-Hour
Installation services	75%	Man-Hour
Diving/ROV/Submersible operations	45%	Man-Hour
Subsea construction services	100%	Man-Hour
Pipe cutting and bending services	85%	Man-hour
Catalyst Handling/Regeneration services	75%	Man-Hour
Bolt tensioning Services		
Rope Access services	70%	Man-Hour
Welding and jointing services	60%	Man-Hour
Maintenance and modification of pumps and		
Rotating equipment	65%	Man-Hour
Heat treating and demagnetizing services	80%	Man-hour
Tank bottom sludge treatment services	85%	Man-Hour
Valve management services including testing and repair	85%	Man-Hour
Crane management services	80%	Man-Hour/Rate
Other construction/Maintenance services	80%	Man-Hour
Pipe laying/cable laying services	50%	Man-Hour
Trenching and excavation services	100%	Man-Hour
Cranes/crane barges/Heavy Lift vessels	100%	Man our/Spend
Marine Services	65%	Man-Hours/Spend
Subsea Services	45%	Man-Hour/Spend
Well services	70%	Man-Hour/Spend
Cutting services	75%	Man-Hour/Spend
Site services	85%	Man-Hour/Spend
Other Decommissioning and Abandonment Services	90%	Man-Hour/Spend
Service station tank maintenance/services	75%	Spend
Electrical/electronic Systems integration	55%	Spend
Process Testing including Helium and		
Nitrogen services	65%	Spend

INSPECTION, TESTING & CERTIFICATION

Description		
Material Technology/Anti-Corrosion/Surface		
Protection services	85%	Man-Hour
Non-Destructive Testing (NDT) services	60%	Man-Hour

Pipeline Flushing, External/Internal Inspection,		
Pigging services	85%	Man-Hour/Rate
Surface Treatment Inspection services	90%	Man-Hour
Pressure Testing services	90%	Man-Hour
Instrument testing/ Calibration services	85%	Man-Hour
Load Testing services	75%	Man-Hour
Diving/ROV operations	65%	Man-Hour
Laboratory Testing Services	55%	Man-Hour
Dimensional Control/Verification Services	45%	Man-Hour
Third Party Measurement Services	45%	Man-Hour
Other inspection services	45%	Man-Hour
Quality Management System Certificate	55%	Non of certification obtained
Environmental Management Systems Certificate	45%	Nos
Safety Management System Certification	45%	Nos
Information Security Management Systems certificate	45%	Nos
Certification of Welders	50%	Nos
Certification by NDT Personnel	45%	Man-Hour
Certification of machinery and equipment	45%	Numbers
Certification on NDT Personnel	50%	Nos
Certificate of machinery	50%	Nos
Certification of Clause and Lifting Appliances	45%	Nos
Certification of Pressurized Equipment	45%	Nos
Evaluation and Certification of Software and Electronics (IT)	45%	Nos
Notified Body for Machinery	45%	Nos
Notified Body for Simple Pressure Vessels	45%	Nos
Notified Body for Telecommunication Terminal Equipment	45%	Nos
Notified Body for Personal Protection Equipment	50%	Nos
Notified Body for Lifts	50%	Nos
Notified Body for Pressure Containing Equipment	45%	Nos
Integrity Management Service	50%	Nos
Other Certification Services	50%	Nos
Other Testing Services	49%	Man-Hour

PROJECT MANAGEMENT/CONSULTING SERVICES

Description		
Construction Management and Supervision Services	80%	Man-Hour
Project Administration services/Project Management	80%	Man-Hour
Quality Assurance QA/QC Consultancy	45%	Man-Hour
Safety, Health and Environment Consultancy	45%	Man-Hour

Risk Analysis Consultancy	45%	Man-Hour
Personnel/training System Consultancy (for		
Training courses select 3.99.13)	45%	Man-Hour
Legal Consultancy	50%	contracts
Cost and planning Consultancy	75%	Man-Hour
Material Administration Consultancy	75%	Man-Hour
Technical Documentation/Document Control Consultancy	85%	Man-Hour
Advertising/Public Affairs/Public Relations Consultancy	80%	Man-Hour
Marketing and Market Research Consultancy	75%	Man-Hour
Translation and Manual Writing Consultancy	45%	Man-Hour
Welding and joining Consultancy	45%	Man-Hour
Warranty Surveyors	45%	Man-Hour
Third Party Evaluation/Verification Consultancy	50%	Spend
Energy Conservation Consultancy	65%	Spend
Decommissioning and Abandonment Consultancy	90%	Spend
Meteorological Consultancy	55%	Spend
Staff Search/Selection Consultancy	80%	Spend
Sub-surface Consultancy (Geological, Geophysical, Reservoir)	90%	Spend
Design Consultancy (Industrial Design, Web Design etc)	85%	Man-Hour
Marine Consultancy	50%	Spend
Subsea Consultancy	45%	Spend
Career/Outplacement Consultancy	70%	Spend
General Management and Business Development Consultancy	80%	Spend
Other Consultancy Services	55%	Spend
Pollution and pollution Council works and consultancy	65%	Spend

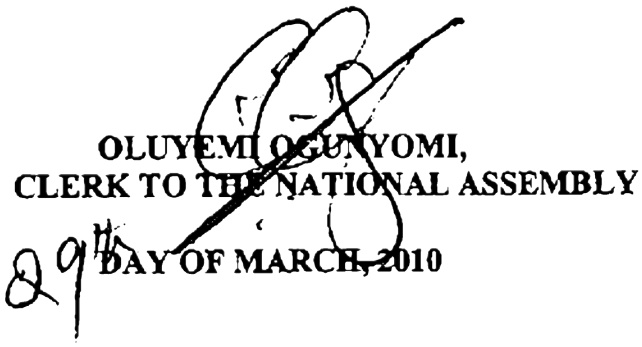
SURVEYING/POSITIONING SERVICES

Description		
Soil Investigation Services	80%	Spend
Navigation/positioning Services	50%	Spend
Geotechnical Services	60	Spend
Geophysical and hydrographic Site Survey	100%	Spend
Oceanographic Services	60%	Spend
Rig Positioning Services	65%	Spend
Photogrammetric Surveying Services	45%	Spend
Chart and Map Production Services	45%	Spend
Rental of Surveying/Positioning Equipment Services	45%	Spend
Survey and positioning Support Services	75%	Spend
Aeromagnetic Survey	45%	Area

MODIFICATION AND MAINTENANCE

Description		
Cash wash equipment maintenance/services		
Canopy equipment maintenance/services	90%	Spend
Dredging services	90%	Spend
Signs and accessories maintenance/services	55%	Spend
Services station pumps maintenance/services	80%	Spend
Payment terminal maintenance/services	65%	Spend
Service station tanks maintenance/services	80%	Spend
Subsea systems	75%	Spend
Pipeline systems	45%	Spend
Risers	60%	Spend
Umbilicals	49%	Tonnage
Terminal/Oil Movement Systems	51%	Tonnage
Accommodation/Office/Workshop/Storage Modules	70%	Volume
Process modules/packages	80%	Spend
Utilities modules/packages	65%	Tonnage
Drilling modules/packages	80%	Tonnage
Building including Service Stations	70%	Tonnage
Engineering Modification and Maintenance		
Services for a Site/Platform	90%	Spend
SHIPPING		
Domestic coastal carriage of petroleum products	60%	Spend
Tow of oil and gas infrastructure and vessels conveying		
Oil and gas products from or to any port or point in		
Nigeria waters	90%	Spend
Supply of very large crude carriers (VLCC)	90	Spend

I CERTIFY IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP, A2, LAWS OF THE FEDERAL REPUBLIC OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSE OF THE NATIONAL ASSEMBLY.



Schedule to Nigeria Oil and Gas Industry Content Development Bill, 2010

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Nigeria Oil and Gas Content Development Act. 2010.	An act to provide for the development of Nigerian Content in the Nigeria Oil and gas Industry, Nigeria Content plan, supervision, Coordination, Monitoring ad implementation of Nigerian content; and for related matters.	This Bill seeks to provide for the development Nigerian Oil and Gas Industry, Nigeria Content plan Supervision, Coordination, Monitoring and Implementation of Nigerian content.	10th March, 2010	3rd March, 2010

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federal Republic of Nigeria.

OLUYEMI OGUNYOMI,
Clerk to the National Assembly
Day of March, 2010

DR. GOODLUCK EBELE JONATHAN, GCON
Acting President of the Federal Republic of Nigeria
Day of March, 2010

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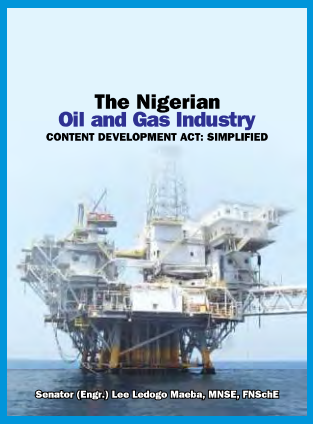
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About the book



This book has been written for the people of Nigeria and the Niger Delta Region in particular for the proper appreciation of the contents of this law so as to be well positioned to strategically harness the opportunities which the Law seeks to provide the Nigerian people.

It is the summary of a legislation that will change the face of the Nigerian Oil and Gas Industry. We have carefully explained how the legislation will bring relief to our people and change the economic fortunes of the whole of the Niger Delta Region.

This book will be immensely useful and important for those who need an adequate knowledge and understanding of the benefits of the Nigerian Oil and Gas Industry Content Development Act.

About the Author



Lee Ledogo Maeba is a Senator of the Federal Republic of Nigeria representing the Rivers South East Senatorial District at The National Assembly Abuja. He has represented the people since 2003 when he was first elected to that position till date. He is the Chairman, Senate Committee on Petroleum Resources (Upstream), Chairman Joint Committee on Petroleum Industry Bill. Senator Maeba represents Nigeria in the African Union - Pan African Parliament with Headquarters in Midrand, Johannesburg, South Africa. He is the Chairman, Committee for Trade, Customs and Immigration in the Pan African Parliament. He holds a Bachelor of Technology Degree in Chemical/Petro-Chemical Engineering from the Rivers State University of Science and Technology, Port Harcourt and a Fellow of the Society of Chemical Engineers of Nigeria. He is the author of the book 'My stance in the Senate'. He has also a number of publications in reputable journals to his credit and presented papers at various international forums around the globe. He is happily married with four children.

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