

A BILL

FOR

AN ACT TO AMEND THE NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010 AND FOR PURPOSES CONNECTED THEREWITH, 2015

Sponsored By Hon. Daniel Reyenieju

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART 1 - NIGERIAN CONTENT DEVELOPMENT IN OIL
2 AND GAS INDUSTRY

3 1. Notwithstanding anything to the contrary contained in the
4 Petroleum Act or in any other enactment or law, the provisions of this Act
5 shall apply to all matters pertaining to Nigerian content in respect of all
6 operations or transactions carried out in or connected with the Nigerian oil
7 and gas industry.

Application Cap. P10, LFN 2004

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

Nigerian content as management philosophy for project execution

14 3.-(1) Nigerian independent operators shall be given first
15 consideration in the award and selection of operators, of oil blocks, oil field
16 licences, oil lifting licences and in all projects for which contract is to be
17 awarded in the Nigerian oil and gas industry subject to the fulfilment of such
18 conditions as may be specified by the Minister.

First consideration to be given to Nigerian operators

19 (2) There shall be exclusive consideration to Nigerian indigenous
20 service companies which demonstrate ownership of equipment, Nigerian

1 personnel and capacity to execute such work to bid on land and swamp
2 operating areas of the Nigerian oil and gas industry for contracts and services
3 contained in the Schedule to this Act.

4 (3) Compliance with the provisions of this Act and promotion of
5 Nigerian content development shall be a major criterion for award of licences,
6 permits and any other interest in bidding for Oil exploration, production,
7 transportation and development or any other operations in Nigerian Oil and
8 Gas industry.

Role of Nigerian
Content
Development
and Monitoring
Board

9 4. The Nigerian Content Development and Monitoring Board (the
10 "Board") established in accordance with this Act shall make procedure that will
11 guide, monitor, coordinate and implement the provisions of this Act.

Promotion of
measurable
growth of
Nigerian content

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

Conformity of
petroleum
arrangements
and other
agreements

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

Submission of
Nigerian content
plan for all
projects

20 7. In the bidding for any licence, permit or interest and before carrying
21 out any project in the Nigerian oil and gas industry, an operator, contractor, sub-
22 contractor, alliance partner or any other entity involved in a project shall each
23 submit a Nigerian Content Plan ("the Plan") to the Board demonstrating
24 compliance with the Nigerian content requirements of this Act.

Certificate of
Authorization

25 8. The Board shall review and assess the plan and, if satisfied that the
26 plan complies with the provisions of this Act, issue a Certificate of
27 Authorization ("the Certificate") to the operator for that project.

Public review
of plan

28 9. For the purposes of reviewing or assessing the plan, the Board may
29 conduct a public review in relation to the exercise of any of its functions under
30 this Act provided that any such review or assessment is completed and

1 certificate issued or denied within 30 days from the date of commencement
2 of such review or assessment.

3 **10.-(1)** A plan shall contain provisions intended to ensure that-

Content of plan

4 (a) first consideration shall be given to services provided from
5 within Nigeria and to goods manufactured in Nigeria; and

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

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

12 **11.-(1)** As from the commencement of this Act the minimum
13 Nigerian content in any project to be executed in the Nigerian oil and gas
14 industry shall be consistent with the level set in Schedule to this Act.

Minimum and
specification of
Nigerian Content

15 (2) Where a project description is not specified in the Schedule to
16 this Act, the Board shall set the minimum content level for that project or
17 project item pending the inclusion of the minimum content level for that
18 project or project item through an amendment of the Schedule to this Act by
19 the National Assembly.

20 (3) All operators, alliance partners and contractors shall comply
21 with the minimum Nigerian content for particular project item, service or
22 product specification set out in the schedule to this Act.

23 (4) Notwithstanding the provisions of subsection (1) of this
24 section, where there is inadequate capacity to meet any of the targets in the
25 schedule to this Act, the Board may recommend to the Minister for
26 approval, the importation of the relevant items. Any authorization to import
27 an item shall be subject to an approved Capacity Development Initiative
28 (CDI) to develop the relevant capacity. The approval for such CDIs shall be
29 based on the following considerations:

30 (a) an entity requesting for approval to import goods or service

1 into the country (herein referred to as the Applicant) shall advertise the need for
2 the goods and service on the JQS for a period not less than 30 days before
3 submitting application to the Board. The advert shall at a minimum indicate the
4 description of the goods or service required, relevant category in the Schedule
5 to the Act, the quantity required and when it is required. Where a Nigerian
6 company is able to demonstrate ability to provide the relevant goods or service,
7 the Applicant shall utilize the services of such Nigerian company, in which case
8 an application for authorization to import shall not be made;

9 (b) an application for importation shall include the quantity and
10 description of the goods or service to be imported and sufficient evidence for
11 the importation of the goods or service such as evidence of lack of capacity in-
12 country within the duration of the project or operation where the goods or
13 service is required including outcome of (a) above;

14 (c) the Applicant shall submit a detailed CDI or collaboration plan
15 with an existing CDI which is related to the item to be imported. Such CDI or
16 collaboration plan shall indicate the CDI sponsors, existing in-country
17 capacity, list of stakeholders including technical partners and their roles,
18 expected outcomes, timing of the project, indicative cost and other relevant
19 information as may be required by the Board;

20 (d) the Board may hold a joint evaluation with the Applicant to
21 establish or disprove the case for importation of the good or service; and

22 (e) any other conditions as may be prescribed in the guidelines to be
23 issued by the Board.

24 (5) The Board shall prior to January 31 of each year convene a
25 stakeholders meeting to determine areas of inadequate capacity, and agree on
26 CDIs to upgrade existing capacity or develop new capacity in specific demand
27 areas for the industry.

28 12. Subject to section 7 of this Act, the Nigerian Content Plan
29 submitted to the Board by an operator shall contain a detailed plan, satisfactory
30 to the Board, setting out how the operator and their contractors will give first

1 consideration to Nigerian goods and services, including specific examples
2 showing how first consideration is considered and assessed by the operator
3 in its evaluation of bids for goods and services required by the project.

4 13. The Nigerian content plan submitted to the Board by any
5 operator or alliance partner shall contain detailed plan on how the operator
6 or its alliance partner intend to ensure the use of locally manufactured
7 goods where such goods meet the specifications of the industry.

Contents of the
plan to contain
details

8 14. All operators and project promoters shall consider Nigerian
9 content when evaluating any bid where the bids are within 1 % of each other
10 at commercial stage and the bid containing the highest level of Nigerian
11 content shall be selected provided the Nigerian content in the selected bid is
12 at least 5% higher than its closest competitor.

Nigerian bid
evaluation

13 15. All operators and alliance partners shall maintain a bidding
14 process for acquiring goods and services which shall give full and fair
15 opportunity to Nigerian indigenous contractors and companies.

Full and fair
opportunity
Nigerians

16 16. The award of contract shall not be solely based on the principle
17 of the lowest bidder where a Nigerian indigenous company has capacity to
18 execute such job and the company shall not be disqualified exclusively on
19 the basis that it is not the lowest financial bidder, provided the value does not
20 exceed the lowest bid price by 10 percent.

Principles of bid
evaluation

21 17.-(1) For all proposed projects, contracts, subcontracts and
22 purchase orders estimated by operator to be in excess of \$1,000,000 (USD),
23 the operator shall provide to the Board for approval, advertisements, pre-
24 qualification criteria, technical bid documents, technical evaluation criteria
25 and the proposed bidders lists.

List of contracts
to be submitted
to the Board

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

Submission of
job forecasts,
etc. to Board

1 **18.**-(1) The operators shall submit to the Board, 30 days prior to the
2 first day of each quarter, a list of all contracts, subcontracts and purchase orders
3 exceeding \$1,000,000 (USD) which will be bided or executed in the upcoming
4 quarter.

5 (2) For each contract, subcontract and purchase order, the list shall
6 provide-

7 (a) a description of the service or item to be contracted or purchased
8 (material and equipment specifications shall be provided upon request);

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

10 (c) the Invitation to Tender (ITT) issuance date, ITT closure date and
11 award date; and

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

Designation of
contract for
review

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

Document to be
submitted to the
Board during
pre-qualification
stage

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

21 (a) a description of the scope of work;

22 (b) a copy of the pre-qualification notification, if these documents
23 differ from the standard pre-qualification notification previously reviewed by
24 the Board;

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

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

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

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

4 (a) a list of bidders;

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

7 (c) a description of corporate ownership (main shareholders by
8 percentage) of bidders;

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

10 (e) anticipated dates for closure of bids and award of contract or
11 purchase order; and

12 (f) any other information requested by the Board.

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

Document to be
submitted to the
Board during
award stage

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

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

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

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

20 (e) contract or purchase order commencement and completion
21 dates;

22 (f) award Notification Form signed by an appropriate official of the
23 operator; and

24 (g) statement of award rationale (evaluation of bids) showing-

25 (i) percentage difference in price between selected bidder and each
26 bid;

27 (ii) a primary location of work associated with each bidder;

28 (iii) estimates of Nigerian content associated with the bid of each
29 bidder calculated in accordance with the definition of Nigerian content to be
30 provided by the Board; and

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

Designation and
review of contracts

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

Quarterly
Procurement
Report

9 24.-(1) The operator shall submit to the Board, within 30 days at the
10 end of each quarter, a listing of all contracts, subcontracts and purchase orders
11 exceeding \$1,000,000 (USD) or such other limit as the Board may determine
12 awarded in the previous quarter.

13 (2) This listing shall provide-

14 (a) a list of all items and services;

15 (b) value of contract or purchase order;

16 (c) name of successful contractor or vendor;

17 (d) a primary location of work;

18 (e) estimates of Nigerian content;

19 (f) commencement and completion date; and

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

Establishment of
project office

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

Personnel for
Local Office

27 26. The operator shall locate, within the project office, personnel with
28 decision- making authority in accordance with a list of personnel to be
29 approved by the Board.

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

4 28.-(1) Subject to section 10(1)(b) of this Act, Nigerians shall be First consideration
5 given the first consideration for employment and training in any project for employment
6 executed by any operator or project promoter in the Nigerian oil and gas and training
7 industry.

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

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

14 (a) an outline of the-

15 (i) hiring and training needs of the operator or project promoter and
16 operator's major contractors with a breakdown of the skills needed;

17 (ii) anticipated skill shortages in the Nigerian labour force;

18 (iii) project specific training requirements; and

19 (iv) anticipated expenditures that will be made directly by the
20 operator in implementing the E and T Plan as a forecasted and actual
21 expenditure;

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

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

28 (i) number of new employees hired during the year;

29 (ii) their place of residence at the time of hiring; and

30 (iii) their employment status; and

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

Training of
Nigerians

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

Requirement for
succession plan

8 31.-(1) For each of its operations, the operator shall submit to the
9 Board a succession plan for any position not held by Nigerians and the plan
10 shall provide for Nigerians to understudy each incumbent expatriate for a
11 maximum period of four years and at the end of the four year period the
12 position shall become Nigerianised.

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

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

Allowance for
expatriate position

18 32. For each of its operations, an operator or project promoter may
19 retain a maximum of five per cent of management positions as may be
20 approved by the Board as expatriate positions to take care of investor interests.

Approval of Board
for application
for Expatriates

21 33.-(1) Upon the commencement of this Act, the operators shall make
22 application to, and receive the approval of, the Board before making any
23 application for expatriate quota to the Ministry of Internal Affairs or any other
24 agency or Ministry of the Federal Government.

25 (2) The application shall be detailed and shall include-

26 (a) job titles;

27 (b) description of responsibilities;

28 (c) the duration of the proposed employment in Nigeria; and

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

1	34. Notwithstanding the provisions of the Schedule to this Act, all	Requirement for
2	projects or contracts whose total budget exceeds \$100 million (USD) shall	Labour Clause
3	contain a "Labour Clause" mandating the use of a minimum percentage of	
4	Nigerian labour in specific cadres as may be stipulated by the Board.	
5	35. All operators and companies operating in the Nigerian oil and	Compliance by
6	gas industry shall employ only Nigerians in their junior and intermediate	the operators
7	cadre or any other corresponding grades designated by the operator or	
8	company.	
9	36. The Minister shall make regulations with requirements and	Research and
10	targets for the growth of Research and Development in the Nigerian oil and	development
11	gas industry.	regulations
12	37. For every project for which a plan is submitted, an operator	Programme for
13	shall carry out a programme and make expenditure, to the satisfaction of the	Research and
14	Board, for the promotion of education, attachments, training, Research and	development
15	Development in Nigeria in relation to its work programme and activities.	regulations
16	38.-(1) The operator shall submit to the Board and update, every	Submission and
17	six months, the operator's Research and Development Plan (R and D Plan).	content of R and
18	(2) The R and D Plan shall-	D plan
19	(a) outline a revolving three to five year plan for oil and gas related	
20	Research and Development initiatives to be undertaken in Nigeria, together	
21	with a breakdown of the expected expenditures that will be made in	
22	implementing the R and D Plan; and	
23	(b) provide for public calls for proposals for Research and	
24	Development initiatives associated with the operator's activities.	
25	39. The operator shall report to the Board, on quarterly basis, with	Report on R and
26	respect to its R and D activities and the Board shall compare these activities	D plan
27	to the operators R and D Plan.	
28	40.-(1) The Minister shall make regulations establishing the	Regulations and
29	minimum standards, facilities, personnel and technology for training in the	Training
30	oil and gas industry.	

- 1 (2) The regulations shall specify modalities for involving operators as
2 partners in training and development.
- Regulations for
further growth of
indigenous capacity 3 41.-(1) The Minister shall make regulations setting out targets to
4 ensure-
- 5 (a) full utilization and steady growth of indigenous companies
6 engaged in exploration;
7 (b) seismic data processing;
8 (c) engineering design;
9 (d) reservoir studies;
10 (e) manufacturing and fabrication of equipment; and
11 (f) other facilities as well as the provisions of other support services
12 for the Nigeria oil and gas industry.
- 13 (2) International or multinational companies working through their
14 Nigerian subsidiaries shall demonstrate that a minimum of 50% of the
15 equipment deployed for execution of work are owned by the Nigerian
16 subsidiaries.
- Regulations for
registration with
Nigerian
professional bodies 17 42. The Minister shall make regulations which shall require any
18 operator or company or its professional employees engaged in the provision of
19 engineering or other professional services in the Nigerian oil and gas industry
20 to be registered with the relevant professional bodies in Nigeria.
- Programme for
technology
transfer plan 21 43. Each operator shall carry out a programme in accordance with the
22 country's own plans and priorities, to the satisfaction of the Board, for the
23 promotion of technology transfer to Nigeria in relation to its oil and gas
24 activities.
- Submission of
technology
transfer plan 25 44. The operator shall submit to the Board annually a plan,
26 satisfactory to the Board, setting out a programme of planned initiatives aimed
27 at promoting the effective transfer of technologies from the operator and
28 alliance partners to Nigerian individuals and companies.
- Support of
technology
transfer 29 45. The operator shall give full and effective support to technology
30 transfer by encouraging and facilitating the formation of joint ventures,

1 partnering and the development of licensing agreements between Nigerian
2 and foreign contractors and service or supplier companies agreements for all
3 such joint ventures or alliances shall meet the requirements of Nigerian
4 content development to the satisfaction of the Board.

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

Technology
transfer report

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

Regulations to
establish
operations in
Nigeria

14 48.-(1) The Minister shall consult with the relevant arms of
15 Government on appropriate fiscal framework and tax incentives for foreign
16 and indigenous companies which establish facilities, factories, production
17 units or other operations in Nigeria for purposes of carrying out production,
18 manufacturing or for providing services and goods otherwise imported into
19 Nigeria.

Incentives

20 (2) Where there are established contractual and procedural
21 impediments to local capacity development, the Minister shall on the
22 recommendation of the Board approve definitive incentives that will
23 eliminate such impediments and aid investment.

24 49.-(1) All operators, project promoters, alliance partners and
25 Nigerian indigenous companies engaged in any form of business,
26 operations or contract in the Nigerian oil and gas industry, shall insure all
27 insurable risks related to its oil and gas business, operations or contracts
28 with an insurance company, through an insurance broker registered in
29 Nigeria under the provisions of Insurance Act as amended.

Insurance and
reinsurance
business. Cap.
117 LFN 2004

30 (2) Each operator in subsection (1) of this section shall submit to

1 the Board, a list of all insurance companies and insurance brokers through
2 which insurance covers were obtained in the past six months, the class of
3 insurance cover obtained and the expenditures made by the operator.

4 (3) The insurance programme shall include-

5 (a) a comprehensive report of-

6 (i) insurance covers obtained in the past six months of all insurance
7 by expenditure;

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

10 (iii) the projected expenditure for the covers;

11 (b) a list of-

12 (i) all insurance companies brokers through which insurance covers
13 were obtained in the past six months;

14 (ii) the class of insurance cover obtained;

15 (iii) the expenditures made by the operator; and

16 (c) the annual insurance premium budget for the past one year in
17 Naira and foreign currencies.

Approval for
offshore insurance

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

Legal Services t

22 51.-(1) All operators, contractors and other entities engaged in any
23 operation, business or transaction in the Nigerian oil and gas industry requiring
24 legal services shall retain only the services of a Nigerian legal practitioner or a
25 firm of Nigerian legal practitioners whose office is located in any part of
26 Nigeria.

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

29 (3) The LSP shall include-

30 (a) comprehensive report on:

- 1 (i) legal services utilized in the past six months by expenditure;
2 (ii) a forecast of legal services required during the next six months;
3 and
4 (iii) the projected expenditure for the services.
5 (b) a list of-
6 (i) external solicitors utilized for legal services in the past six
7 months;
8 (ii) the nature of work done; and
9 (iii) the expenditure made by the operator; and
10 (c) the annual legal services budget for the past one year in Naira
11 and foreign currencies.

12 52.-(1) All operators, contractors and any other entity engaged in
13 any operation, business or transaction in the Nigerian oil and gas industry
14 requiring financial services shall retain only the services of Nigerian
15 financial institutions or organizations, except where, to the satisfaction of
16 the Board, this is impracticable.

Financial
Services

17 (2) All operators shall submit to the Board every six months its
18 Financial Services Plan (FSP).

19 (3) The FSP shall include-

- 20 (a) financial services utilized in the past six months by
21 expenditure;
22 (b) a forecast of financial services required during the next six
23 months;
24 (c) the projected expenditure for the services;
25 (d) a list of:
26 (i) financial services utilized in past six months;
27 (ii) the nature of financial services provided; and
28 (iii) the expenditure for financial services;
29 (e) a list of-
30 (i) financial services utilized in the past six months;

1 (ii) the nature of financial services provided; and
2 (iii) the expenditure for financial services made by the operator or its
3 main contractors;

4 (f) all operators, contractors and sub-contractors shall maintain a
5 bank account in Nigeria in which it shall retain a minimum of 10 per cent of its
6 total revenue accruing from its Nigerian operations.

Prohibition of
importation of
welded products

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

Petroleum
e-marketplace

10 **54.** The Board shall establish an oil and gas e-marketplace which
11 shall-

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

14 (b) provide functional interface with the Joint Qualification System
15 and provide a universal and transparent governance structure drawn from
16 industry stakeholder;

17 (c) perform all other functions, roles and responsibilities to be set out
18 in the regulations to be made by the Minister in accordance with the provisions
19 of this Act.

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

Establishment of
Joint Qualification
System

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

Function of the
Joint Qualification
System

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

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

1 (b) evaluation of application of Nigerian content in the operations
2 of oil companies and contractors;

3 (c) ranking and categorization of all service companies based on
4 capabilities and Nigerian content.

5 57.-(1) The Board shall set up a consultative body to be known as
6 the Nigerian Content Consultative Forum (NCCF) which shall provide a
7 platform for information sharing and collaboration in the Nigerian oil and
8 gas industry with respect to:

Setting up of
Nigerian Content
Consultative Forum

9 (a) upcoming projects in the oil and gas industry;

10 (b) information on available local capabilities; and

11 (c) screening and ranking of qualifying capacity development
12 initiatives from Indigenous Nigerian Companies for financing support by
13 Nigerian Content Development Fund subject to Section 104 (5).

14 (d) other policy proposals that may be relevant to Nigerian Content
15 Development.

16 (2) There shall be a standing committee of the NCCF (NCCF
17 Standing Committee) to be comprised of members of the NCCF as follows:
18 one member representing the Nigerian Content Development and
19 Monitoring Board who shall also serve as the Chairman of the standing
20 committee, two members nominated by the Petroleum Technology
21 Association of Nigeria, two members nominated by the International
22 Operators, One member nominated by Nigerian Independent Operators, one
23 member nominated by the Board to represent the other NCCF sectorial
24 groups.

25 (3) The NCCF Standing Committee shall perform the functions set
26 out in Section 104 (4)(a).

27 58. The Nigerian Content Consultative Forum shall be made up of
28 key industry stakeholders, international operators, Nigerian independent
29 operators, government and regulatory agencies and representatives from
30 the following sectors-

Composition of
Nigerian Content
Consultative Forum

- 1 (a) fabrication;
- 2 (b) engineering;
- 3 (c) finance services, legal and insurance;
- 4 (d) shipping and logistics;
- 5 (e) materials and manufacturing;
- 6 (f) information and communication technology;
- 7 (g) petroleum technology association of Nigeria;
- 8 (h) education and training; and
- 9 (i) any other professional services nominated by the Board.

Powers of the
Board to Monitor
Implementation
of this Act

10 **59.** The Nigerian Content Development and Monitoring Board shall
11 undertake an effective monitoring of the implementation of the provisions of
12 this Act.

Requirement for
submission of
Nigerian Content
Performance report

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

Content of
performance
report

16 **61.** Subject to section 60, the report shall specify by category of
17 expenditure the Nigerian content on both a current and cumulative cost basis
18 and shall set out-

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

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

Assessment and
verification
performance
report

23 **62.** The Board shall undertake regular assessment and verification of
24 the Nigerian Content Performance Report filed by all operators in compliance
25 with the provisions of this Act as may be considered appropriate by the Board.

Directives to
facilitate reporting

26 **63.** The Board shall issue directives to operators, contractors and
27 other entities or persons in order to develop a process to facilitate reporting of
28 activities relating to any aspect of this Act.

Access to facilities
for assessment and
verification
reporting

29 **64.** For the purposes of assessment and verification, all operators and
30 contractors shall provide the Board or its designated agent with access to their

1 facilities and all documentation and information required for substantiating
2 the Nigerian content reported.

3 65. The operator shall ensure that its partners, contractors and
4 subcontractors are contractually bound to report Nigerian content
5 information to the operator and, if so requested by the Board, directly to the
6 Board, and to allow the Board or its designated agent access to their records
7 for the purposes of assessment and verification of Nigerian content
8 information reported to the operator or the Board.

Requirements for
third party access
and reporting

9 66. The operators shall effectively communicate its Nigerian
10 content policies and procedures to its contractors and subcontractors and to
11 monitor and enforce their compliance.

Responsibility to
communicate
Nigerian content
policies to
contractors

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

Responsibility of
Board for
enlightenment on
Nigerian content

16 68. An operator, contractor or sub-contractor who carries out any
17 project contrary to the provisions of this Act, commits an offence and is
18 liable upon conviction to a fine of five per cent of the project sum for each
19 project in which the offence is committed or cancellation of the project.

Offences and
Penalties

20 PART 11 - ESTABLISHMENT OF THE NIGERIAN CONTENT DEVELOPMENT
21 AND MONITORING BOARD

22 69. -(1) There is established the Nigerian Content Development
23 and Monitoring Board (in this Act referred to as "the Board") which shall
24 have the functions and powers conferred on it by this Act.

Establishment of
the Nigerian
Content
Development and
Monitoring Board

25 (2) The Board-

26 (a) shall be a body corporate with perpetual succession and a
27 common seal; and

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

29 70. The functions of the Board shall be to-

30 (a) implement the provisions of this Act;

Functions of the
Board

1 (b)implement the regulations made by the Minister in relation to any
2 aspect of this Act;

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

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

9 (e) appraise, evaluate and approve the Nigerian content plans and
10 reports submitted to the Board in compliance with the provisions of this Act;

11 (f)award Certificate of Authorization and conduct reviews of the
12 Nigerian content plans and reports submitted to the Board in compliance with
13 the provisions of this Act;

14 (g) administer and operate an e-market place and Joint Qualifications
15 Systems set up in accordance with the provisions of this Act;

16 (h) assist local contractors and Nigerian companies to develop their
17 capabilities and capacities to further the attainment of the goal of developing
18 Nigerian content in the Nigerian oil and gas industry;

19 (i) make procedures to guide the implementation of this Act and
20 ensure compliance with all the provisions of this Act;

21 (j) monitor and coordinate the Nigerian content performance of all
22 operators in accordance with the provisions of this Act;

23 (k) make auditing procedures and conduct regular audits for the
24 purposes of monitoring and implementing compliances with the provisions of
25 this Act;

26 (l) provide guidelines, definitions and measurement of Nigerian
27 content and Nigerian content indicator to be utilized throughout the industry;

28 (m) conduct studies, researches and investigations that may further
29 the attainment of the goal of developing Nigerian content in the Nigerian oil
30 and gas industry ;

1 (n) organize conferences, workshops, seminars, symposia,
2 trainings, road shows and other public education for a to further the
3 attainment of the goal of developing Nigerian content in the Nigerian oil
4 and gas industry;

5 (o) delegate any of its functions to any agent or operative appointed
6 by the Council; and

7 (p) do legally anything necessary to be done to facilitate the
8 carrying out of its functions.

9 71.-(1) There is established for the Board the Governing Council
10 (in this Act referred to as the "Council") which shall conduct the affairs of
11 the Board.

Establishment of
the Governing
Council of the
Board

12 (2) The Head Office of the Council and the Board shall be located
13 in any of the oil or gas producing States of the Federation.

14 (3) The Council may establish branch offices of the Board in any of
15 the gas or oil producing States of the Federation.

16 72. The Council shall consist of-

Composition of
the Council

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

18 (b) a representative of-

19 (i) Nigerian National Petroleum Corporation;

20 (ii) the agency in charge of technical regulation of the industry;

21 (iii) Ministry of Petroleum Resources;

22 (iv) Petroleum Technology Association of Nigeria;

23 (v) Nigerian Content Consultative Forum;

24 (vi) Council of Registered Engineers of Nigeria;

25 (vii) National Insurance Commission; and

26 (c) Executive Secretary who shall be the Secretary of the Council.

27 73.-(1) The Chairman and members of the Council shall be
28 appointed by the President on the recommendation of the organization to be
29 represented by the member and shall be persons of proven integrity and
30 ability.

Appointment of
Chairman and
Membership of
the Council

	1	(2) The membership of the Council shall be on part time basis.
Status of appointment of Executive Secretary	2	74. The Executive Secretary shall be on full time status.
Powers of the Council	3	75. The Council shall have power to-
	4	(a) manage and superintend the affairs of the Board;
	5	(b) make rules and regulations for the proper functioning of the
	6	Board;
	7	(c) employ and pay the staff of the Board appropriate remuneration
	8	commensurate in scale with that of staff in organizations of similar stature; and
	9	(d) enter into any negotiation, agreement and contractual relationship
	10	as may be necessary or expedient for the discharge of the functions of the
	11	Board.
Tenure of office	12	76. Subject to the provisions of section 75 of this Act, the Chairman
	13	and members of the Council shall each hold office-
	14	(a) for a term of four years and may be re-appointed for a further term
	15	of four years and no more; and
	16	(b) on such terms and conditions as may be specified in their letters of
	17	appointment.
Cessation of membership of Council	18	77. A person shall cease to hold office as a member of the Council if-
	19	(a) he dies;
	20	(b) he becomes bankrupt;
	21	(c) he is convicted of a felony or any offence involving dishonesty or
	22	fraud;
	23	(d) he becomes of unsound mind or is incapable for any reason of
	24	carrying out his duties;
	25	(e) he is guilty of a serious misconduct in relation to his duties;
	26	(f) in the case of a person possessed of a professional qualification, he
	27	is disqualified or suspended, other than at his own request, from practising his
	28	profession in any part of the world by an order of a competent authority made in
	29	respect of that member; or

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

78. Where a member ceases 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 residue 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, Allocation and Fiscal Commission using the scale applicable in Nigeria 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.

Appointment of Executive Secretary, his functions and tenure

(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 Nigeria oil or gas industry.

Tenure of office.

(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.

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

Cessation of office	1	83. The Executive Secretary shall cease to hold office if any of the
	2	conditions specified in section 77 pertaining to cessation of membership of the
	3	Council applies to him.
Resignation of appointment	4	84. The Executive Secretary may resign his appointment by a written
	5	notice under his hand delivered to the President.
Other staff	6	85. The Council may appoint for the Board such number of
	7	employees as may in the opinion of the Council be expedient and necessary for
	8	the proper and efficient performance of the functions of the Board and shall pay
	9	them remunerations and allowances as it determines using the scale applicable
	10	in the Nigeria oil and gas industry.
Direct appointment and secondment	11	86. The Council shall have power to appoint for the Board either
	12	directly or on secondment from the Public Service of the Federation, such
	13	number of employees as may, in the opinion of the Council, be required to
	14	assist the Board in the discharge of any of its functions under this Act.
Transfer of service	15	87. The person seconded under section 85 may elect to be transferred
	16	to the service of the Board and the previous service he may have rendered in the
	17	public service shall count as service to the Board for the purpose of any pension
	18	subsequently payable by the Board.
Directorates	19	88. There shall be established in the head office of the Board-
	20	(a) the Directorate of Finance and Personnel Management;
	21	(b) the Directorate of Planning, Research and Statistics;
	22	(c) the Directorate of Monitoring and Evaluation;
	23	(d) the Directorate of Legal Services; and
	24	(e) any other Directorate which the Council may establish.
Service in the Board	25	89. -(1) The Service in the Board shall be approved service for the
	26	purposes of the Pension Reform Act.
	27	(2) The officers and other persons employed in the Board shall be
	28	entitled to pension, gratuities and other retirement benefits as are enjoyed by
	29	persons holding equivalent ranks in the Civil Service of the Federation.
	30	(3) Nothing in subsections (1) and (2) of this section shall prevent the

1 appointment of a person to any office- on terms which preclude the grant of
2 pension and gratuity in respect of that office.

3 **90.**-(1) The Board shall establish and maintain a fund to which all
4 monies accruing to it shall be paid into or from which shall be defrayed all
5 expenditure incurred by the Board.

Funds of the
Board

6 (2) The Fund of the Board shall consist of-

7 (a) all subventions and budgetary allocations provided by the
8 Federal Government;

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

11 (c) interest and revenue accruing from savings and investments
12 made by the Board;

13 (d) loans, which may be required from time to time for the objects
14 of the Board, provided that the Board shall not, without the prior approval of
15 the President, borrow money in compliance with the provisions of the Fiscal
16 Responsibility Act; and

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

18 **91.** The Council shall, not later than 30th September of each year,
19 submit to the National Assembly, through the Minister, an estimate of the
20 projected expenditure of the Board during the next succeeding year for
21 consideration and approval and shall include a copy of the audited accounts
22 of that year and a copy of the auditor's report.

Budgetary
Estimates and
Audit Report

23 **92.**-(1) The Board may accept gifts of money, land or other
24 property on such term and the conditions, if any, as may be specified by the
25 person or organization making the gift.

Gift to the Board

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

28 **93.** The Council shall approve any expenditure of the Board and
29 shall-

Expenditure and
account

30 (a) issue proper accounts and records of the transactions and affairs

- 1 of the Board and ensure that all expenditure is duly authorized;
- 2 (b) prepare in respect of each financial year, a statement of account in
- 3 such form as the Auditor-General may direct.
- Audit 4 94. The audit of the council shall be in accordance with the provisions
- 5 of the Constitution of the Federal Republic of Nigeria, 1999.
- Acquisition of 6 95.-(1) For the purpose of providing offices and premises necessary
- land or interest 7 for the performance of its functions under this Act, the Board may, subject to
- in land for office 8 the Land Use Act-
- use. Cap. L5 9 (a) purchase or lease any interest in land or other property; and
- LFN 2004 10 (b) construct offices and premises, equip and maintain same.
- 11 (2) The Board may, subject to the Land Use Act, sell or lease out any
- 12 office or premises held by it, which office or premises is no longer required for
- 13 the performance of its functions under this Act.
- Legal proceeding 14 96. The provisions of the Public Officer's Protection Act shall apply in
- Cap. P41 LFN 15 relation to any suit instituted against any officer or employee of the Board in his
- 2004 16 capacity as such.
- Indemnity of 17 97. A member of the Council, the Executive Secretary, any officer or
- officers 18 employee of the Board shall be indemnified out of the assets of the Board
- 19 against any proceeding, whether civil or criminal, in which judgment is given
- 20 in his favour or in which he is acquitted, if any such proceeding is brought
- 21 against him in his capacity as a member, Executive Secretary, officer or
- 22 employee of the Board.
- Service of 23 98. A notice, summons or other document required or authorized to
- documents 24 be served upon the Board under this Act or any other law or enactment may be
- 25 served by delivering it to the Executive Secretary or by sending it by registered
- 26 post and addressed to the Executive Secretary at the head office of the Board.
- Engagement of 27 99. The Executive Secretary may with the approval of the Council
- professionals 28 engage persons with knowledge or experience in Nigerian content
- and other staff 29 development or in matters relevant to the functions of the Board to assist the
- 30 Board in the performance of its functions.

1 **100.** The Minister may issue to the Board directives in relation to Power of the
2 Nigerian content development with respect to the application, Minister to give
3 administration and implementation of this Act. directive to the
Board

4 **101.**-(1) The Minister shall make regulations generally for the Registration
5 purpose of carrying out or giving effect to the provisions of this Act.

6 (2)The Minister shall conduct a review of the Schedule to this Act
7 every two years with a view to ensuring a measurable and continuous
8 growth in Nigerian content in all projects, operations, activities and
9 transactions in the Nigerian oil and gas industry.

10 (3)The Council shall make standing orders regulating its
11 proceedings or those of its standing committees in consultation with the
12 Minister.

13 **102.** Subject to the approval of the Minister, the Board shall Review of the
14 conduct a review of the Schedule to this Act at such intervals as it may Schedule
15 determine but not later than every two years with a view to ensuring a
16 measurable and continuous growth in Nigerian content in all projects,
17 operations, activities and transactions in the Nigerian oil and gas industry
18 for onward transmission to the National Assembly.

19 **103.** Upon the commencement of this Act, all functions and powers Savings and
20 conferred on any agency or department of the Federal Government of Transitional
21 Nigeria to carry out the implementation of Nigerian content development or Provision
22 policy in the Nigerian oil and gas industry by any law or enactment is hereby
23 transferred to the Nigerian Content Development and Monitoring Board
24 established under this Act.

25 **104.**-(1) A Fund to be known as the Nigerian Content Development Establishment of
26 Fund (the "Fund") is established for purposes of funding the implementation Nigerian Content
27 of Nigerian content development in the Nigeria oil and gas industry. Development
Fund

28 (2) The sum of one per cent of every contract awarded to any
29 operator, contractor, subcontractor, alliance partner or any other entity
30 involved in any project, operation, activity or transaction in the upstream

1 sector of the Nigeria Content oil and gas industry shall be deducted at source
2 and paid into the Fund.

3 (3) Subject to section 104(4) the Fund shall be managed by the
4 Nigerian Content Development and Monitoring Board and employed for
5 projects, programmes, and activities directed at increasing Nigerian Content in
6 the oil and gas industry provided that-

7 (a) not more than ten per cent (10%) of the monies accruing to the
8 Fund in any year shall be spent by the Board on its operations including
9 General and Administrative expenses, whether as operating or capital
10 expenditure;

11 (b) at least Seventy per cent (70%) of the Fund shall be disbursed to
12 qualified Nigerian Indigenous Companies for in-country capacity
13 development by way of long-term, low cost asset acquisition loans and
14 infrastructure or facilities development support, equity investment, direct
15 grants for in-country Research and Development (R&D), technology
16 acquisition and in-country manufacturing.

17 (4) The following modalities and criteria will govern the application
18 for funding support, evaluation and disbursements of funds referred to in
19 section 104(3)(b).

20 (a) The NCCF standing committee shall evaluate all proposals for
21 capacity development funding support from Nigerian Indigenous Companies
22 based on established selection and ranking criteria and recommend qualifying
23 CDI applications for funding on a quarterly basis.

24 (b) Each quarter, the screened and ranked list of qualifying proposals
25 shall be forwarded to the Executive Secretary of the Nigerian Content
26 Development and Monitoring Board for processing and disbursement.

27 (c) A half-yearly disbursement report in respect of the funds will be
28 published in the JQS and in at least two (2) national newspapers, specifying
29 beneficiary companies, amounts disbursed, recovery-to-date, assets acquired
30 and infrastructure /facility developed.

1 (d) If any of funds referred to in section 104(4)(b) are not spent in
2 any one year, it may be allocated and disbursed in the succeeding years.

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

Enforcement of
Compliance Act
No. 5, 2003

7 **106.** In this Act:

Interpretation

8 "Joint Qualification System" means the industry databank of available
9 capacities and capabilities in the Nigerian oil and gas industry;

10 "Labour Clause" means a clause mandating the use of a minimum
11 percentage of Nigerian Labour in professional cadres in all contracts
12 awarded in the Nigerian petroleum industry above a threshold value as
13 stipulated by the Minister from time to time;

14 "Minister" means the Minister of Petroleum Resources;

15 "Nigerian Indigenous Company" means a company which-

16 (a) entire issued share capital is owned by Nigerians;

17 (b) Board of directors comprises only Nigerians;

18 (c) owns all its assets.

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

22 "NNPC" means Nigeria National Petroleum Corporation;

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

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

29 "Nigerian Content Indicator" means a percentage rating of a company

1 based on specific criteria defined on the basis of values ascribed to each
2 criterion;

3 "Nigerian Oil and Gas Industry" means all activities connected with the
4 exploration, development, exploitation, transportation, processing and sale of
5 Nigerian oil and gas resources including upstream, midstream and downstream
6 oil and gas operations;

7 "Operator" means the Nigeria National Petroleum Company (NNPC), its
8 subsidiaries and joint venture partners and any Nigerian, foreign or
9 international oil and gas company operating in the Nigerian Oil and Gas
10 Industry or using any hydrocarbon as main input under any petroleum
11 arrangement, contract or business venture;

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

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

16 "Oil and Gas e-market Place" means a virtual platform for buyers and sellers of
17 goods and services in the oil and gas industry that allows for speedy and
18 transparent transactions.

Citation

19 **107.** This Act may be cited as the Nigerian Oil and Gas Industry
20 Content Development Act (Amendment) Bill, 2015.

EXPLANATORY MEMORANDUM

This Bill Seeks to Amend the Nigerian Oil and Gas Content Development Act by Extending the Waiver Window, Removing Difficulties of Access to Funds and correcting an obvious heading error.