

A BILL

FOR

AN ACT TO REPEAL THE NIGERIAN OIL AND GAS INDUSTRY CONTENT
DEVELOPMENT ACT, 2010 AND ENACT THE NIGERIAN CONTENT
DEVELOPMENT AND ENFORCEMENT ACT TO MAKE FOR PROVISIONS FOR
THE DEVELOPMENT AND ENFORCEMENT OF NIGERIAN CONTENT AND FOR
THE ESTABLISHMENT OF ENTITIES AND FOR RELATED MATTERS

Sponsors:

1. Rt. Hon. Femi Gbajabiamila
2. Hon. (Barr.) Legor Idagbo
3. Hon. (Arc.) Ibrahim Hamza
4. Hon. (Deacon) Sérgius Ose Ogun
5. Hon. Mustafa M. Saidu
6. Hon. Makki Abubakar Yalleman
7. Rt. Hon. Darlington Nwokocho
8. Hon. David Idris Zacharias
9. Hon. Omowumi Ogunlola

[] Commencement

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

PART 1

- 2 1. Notwithstanding anything to the contrary contained in any
3 enactment or law, the provisions of this Act shall apply to all matters
4 pertaining to Nigerian content in respect of all operations or transactions
5 carried out in the Nigeria economy.
- 6 2. Pursuant to Section 1 above, Ministries, Extra Ministerial
7 Departments and agencies of the Federal Government, Federal Government
8 Owned Companies (either fully or partially owned) Federal Institutions and
9 Public Corporations, Private Sector Institutions, Business Enterprises and

1 Individuals carrying out business activities in any area of the Nigerian
2 economy shall consider Nigerian content as an important element of their
3 overall business development and management and shall consequently ensure
4 that contract, grant of any extractive permit, license, lease or any other
5 instrument conferring any right on a person to exploit petroleum and/or
6 mineral resources in any part of Nigeria is given to Nigerian indigenous
7 company and/or firm that demonstrate capacity to execute the project or
8 undertake the business activity.

9 PART II - NIGERIAN CONTENT ON OIL AND GAS

10 3. There is hereby established for the Federation a Board to be known
11 as Nigerian Oil and Gas Content Development and Enforcement Board (in this
12 Part referred to as "the Board").

13 4. The Nigerian Oil and Gas Content Development and Enforcement
14 Board-

15 (a) shall be a body corporate with perpetual succession and a common
16 seal; and

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

18 5. The functions of the Board shall be to-

19 (a) implement the provisions of this Act and regulations made under
20 this Act in relation to matters on oil and gas industry in Nigeria;

21 (b) supervise, coordinate, administer, monitor, manage and enforce
22 the implementation and development of Nigerian content in oil and gas
23 industry as specified in this Act and the First Schedule to this Act in the
24 operations of operators, contractors and all other entities in the Nigerian oil and
25 gas industry;

26 (c) appraise, evaluate and approve the Nigerian content plans and
27 reports submitted to the Board in respect of all matters in the oil and gas
28 industry as specified by the provisions of this Act and First Schedule thereof;

29 (d) award Certificate of Authorization and conduct reviews of the
30 Nigerian content plans and reports submitted to the Board in compliance with

1 the provisions of this Act;

2 (f) administer and operate oil and gas e-market place and Joint
3 Qualifications Systems for the Nigerian Content Development in the oil
4 and gas industry set up in accordance with the provisions of this Act;

5 (g) assist local contractors and Nigerian companies to develop
6 their capabilities and capacities in the oil and gas industry to further the
7 attainment of the goal of developing Nigerian content in the Nigerian oil
8 and gas industry;

9 (h) make procedures to guide the implementation of this Act in
10 respect of the development and enforcement of Nigerian Content in the oil
11 and gas industry;

12 (i) monitor and coordinate the Nigerian content performance of all
13 operators in the oil and gas industry in accordance with the provisions of
14 this Act and the First Schedule thereof;

15 (j) make auditing procedures and conduct regular audits for the
16 purposes of monitoring and enforcing compliances with the provisions of
17 this Act and the First Schedule to the Act in relation to oil and gas industry;

18 (k) provide guidelines, definitions and measurement of Nigerian
19 content indicator to be utilized in the oil and gas industry in Nigeria;

20 (l) conduct studies, researches and investigations that may further
21 the attainment of the goal of developing Nigerian content in the oil and gas
22 industry;

23 (m) organize conferences, workshops, seminars, symposia,
24 trainings, road shows and other public education fora to further the
25 attainment of the goal of developing Nigerian content in the Nigerian oil and
26 gas industry ;

27 (n) take steps to encourage indigenous professionals in Diaspora to
28 collaborate with resident Nigerian engineers and/or engineering facilities
29 and use their expertise to develop the Nigerian oil and gas industry;

30 (o) promote mutually beneficial Public Private Partnership (PPP)

1 by encouraging direct collaboration in production and manufacturing ventures
2 of products, such as fittings, spare parts, domestic wares and etc., between
3 foreign manufacturers and indigenous engineering facilities, and those to be
4 brought in by foreign investors at reasonable cost;

5 (p) establish Centres for Acquisition of Technology in the oil and gas
6 producing areas of the Country for the promotion of technology utilization,
7 strengthening of technology management capability and information system,

8 (q) in collaboration with any reasonable and responsible entity
9 promote Research and Development in all sectors of the Nigerian oil and gas
10 industry;

11 (r) enforce the provisions of this Act and the First Schedule to the Act
12 and subject to the provisions of the Constitution of the Federal Republic of
13 Nigeria, to prosecute any operator that violate any provision of this Act in
14 respect of the Nigerian content requirement in the oil and gas industry as
15 stipulated by this Act;

16 (s) shall promote the acquisition of bulk product manufacturing
17 licenses from foreign manufactures for the use of locally trained medium and
18 large scale manufacturers; and

19 (t) do legally anything necessary to be done to facilitate the carrying
20 out of its functions under this Act.

21 7.-(1) To optimize the retention of value from the exploitation of
22 petroleum resources in Nigeria and also to strongly support, encourage and
23 promote existing Nigerian indigenous technologies in petroleum refining, the
24 Nigerian Oil and Gas Content Development and Enforcement Board shall
25 upon the immediate commencement of this Act, establish plans and
26 programmes for the immediate training of Nigerians to acquire high levels of
27 skill and technical know-how needed to construct, repair and/or maintain
28 modular and/or green refineries in Nigeria.

29 (2) Notwithstanding anything to the contrary contained in any
30 enactment, rule, regulation or any law, it shall be lawful for the Board to

1 undertake mutually beneficial Public Private Partnership (PPP) by entering
2 into direct collaboration with responsible foreign and indigenous
3 engineering companies and/or firms for the construction, repairs and
4 maintenance of modular and/or green refineries in Nigeria.

5 (3) The Board shall liaise with every relevant authority to ensure
6 that necessary permits, licenses or any other instrument required for
7 Nigerians to operate modular refineries built pursuant to the implementation
8 of this Section and refine petroleum in Nigeria are obtained and it shall be
9 the duty of every relevant authority so liaised with by the Board in the
10 discharge of the obligation herein imposed on the Board to give full
11 maximum support and cooperation to the Board.

12 8. There shall be established the following Directorates for the
13 Board-

Establishment
of Directorates

14 (a) the Directorate of Finance and Personnel Management;

15 (b) the Directorate of Planning, Research and Statistics;

16 (c) the Directorate of Monitoring, Evaluation and Enforcement;

17 (d) the Directorate of Legal Services; and

18 (e) any other Directorate which the Council may establish.

19 9. Each Directorate shall be headed by a Director who shall be
20 appointed by the Council established to supervise the activities of the Board
21 under this Act.

22 10. Upon the commencement of this Act, all subsequent oil and gas
23 arrangements, agreements, contracts or memoranda of understanding
24 relating to any operation or transaction in the Nigerian oil and gas industry
25 shall be in conformity with the provisions of this Act.

26 11. Nigerian independent operators shall be given first
27 consideration in the award of oil blocks, oil field licences, oil lifting licences
28 and in all projects for which contract is to be awarded in the Nigerian oil and
29 gas industry subject to the fulfilment of such conditions as may be specified
30 by the Minister responsible for matters relating to oil and gas.

1 12. There shall be exclusive consideration to Nigerian indigenous
2 service companies which demonstrate capacities to execute such work to bid
3 on land and swamp operating areas of the Nigerian oil and gas industry as
4 contained in the First Schedule to this Act.

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

10 14. In the bidding for any licence, permit or interest and before
11 carrying out any project in the Nigerian oil and gas industry, an operator shall
12 submit a Nigerian Content Plan ("the Plan") to the Board demonstrating
13 compliance with the Nigerian content requirements of this Act.

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

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

22 17.-(1) A plan shall contain provisions intended to ensure that-

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

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

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

1 **18. -(1)** As from the commencement of this Act, the minimum
2 Nigerian content in any project to be executed in the Nigerian oil and gas
3 industry shall be consistent with the level set in First Schedule to this Act.

4 (2) Where a project description is not specified in the First
5 Schedule to this Act, the Board shall set the minimum content level for that
6 project or project item pending the inclusion of the minimum content level
7 for that project or project item through an amendment of the First Schedule
8 to this Act by the National Assembly.

9 (3) All operators, alliance partners and contractors shall comply
10 with the minimum Nigerian content for particular project item, service or
11 product specification set out in the First Schedule to this Act

12 (4) Notwithstanding the provisions of subsection (1) of this
13 section, where there is inadequate capacity to any of the targets in the First
14 Schedule to this Act, the Minister responsible for oil and gas in Nigeria may
15 authorize the continued importation of the relevant items and such approval
16 by the Minister shall not exceed 3 years from the commencement of this Act.

17 **19.** The Nigerian Content Plan submitted to the Board by an
18 operator in pursuant to Section 14 of this Act shall contain a detailed plan,
19 satisfactory to the Board, setting out how the operator and their contractors
20 will give first consideration to Nigerian goods and services, including
21 specific examples showing how first consideration is considered and
22 assessed by the operator in its evaluation of bids for goods and services
23 required by the project.

24 **20.** The Nigerian content plan submitted to the Board by any
25 operator or alliance partner shall contain detailed plan on how the operator
26 or its alliance partner intend to ensure the use of locally manufactured goods
27 where such goods meet the specifications of the Nigerian oil and gas
28 industry.

29 **21.** All operators and project promoters shall consider Nigerian
30 content when evaluating any bid where the bids are within 1 % of each other

1 at commercial stage and the bid containing the highest level of Nigerian
2 content shall be selected provided the Nigerian content in the selected bid is at
3 least 5% higher than its closest competitor.

4 22. All operators and alliance partners shall maintain a bidding
5 process for acquiring goods and services which shall give full and fair
6 opportunity to Nigerian indigenous contractors and companies.

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

12 24.-(1) For all proposed projects, contracts, subcontracts and
13 purchase orders in the oil and gas industry estimated by operator to be in excess
14 of \$1,000,000 (USD), the operator shall provide to the Board for approval,
15 advertisements, pre-qualification criteria, technical bid documents, technical
16 evaluation criteria and the proposed bidders lists.

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

21 25.-(1) The operators shall submit to the Board, 30 days prior to the
22 first day of each quarter, a list of all contracts, subcontracts and purchase orders
23 exceeding \$1,000,000 (USD) which will be bided or executed in the upcoming
24 quarter.

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

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

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

30 (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.

26. The Board upon being satisfied that the provisions of Section 24 had been complied with by an operator, shall advise 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 contract review.

27. 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 documents 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).

28. 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)-

(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

1 purchase order; and

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

3 29. Prior to the award of contract, subcontract or purchase order to
4 the selected bidder, the operator shall submit to the Board-

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

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

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

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

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

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

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

14 (i) percentage difference in price between selected bidder and each
15 bid.

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

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

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

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

28 31.-(1) The operator shall submit to the Board, within 30 days at the
29 end of each quarter, a listing of all contracts, subcontracts and purchase orders
30 exceeding \$1,000,000 (USD) or such other limit as the Board may determine,

1 awarded in the previous quarter.

2 (2) This listing shall provide-

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

4 (b) value of contract or purchase order;

5 (c) name of successful contractor or vendor;

6 (d) a primary location of work;

7 (e) estimates of Nigerian content;

8 (f) commencement and completion date; and

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

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

16 33. The operator shall locate, within the project office, personnel
17 with decision- making authority in accordance with a list of personnel to be
18 approved by the Board.

19 34. Without prejudice to the operation of Section 32 of this Act, the
20 Board shall have powers to require any operator to maintain an office in a
21 Community where the operator has significant operations.

22 35.-(1) Without prejudice to the operation of Section 17(1)(b) of
23 this Act, Nigerians shall be given the first consideration for employment and
24 training in any project executed by any operator or project promoter in the
25 Nigerian oil and gas industry.

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

29 36. The plan submitted by any operator or project promoter for any
30 project shall contain an Employment and Training Plan (E and T Plan)

1 which shall include-

2 (a) an outline of the-

3 (i) hiring and training needs of the operator or project promoter and
4 operator's major contractors with a breakdown of the skills needed,

5 (ii) anticipated skill shortages in the Nigerian labour force,

6 (iii) project specific training requirements, and

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

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

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

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

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

18 (iii) their employment status; and

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

21 37. Where Nigerians are not employed because of their lack of
22 training, the operator shall ensure, to the satisfaction of the Board, that every
23 reasonable effort is made within a reasonable time to supply such training
24 locally or elsewhere and such effort and the procedure for its execution shall be
25 contained in the operator's E and T Plan.

26 38.-(1) For each of its operations, the operator shall submit to the
27 Board a succession plan for any position not held by Nigerians and the plan
28 shall provide for Nigerians to understudy each incumbent expatriate for a
29 maximum period of five years and at the end of the five year period the
30 position shall become Nigerianised.

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

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

6 39. For each of its operations, an operator or project promoter may
7 retain a maximum of five per cent of management positions as may be
8 approved by the Board as expatriate positions to take care of investor
9 interests.

10 40. -(1) Upon the commencement of this Act, every non Nigerian
11 employed or to be employed in the oil and gas Sector of the Nigerian
12 economy shall apply for and obtain a Work Permit and it shall not be lawful
13 for an operator in the oil and gas industry to make application to, and
14 receive the approval of, the Ministry of Internal Affairs or any other agency
15 or Ministry of the Federal Government for expatriate quota without a prior
16 approval from the Board to make such an application.

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

18 (a) job Titles;

19 (b) description of responsibilities;

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

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

23 41. Notwithstanding the provisions of the First Schedule to this
24 Act, all projects or contracts whose total budget exceeds \$1,000, 000 (One
25 Million USD) shall contain a "Labour Clause" mandating the use of a
26 minimum percentage of Nigerian labour in specific cadres as may be
27 stipulated by the Board.

28 42. All operators and companies operating in the Nigerian oil and
29 gas industry shall employ only Nigerians in their junior and intermediate

1 cadre or any other corresponding grades designated by the operator or
2 company.

3 43. The Minister responsible for oil and gas industry may from time
4 to time as circumstances dictate make regulations with requirements and
5 targets for the growth of research and development in the Nigerian oil and gas
6 industry.

7 44. For every project for which a plan is submitted, an operator shall
8 carry out a programme and make expenditure, to the satisfaction of the Board,
9 for the promotion of education, attachments, training, research and
10 development in Nigeria in relation to its work programme and activities.

11 45.-(1) The operator shall submit to the Board and update, every six
12 months, the operator's Research and Development Plan (R and D Plan).

13 (2) The Rand D Plan shall-

14 (a) outline a revolving three to five year plan for oil and gas related
15 research and development initiatives to be undertaken in Nigeria, together with
16 a breakdown of the expected expenditures that will be made in implementing
17 the Rand D Plan; and

18 (b) provide for public calls for proposals for research and
19 development initiatives associated with the operator's activities.

20 46. The operator shall report to the Board, on quarterly basis, with
21 respect to its Rand D activities and the Board shall compare these activities to
22 the operators Rand D Plan.

23 47.-(1) The Board shall in conjunction with the Minister responsible
24 for oil and gas matters in Nigeria make regulations establishing the minimum
25 standards, facilities, personnel and technology for training in the oil and gas
26 industry.

27 (2) The regulations made pursuant to sub section of Section... of
28 the Act shall specify modalities for involving operators as partners in training
29 and development.

30 48.-(1) The Board shall in conjunction with the Minister responsible

1 for oil and gas matters in Nigeria make regulations setting out targets to
2 ensure-

3 (a) full utilization and steady growth of indigenous companies
4 engaged in exploration;

5 (b) seismic data processing;

6 (c) engineering design;

7 (d) reservoir studies;

8 (e) manufacturing and fabrication of equipment; and

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

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

15 49. The Board shall in conjunction with the Minister responsible
16 for oil and gas matters in Nigeria make regulations which shall require any
17 operator or company or its professional employees engaged in the provision
18 of engineering or other professional services in the Nigerian oil and gas
19 industry to be registered with the relevant professional bodies in Nigeria.

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

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

28 52. The operator shall give full and effective support to technology
29 transfer by encouraging and facilitating the formation of joint ventures,
30 partnering and the development of licensing agreements between Nigerian

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

4 53. The operator or project promoter shall submit a report to the
5 Board annually describing its technology transfer initiatives and their results
6 and the Board shall in conjunction with the Minister responsible for oil and gas
7 matters in Nigeria make regulations setting targets on the number and type of
8 such joint venture or alliances to be achieved for each project.

9 54. The Board shall in conjunction with the Minister responsible for
10 oil and gas matters in Nigeria, 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.

14 55. The Board shall in conjunction with the Minister responsible for
15 oil and gas matters in Nigeria shall consult with the relevant arms of
16 Government on appropriate fiscal framework and tax incentives for foreign
17 and indigenous companies which establish facilities, factories, production
18 units or other operations in Nigeria for purposes of carrying out production,
19 manufacturing or for providing services and goods otherwise imported into
20 Nigeria.

21 56. The Board shall establish an oil and gas e-marketplace which
22 shall-

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

25 (b) provide functional interface with the Joint Qualification System
26 and provide a universal and transparent governance structure drawn from
27 industry stakeholder;

28 (c) perform all other functions, roles and responsibilities to be set out
29 in the regulations to be made by the Minister in accordance with the provisions
30 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.

57. 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 any existing Regulation or Regulations to be made by the Board in conjunction with the Minister responsible for oil and gas matters in Nigeria in accordance with the provisions of this Act.

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

(a) sole system for Nigerian content registration and pre-qualification of contractors in the oil and gas industry

(b) verification of contractors' capacities and capabilities;

(c) evaluation of application of Nigerian content in the operations 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.

59. The Nigerian Content Monitoring Board shall undertake an effective monitoring of the implementation of the provisions 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.

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

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

(b) procurement achievement in terms of quantity, tonnage of

1 locally manufactured materials and materials of foreign origin.

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

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

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

12 65. The operator shall ensure that its partners, contractors and
13 subcontractors are contractually bound to report Nigerian content information
14 to the operator and, if so requested by the Board, directly to the Board, and to
15 allow the Board or its designated agent access to their records for the purposes
16 of assessment and verification of Nigerian content information reported to the
17 operator or the Board.

18 66. The operators shall effectively communicate its Nigerian content
19 policies and procedures to its contractors and subcontractors and to monitor
20 and enforce their compliance.

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

25 68. An operator, contractor or sub-contractor who carries out any
26 project contrary to the provisions of this Act, commits an offence and is liable
27 upon conviction to a term of imprisonment of not more than five years in
28 addition to a fine of fifteen per cent of the project sum for each project in which
29 the offence is committed.

30 71.-(1) There is established for the Board the Governing Council (in

1 this Act referred to as the "Council") which shall conduct the affairs of the
2 Board.

3 (2) The Head Office of the Council and the Board shall be located
4 in Bayelsa State of the Federal Republic of Nigeria.

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

7 **72.** The Council shall consist of-

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

9 (b) a representative of-

10 (i) Nigerian National Petroleum Corporation,

11 (ii) the agency in charge of technical regulation of the oil and gas
12 industry,

13 (iii) Ministry of Petroleum Resources,

14 (iv) Petroleum Technology Association of Nigeria,

15 (v) Nigerian Content Consultative Forum,

16 (vi) Council of Registered Engineers of Nigeria,

17 (vii) National Insurance Board,

18 (viii) Manufacturers Association of Nigeria; and

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

20 **73.-(1)** The Chairman and members of the Council shall subject to
21 the confirmation of the Senate of the Federal Republic of Nigeria, be
22 appointed by the President and shall be persons of proven integrity and
23 ability.

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

25 **74.** The Executive Secretary shall be on full time status.

26 **75.-(1)** The Council shall have power to-

27 (a) manage and superintend the affairs of the Board;

28 (b) make rules and regulations for the proper functioning of the
29 Board;

30 (c) employ and pay the staff of the Board appropriate remuneration

1 commensurate in scale with that of staff in organizations of similar stature; and
2 (d) enter into any negotiation, agreement and contractual relationship
3 as may be necessary or expedient for the discharge of the functions of the
4 Board.

5 76. Subject to the provisions of section 75 of this Act, the Chairman
6 and members of the Council shall each hold office-

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

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

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

12 (a) he dies;

13 (b) he becomes bankrupt;

14 (c) he is convicted of a felony or any offence involving dishonesty or
15 fraud;

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

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

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

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

25 78. Where a member ceases to hold office for any reason before the
26 expiration of his term, another person representing the same interest as that
27 member shall be appointed in his place to finish the unexpired residue of the
28 term.

29 79. The President may remove a member if he is satisfied that it is not

1 in the interest of the Board or the public that the member continues in that
2 office.

3 80. A member of the Council shall be paid such allowances and
4 expenses as may be determined by Revenue Mobilization, Allocation and
5 Fiscal Commission using the scale applicable in Nigeria oil and gas
6 industry.

7 81.-(1) There shall be an Executive Secretary for the Board, who
8 shall be appointed by the President.

9 (2) The Executive Secretary shall be-

10 (a) the Chief Executive and Accounting Officer of the Board;

11 (b) responsible to the Council for the execution of the policies and
12 the administration of the daily affairs of the Board; and

13 (c) a graduate of at least 15 years with cognate experience in the
14 Nigeria oil or gas industry.

15 (3) The Executive Secretary-

16 (a) shall be appointed for a term of four years in the first instance;

17 and

18 (b) may be appointed for a further term of four years and no more.

19 82. The Executive Secretary shall be paid such remuneration as
20 may be specified in his letter of appointment or as determined by the
21 Revenue Mobilization, Allocation and Fiscal Commission using the scale
22 applicable in the Nigeria oil and gas industry.

23 83. The Executive Secretary shall cease to hold office if any of the
24 conditions specified in section 77 pertaining to cessation of membership of
25 the Council applies to him.

26 84. The Executive Secretary may resign his appointment by a
27 written notice under his hand delivered to the President.

28 85. The Council may appoint for the Board such number of
29 employees as may in the opinion of the Council be expedient and necessary
30 for the proper and efficient performance of the functions of the Board and

1 shall pay them remunerations and allowances as it determines using the scale
2 applicable in the Nigeria oil and gas industry.

3 86. The Council shall have power to appoint for the Board either
4 directly or on secondment from the Public Service of the Federation, such
5 number of employees as may, in the opinion of the Council, be required to
6 assist the Board in the discharge of any of its functions under this Act.

7 87. The person seconded under Section 85 may elect to be transferred
8 to the service of the Board and the previous service he may have rendered in the
9 public service shall count as service to the Board for the purpose of any pension
10 subsequently payable by the Board.

11 88.-(1) The Service in the Board shall be approved service for the
12 purposes of the Pension Reform Act.

13 (2) The officers and other persons employed in the Board shall be
14 entitled to pension, gratuities and other retirement benefits as are enjoyed by
15 persons holding equivalent ranks in the Civil Service of the Federation.

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

19 89.-(1) The Board shall establish and maintain a fund to which all
20 monies accruing to it shall be paid into or from which shall be defrayed all
21 expenditure incurred by the Board.

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

23 (a) all subventions and budgetary allocations provided by the Federal
24 Government;

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

27 (c) interest and revenue accruing from savings and investments made
28 by the Board;

29 (d) loans, which may be required from time to time for the objects of
30 the Board, provided that the Board shall not, without the prior approval of the

1 President, borrow money in compliance with the provisions of the Fiscal
2 Responsibility Act; and

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

4 90. The Council shall, not later than 30th September of each year,
5 submit to the National Assembly, through the Minister, an estimate of the
6 projected expenditure of the Board during the next succeeding year and shall
7 include a copy of the audited accounts of that year and a copy of the auditor's
8 report.

9 92.-(1) The Board may accept gifts of money, land or other
10 property on such terms and conditions, if any, as may be specified by the
11 person or organization making the gift.

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

14 93. The Council shall approve any expenditure of the Board and
15 shall-

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

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

20 94. The audit of the council shall be in accordance with the
21 provisions

22 PART III

23 95. Notwithstanding anything to the contrary contained in any
24 enactment, schedule, regulation or any other instrument, there shall in the
25 exercise of powers and /or functions in respect of the issuance of, and/or
26 granting of permit, license, lease or any other instrument conferring right of
27 operation in the Information and Communication Technology Sector of the
28 Nigerian economy, give exclusive consideration to Nigerian indigenous
29 companies which demonstrate capacity with exclusively Nigerian
30 personnel and/or in collaboration with non-Nigerian personnel to execute

Information and
Communication
Technology

1 any work in the Information and Communication Technology Sector of the
2 Nigerian economy.

3 96. All Federal MDAs, Federal Government Owned Companies
4 (either fully or partially owned) Federal Institutions and Public Corporations,
5 Private Sector Institutions, Business Enterprises and Individuals carrying out
6 activity in any area in the Information and Communication Technology
7 Sector of the Nigerian economy shall comply with the provisions of the Second
8 Schedule to this Bill in carrying out their activities.

9 97. There is hereby established for the Federation a "National Office"
10 to be known as National Office for Nigerian Content on Information and
11 Communication Technology (in this Act also referred to as "National Office
12 on ICT")

13 98. The National Office on ICT-

14 (a) shall be a body corporate with perpetual succession and a common
15 seal; and

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

17 99. The functions of the National Office on ICT shall be to-

18 (a) implement the provisions of this Act and regulations made under
19 the Act in relation to matters on information and communication technology
20 industry in Nigeria;

21 (b) supervise, coordinate, administer, monitor, manage and enforce
22 the implementation and development of Nigerian content in information and
23 communication technology industry in Nigeria as specified in this Act and the
24 Second Schedule to this Act in the operations of operators, contractors and all
25 other entities in the information and communication technology industry in
26 Nigeria;

27 (c) appraise, evaluate and approve the Nigerian content plans and
28 reports submitted to the Board in respect of matters in the information and
29 communication technology industry in Nigeria as specified by the provisions
30 of this Act and Second Schedule to this Act;

1 (d) award Certificate of Authorization and conduct reviews of the
2 Nigerian content plans and reports submitted to the National Office on ICT
3 in compliance with the provisions of this Act;

4 (e) assist local contractors and Nigerian companies to develop their
5 capabilities and capacities in the information and communication
6 technology industry to further the attainment of the goal of developing
7 Nigerian content in the Nigerian information and communication
8 technology industry;

9 (f) make procedures to guide the implementation of this Act and
10 ensure compliance with all the provisions of this Act in matters touching on
11 information and communication technology industry in Nigeria;

12 (g) monitor and coordinate the Nigerian content performance of all
13 operators in the information and communication technology industry
14 under this Act and the second Schedule to this Act;

15 (h) make auditing procedures and conduct regular audits for the
16 purposes of monitoring and enforcing compliances with the provisions of
17 this Act as such provision relates to the information and communication
18 technology industry in Nigeria and in compliance with the Second
19 Schedule to this Act;

20 (i) provide guidelines, definitions and measurement of Nigerian
21 content indicator to be utilized in the information and communication
22 technology industry in Nigeria;

23 (j) conduct studies, researches and investigations that may further
24 the attainment of the goal of developing Nigerian content in the information
25 and communication technology industry;

26 (k) organize conferences, workshops, seminars, symposia,
27 trainings, road shows and other public education fora to further the
28 attainment of the goal of developing Nigerian content in the Nigerian
29 information and communication technology industry;

30 (l) take steps to encourage indigenous professionals in Diaspora to

1 collaborate with resident Nigerian engineers and/or engineering facilities and
2 use their expertise to develop the Nigerian information and communication
3 technology industry;

4 (m) promote mutually beneficial Public Private Partnership (PPP) by
5 encouraging direct collaboration in production and manufacturing ventures of
6 products, such as fittings, spare parts, domestic wares and etc., between foreign
7 manufacturers and indigenous engineering facilities, and those to be brought in
8 by foreign investors at reasonable cost.

9 (n) establish Centres for Acquisition of Technology in the oil and gas
10 producing areas of the Country for the promotion of technology utilization,
11 strengthening of technology management capability and information system,

12 (o) in collaboration with any reasonable and responsible entity
13 promote Research and Development in all sectors of the Nigerian information
14 and communication technology industry;

15 (p) enforce the provisions of this Act and the Second Schedule to the
16 Act and subject to the provisions of the Constitution of the Federal Republic of
17 Nigeria, to prosecute offenders in respect of breaches touching on
18 information and communication technology industry matters under this Act.

19 (q) shall promote the acquisition of bulk product manufacturing
20 licenses from foreign manufactures for the use of locally trained medium and
21 large scale manufacturers. and,

22 (r) do legally anything necessary to be done to facilitate the carrying
23 out of its functions.

24 100.-(1) There is established for the National Office on ICT the
25 Governing Council (in this Act referred to as the "Council") which shall
26 conduct the affairs of the Board.

27 (2) The Council may establish branch offices of the National Office
28 on ICT in any State of the Federation.

29 101. The Council shall consist of-

30 (a) a Chairman who shall be the Minister responsible for information

and communication technology;

(b) a representative of-

(i) Nigerian Communication Commission,

(ii) NITDA,

(iii) Ministry of Communication,

(iv) Petroleum Technology Association of Nigeria,

(v) Nigerian Content Consultative Forum,

(vi) Council of Registered Engineers of Nigeria,

(vii) National Insurance Board,

(viii) Manufacturers Association of Nigeria; and

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

102.-(1) The Chairman and members of the Council shall subject to the confirmation of the Senate of the Federal Republic of Nigeria, be appointed by the President and shall be persons of proven integrity and ability.

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

103. The Executive Secretary shall be on full time status.

104.-(1) The Council shall have power to-

(a) manage and superintend the affairs of the National Office on ICT;

(b) make rules and regulations for the proper functioning of the National Office on ICT;

(c) employ and pay the staff of the Board appropriate remuneration commensurate in scale with that of staff in organizations of similar stature; and

(d) enter into any negotiation, agreement and contractual relationship as may be necessary or expedient for the discharge of the functions of the National Office on ICT.

105. Subject to the provisions of section of this Act, the Chairman and members of the Council shall each hold office-

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

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

5 106. A person shall cease to hold office as a member of the Council
6 if-

7 (a) he dies;

8 (b) he becomes bankrupt;

9 (c) he is convicted of a felony or any offence involving dishonesty or
10 fraud;

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

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

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

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

20 107. Where a member ceases to hold office for any reason before the
21 expiration of his term, another person representing the same interest as that
22 member shall be appointed in his place to finish the unexpired residue of the
23 term.

24 108. The President may remove a member if he is satisfied that it is
25 not in the interest of the National Office on ICT or the public that the member
26 continues in that office.

27 109. A member of the Council shall be paid such allowances and
28 expenses as may be determined by Revenue Mobilization, Allocation and
29 Fiscal Commission using the scale applicable in Nigeria oil and gas industry.

30 110.-(1) There shall be an Executive Secretary for the National Office

1 on ICT, who shall be appointed by the President.

2 (2) The Executive Secretary shall be-

3 (a) the Chief Executive and Accounting Officer of the National
4 Office on ICT;

5 (b) responsible to the Council for the execution of the policies and
6 the administration of the daily affairs of the National Office on ICT; and

7 (c) a graduate of at least 15 years with cognate experience in the
8 Nigeria information and communication technology industry.

9 (3) The Executive Secretary-

10 (a) shall be appointed for a term of four years in the first instance;
11 and

12 (b) may be appointed for a further term of four years and no more.

13 111. The Executive Secretary shall be paid such remuneration as
14 may be specified in his letter of appointment or as determined by the
15 Revenue Mobilization, Allocation and Fiscal Commission using the scale
16 applicable in the Nigeria oil and gas industry.

17 112. The Executive Secretary shall cease to hold office if any of the
18 conditions specified in section 77 pertaining to cessation of membership of
19 the Council applies to him.

20 113. The Executive Secretary may resign his appointment by a
21 written notice under his hand delivered to the President.

22 114. The Council may appoint for the National Office on ICT such
23 number of employees as may in the opinion of the Council be expedient and
24 necessary for the proper and efficient performance of the functions of the
25 National Office on ICT and shall pay them remunerations and allowances as
26 it determines using the scale applicable in the Nigeria oil and gas industry.

27 115. The Council shall have power to appoint for the National
28 Office on ICT either directly or on secondment from the Public Service of
29 the Federation, such number of employees as may, in the opinion of the
30 Council, be required to assist the National Office on ICT in the discharge of

1 any of its functions under this Act.

2 116. The person seconded under Section may elect to be
3 transferred to the service of the NATIONAL OFFICE ON ICT and the previous
4 service he may have rendered in the public service shall count as service to the
5 NATIONAL OFFICE ON ICT for the purpose of any pension subsequently
6 payable by the NATIONAL OFFICE ON ICT.

7 117.-(1) The Service in the NATIONAL OFFICE ON ICT shall be
8 approved service for the purposes of the Pension Reform Act.

9 (2) The officers and other persons employed in the NATIONAL
10 OFFICE ON ICT shall be entitled to pension, gratuities and other retirement
11 benefits as are enjoyed by persons holding equivalent ranks in the Civil Service
12 of the Federation.

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

16 118.-(1) The NATIONAL OFFICE ON ICT shall establish and
17 maintain a fund to which all monies accruing to it shall be paid into or from
18 which shall be defrayed all expenditure incurred by the NATIONAL OFFICE
19 ON ICT.

20 (2) The Fund of the NATIONAL OFFICE ON ICT shall consist of-

21 (a) all subventions and budgetary allocations provided by the Federal
22 Government;

23 (b) sums accruing to the NATIONAL OFFICE ON ICT by way of
24 donations, gifts, grants, endowment, bequest or otherwise;

25 (c) interest and revenue accruing from savings and investments made
26 by the Board;

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

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

2 119. The Council shall, not later than 30th September of each year,
3 submit to the National Assembly, through the Minister, an estimate of the
4 projected expenditure of the Board during the next succeeding year and shall
5 include a copy of the audited accounts of that year and a copy of the auditor's
6 report.

7 120.-(1) The Board may accept gifts of money, land or other
8 property on such terms and conditions, if any, as may be specified by the
9 person or organization making the gift.

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

12 121. The Council shall approve any expenditure of the Board and
13 shall-

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

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

18 122. The audit of the council shall be in accordance with the
19 provisions

20 NIGERIAN CONTENT IN THE POWER SECTOR

21 123. In this part, unless the context otherwise requires:

22 "Company" or "companies" wherever refers to legal entities supplying
23 essential goods and/or providing support services to "Licensee" or
24 "Licensees" in the NESI;

25 "Agency" means the Nigerian Content Development and Enforcement
26 Agency on Power established under this Act;

27 "Expatriate" refers to a Non-Nigerian citizen temporarily or permanently
28 residing in Nigeria;

29 "Licence" means a licence issued by the Nigerian Electricity Regulatory
30 Commission;

1 "Licensee" means any person who holds a licence issued or deemed to be
2 issued by the Nigerian Electricity Regulatory Commission to carry on any
3 regulated activity;

4 "Major Project" means projects, whose budget exceed the threshold set by the
5 Board upon the advice of the Nigerian Electricity Regulatory Commission,
6 and is related to the operations of a licensed power plant, transmission grid,
7 system operations control centers or facilities, distribution network, or any
8 other such projects in the power sector the Nigerian Electricity Regulatory
9 Commission deems as a major project;

10 NESI" or "the Nigerian Electricity Supply Industry" means the totality of
11 activity in the production, transportation and delivery of electrical energy to
12 consumers and customers within Nigeria, including the generation,
13 transmission, system operations, distribution, retail, and trading of electricity
14 energy, as well as the provision of support services to any of these five
15 regulated activities;

16 "Nigerian Content" refers to the quantum of composite value added to or
17 created in the Nigerian economy by a systematic development of
18 capacity and capabilities through the deliberate utilization of Nigerian
19 human and material resources and services in the Nigerian Electricity
20 Supply Industry;

21 "Nigerian goods" refer to goods manufactured, produced or assembled by
22 companies incorporated in Nigeria for such purposes;

23 "Nigerian operator" refers to a company incorporated in Nigeria with the
24 object of providing goods and services for the NESI;

25 "Nigerian Services" refer to services offered by Nigerian Professional
26 Companies and Nigerian Professionals;

27 "Person" includes an individual, company, partnership or any other association
28 of individuals, whether incorporated or not;

29 "Professional Services" refer to services offered by Nigerian Professional
30 Firms or Companies;

1 124. Notwithstanding anything to the contrary contained in any
2 enactment, schedule, regulation or any other instrument, there shall in the
3 exercise of powers and /or functions in respect of the issuance of, and/or
4 granting of permit, license, lease or any other instrument conferring right of
5 operation in the Power Sector of the Nigerian economy, be exclusive
6 consideration to Nigerian indigenous companies which demonstrate
7 capacity to execute any work in the Power Sector of the Nigerian economy.

8 125. All licensees shall ensure that first consideration is given to
9 qualified Nigerian Companies for the supply of goods and works, and for
10 the provision of services in respect of any activity in the Power Sector of the
11 economy.

12 126.-(1) All licensees shall develop a framework for the
13 development and promotion of Nigerian Content.

14 (2) All Licensees shall maintain an Annual Nigerian Content
15 Performance Report covering all their projects and activities in the previous
16 financial year.

17 (3) The Nigerian Content Development and Enforcement Agency
18 on Power shall review the Reports, and issue relevant directives as required,
19 where necessary.

20 (4) The Board shall promote continuous growth in Nigerian
21 Content in recruitments, procurements, implementation of projects,
22 operations, consultancies, etc in the NESI by ensuring strict compliance
23 with this Act.

24 127.-(1) All Licensees shall ensure compliance with relevant
25 industry agreements, provided such agreements are not in conflict with this
26 Act regarding the issue of Nigerian content.

Compliance with
Nigerian Content
policies by Non-
Licensees

27 (2) It shall be the responsibility of all licensees to communicate
28 their Nigerian content policies and procedures to their contractors and
29 subcontractors and to monitor and enforce their compliance therewith.

Submission of
Nigerian content
plan for major
projects

1 **128.**-(a) All licensees shall take cognizance of these regulations in all
2 their projects;

3 (b) All licensees shall prepare and submit a Nigerian content plan for
4 projects whose total budget exceed the threshold set by the Board for local
5 content based on the advice of the Forum (major projects);

6 (c) Upon a satisfactory consideration of the content plan submitted,
7 the Board shall issue a certificate of authorization to the licensee;

8 (d) The Board will communicate its decision on the content plan
9 within 10 days of submission;

10 (e) The Board will furnish reasons for any refusal of grant of
11 certificate of authorization.

Contracts/
Procurement

12 **129.**-(a) All licensees shall give first consideration for goods made in
13 Nigeria and services provided by Nigerian firms in award of contracts.

14 (b) All licensee shall maintain record of a list of contracts,
15 subcontracts and purchase orders exceeding the threshold set by the Board for
16 local content based on the advice of the Forum.

17 (c) All contracts or projects whose total budget exceed the threshold
18 set by the Board for local content shall contain a "Labour Clause" mandating
19 the use of a minimum percentage of Nigerian labour in specific cadres as may
20 be stipulated by the Board.

21 (d) The listing in (b) above shall provide:

22 (i) a list of all items and services;

23 (ii) value of contract or purchase order;

24 (iii) name of successful contractor or vendor;

25 (iv) a primary location of work;

26 (v) estimates of Nigerian content;

27 (vi) commencement and completion date;

28 (viii) any other information required by the Board for the purposes of
29 implementing the provisions of this Regulation;

30 (e) The list shall indicate the Nigerian Content in the bid evaluation

exercise for the contracts awarded by the Company;

(f) All operators and project promoters shall consider Nigerian content when evaluating any bid at commercial stage and the bid containing the highest level of Nigerian content shall be selected;

(g) Waiver Notwithstanding the provisions of this section, where there is inadequate local capacity for any of the contracts to be undertaken, the Board may grant an approval for a waiver provided such an approval shall not continue for longer than 3 years from the date of the Board's approval;

(h) Criteria for Waiver:

The waiver in (g) above shall be granted on a criteria including the following

(i) Where the items or capacity cannot be sourced locally;

(ii) Where the total budget for the project exceeds the threshold set by the Board for local content based on the advice of the Forum;

(iii) Where the losses to be incurred by the licensee if the items are sourced locally will not be prudent;

(iv) Where sourcing the items locally will lead to an increased cost of doing business for the licensee.

130.-(1) All Licensees shall give first consideration to suitably qualified Nigerians for employment and training.

Consideration
for employment
and training

(2) The application for employment of an expatriate shall not be made without compelling and verifiable reason(s) showing that no suitably qualified Nigerian has been found for the position following diligent search.

(3) The approval of the Board under sub section (2) of this Section shall not preclude compliance with the requisite immigration procedures.

(4) All operators and companies operating in the NESI shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company. All unskilled labour should be locally sourced.

(5) Where a Nigerian is not allowed to progress within the

1 organizational Structure of a Licensee because of their lack of training in a
2 particular area, the Licensee shall prove to the satisfaction of the Board, that the
3 Employment and Training Plan of the Licensee provides for such trainings and
4 efforts were made to train the employee.

Maintenance
of employment
and training plan

5 **131.**-(1) All Licensees shall for each year maintain an employment
6 and training plan and programme for each financial year which shall be
7 submitted to the Board annually.

8 (2) The employment and training plan shall make provision for
9 succession planning to enable Nigerians assume positions that may be
10 occupied by expatriates.

11 (3) The training plan shall take into cognizance the full involvement
12 of Nigerians in any research and development activity undertaken by the
13 company.

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

16 (5) Any collective agreement entered into by the licensee with any
17 association of employees regarding their terms and conditions of employment
18 shall contain provisions consistent with this section.

Programme for
Technology
Acquisition Plan

19 **132.**-(1) Each licensee shall maintain a Technology Transfer Plan.

20 (2) The plan shall contain details of various technologies deployed
21 by the operator and the proposed modalities for transfer to Nigerians where
22 applicable.

23 (3) All licensees shall give full and effective support to technology
24 acquisition by encouraging and facilitating the formation of joint ventures,
25 partnering and the development of licensing agreements between Nigerian
26 and foreign contractors and service or supplier company's agreement for all
27 such joint ventures or alliances shall meet the requirements of Nigerian
28 content development to the satisfaction of the Board.

29 (4) Where necessary, the Board shall consult and make
30 recommendation to the relevant arms of Government on appropriate fiscal

1 framework and tax incentives for foreign and indigenous companies who
2 establish facilities, factories, production units or other operations in Nigeria
3 for the purpose of carrying out production, manufacturing or for providing
4 services and goods otherwise imported into Nigeria.

5 (5) Failure to submit an acceptable technology acquisition
6 report when requested by the Board shall render a licensee liable to fines
7 and other sanctions as may be determined by the Board under the applicable
8 laws and regulations.

9 133.-(1) All licensees shall prepare and submit a Nigerian content
10 plan for projects whose total budget exceed the threshold set by the Board
11 for local content based on the advice of the Forum (major projects).

Submission of
Nigerian content
plan for major
projects

12 (2) Upon a satisfactory consideration of the content plan
13 submitted, the Board shall issue a certificate of authorization to the licensee.

14 (3) The Board will communicate its decision on the content plan
15 within 10 days of submission.

16 (4) The Board will furnish reasons for any refusal of grant of
17 certificate of authorization.

18 134.-(1) All licensees shall give first consideration for goods
19 made in Nigeria and services provided by Nigerian firms in award of
20 contracts.

Contracts/
Procurement

21 (2) All licensee shall maintain record of a list of contracts,
22 subcontracts and purchase orders exceeding the threshold set by the Board
23 for local content based on the advice of the Forum.

24 (3) All contracts or projects whose total budget exceed the
25 threshold set by the Board for local content shall contain a "Labour Clause"
26 mandating the use of a minimum percentage of Nigerian labour in specific
27 cadres as may be stipulated by the Board.

28 (4) The listing in (2) above shall provide:

29 (i) a list of all items and services;

30 (ii) value of contract or purchase order;

- 1 (iii) name of successful contractor or vendor;
- 2 (iv) a primary location of work;
- 3 (v) estimates of Nigerian content;
- 4 (vi) commencement and completion date;
- 5 (viii) any other information required by the Board for the purposes of
- 6 implementing the provisions of this Regulation.

7 (5) The list shall indicate the Nigerian Content in the bid evaluation
8 exercise for the contracts awarded by the Company.

9 (6) All operators and project promoters shall consider Nigerian
10 content when evaluating any bid at commercial stage and the bid containing the
11 highest level of Nigerian content shall be selected.

Waiver

12 **135.-(1)** Notwithstanding the provisions of this Part, where there is
13 inadequate local capacity and/or materials for any of the contracts to be
14 undertaken, the Board may grant an approval for a waiver provided such an
15 approval shall not continue for longer than 3 years from the date of the Board's
16 approval.

17 (2) The waiver may be granted on a criteria including the following,
18 to wit:

19 (i) Where the material and/or capacity cannot be sourced locally;

20 (ii) Where the total budget for the project exceeds the threshold set by
21 the Board for local content;

22 (iii) Where the losses to be incurred by the licensee if the items are
23 sourced locally will not be prudent;

24 (iv) Where sourcing the items locally will lead to an increased cost of
25 doing business for the licensee.

26 **136.** All Licensees in the Power Sector of the Nigerian economy shall
27 ensure compliance with relevant industry agreements, provided such
28 agreements are not in conflict with the spirit and tenor of this Act and any
29 Regulation made pursuant to the Act.

30 **137.** There shall be imposed on every unit of power purchased by a

1 final consumer of electricity, a two per cent (2%) charge of the monetary
2 value of the unit purchased and the money derived therefrom shall be paid
3 into a Fund to be known as "National Power Development Fund" which
4 "Fund" shall be administered by the Board in conjunction with the Nigerian
5 Electricity Regulatory Board to promote Nigerian Content in the power
6 Sector especially in respect of the execution of projects that will enhance
7 unabridged transmission and security of generated qualities and quantities
8 of power from the point of generation to the point of distribution to final
9 consumers.

10 138. The Board in conjunction with the Nigerian Electricity
11 Regulatory Board shall in the discharge of the obligation under Section ... of
12 this Act, ensure that preferential consideration is given to industrial and
13 commercial zones to enhance constant availability of good quality and
14 quantity of power in these areas/zones in the Country.

15 139. All Federal MDAs, Federal Government Owned Companies
16 (either fully or partially owned) Federal Institutions and Public
17 Corporations, Private Sector Institutions, Business Enterprises and
18 Individuals carrying out any activity in any area in the Power Sector shall
19 observe and ensure the strict observance of the provisions of this Bill in
20 their various organizations.

21 140.-(1) Any person who contravenes the provisions of this Part of
22 the Act or do any deliberate act to circumvent the provisions of this Part of
23 the Act commits an offence and upon conviction by a Court of law be
24 sentenced to imprisonment for a term not less than three (3) years in a
25 correctional facility and shall also pay fine of not less than Ten (10) Million
26 Naira.

27 (2) Where the person who contravenes the provisions of this Part
28 of the Act or do any deliberate act to circumvent the provisions of this Part of
29 the Act is a company, the Directors and/or the officers of the Company that
30 took the decision shall be deemed to have committed an offence and upon

conviction by a Court of law be sentenced to imprisonment for a term not less than three (3) years in a correctional facility and the Company shall also pay a fine of not less than One Hundred (100) Million Naira.

141. There is hereby established for the Federation a "AGENCY" to be known as "Agency for NIGERIAN CONTENT DEVELOPMENT AND ENFORCEMENT ON POWER (in this Act also referred to as "AGENCY").

142. The Agency-

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

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

143. The functions of the AGENCY shall be to-

(a) implement the provisions of this Act and regulations made under the Act in relation to matters on the Power Sector in Nigeria;

(b) supervise, coordinate, administer, monitor, manage and enforce the implementation and development of Nigerian content in the Power Sector in Nigeria as specified in this Act and the Third Schedule to this Act in the operations of operators, contractors and all other entities in the Power Sector of Nigeria;

(c) appraise, evaluate and approve the Nigerian content plans and reports submitted to the Agency in respect of matters in the Power Sector in Nigeria as specified by the provisions of this Act and Third Schedule to this Act;

(d) award Certificate of Authorization and conduct reviews of the Nigerian content plans and reports submitted to the Agency in compliance with the provisions of this Act and the Third Schedule to this Act thereof;

(e) assist local contractors and Nigerian companies to develop their capabilities and capacities in the Power Sector to further the attainment of the goal of developing Nigerian content in the Nigerian Power Sector;

(f) make procedures to guide the implementation of this Act and ensure compliance with all the provisions of this Act in matters touching on the

1 Power Sector in Nigeria;

2 (g) monitor and coordinate the Nigerian content performance of all
3 operators in the Power Sector under this Act and the Third Schedule to
4 this Act;

5 (h) make auditing procedures and conduct regular audits for the
6 purposes of monitoring and enforcing compliances with the provisions of
7 this Act as such provision relates to the Power Sector in Nigeria and in
8 compliance with the Second Schedule to this Act;

9 (i) provide guidelines, definitions and measurement of Nigerian
10 content indicator to be utilized in the Power Sector in Nigeria;

11 (j) conduct studies, researches and investigations that may further
12 the attainment of the goal of developing Nigerian content in the Power
13 Sector;

14 (k) organize conferences, workshops, seminars, symposia,
15 trainings, road shows and other public education fora to further the
16 attainment of the goal of developing Nigerian content in the Nigerian
17 Power Sector;

18 (l) take steps to encourage indigenous professionals in Diaspora to
19 collaborate with resident Nigerian engineers and/or engineering facilities
20 and use their expertise to develop the Nigerian Power Sector;

21 (m) promote mutually beneficial Public Private Partnership (PPP)
22 by encouraging direct collaboration in production and manufacturing
23 ventures of products, such as fittings, spare parts, domestic wares and etc.,
24 between foreign manufacturers and indigenous engineering facilities, and
25 those to be brought in by foreign investors at reasonable cost.

26 (n) establish Centres for Acquisition of Technology in the oil and
27 gas producing areas of the Country for the promotion of technology
28 utilization, strengthening of technology management capability and
29 information system;

30 (o) in collaboration with any reasonable and responsible entity

1 promote Research and Development in all sectors of the Nigerian the Power
2 Sector;

3 (p) enforce the provisions of this Act and the Second Schedule to the
4 Act and subject to the provisions of the Constitution of the Federal Republic of
5 Nigeria, to prosecute offenders in respect of breaches touching on the Power
6 Sector matters under this Act;

7 (q) shall promote the acquisition of bulk product manufacturing
8 licenses from foreign manufactures for the use of locally trained medium and
9 large scale manufacturers; and

10 (r) do legally anything necessary to be done to facilitate the carrying
11 out of its functions.

12 **144.-(1)** There is established for the Agency the Governing Council
13 (in this Act referred to as the "Council") which shall conduct the affairs of the
14 Board.

15 (2) The Council may establish branch offices of the Agency in any
16 State of the Federation.

17 **145.** The Council shall consist of-

18 (a) a Chairman who shall be the Minister responsible for the Power
19 Sector in Nigeria;

20 (b) a representative of-

21 (i) Nigeria Electricity Regulatory Commission,

22 (ii) Ministry of Power,

23 (vi) Council of Registered Engineers of Nigeria,

24 (vii) National Insurance Board,

25 (viii) Manufacturers Association of Nigeria; and

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

27 **146.-(1)** The Chairman and members of the Council shall subject to
28 the confirmation of the Senate of the Federal Republic of Nigeria, be appointed
29 by the President and shall be persons of proven integrity and ability.

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

1 147. The Executive Secretary shall be on full time status.

2 148.-(1) The Council shall have power to-

3 (a) manage and superintend the affairs of the Agency;

4 (b) make rules and regulations for the proper functioning of the
5 Agency;

6 (c) employ and pay the staff of the Agency appropriate
7 remuneration commensurate in scale with that of staff in organizations of
8 similar stature; and

9 (d) enter into any negotiation, agreement and contractual
10 relationship as may be necessary or expedient for the discharge of the
11 functions of the Agency.

12 149. Subject to the provisions of section of this Act, the
13 Chairman 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
15 term of four years and no more ; and

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

18 150. A person shall cease to hold office as a member of the Council
19 if-

20 (a) he dies;

21 (b) he becomes bankrupt;

22 (c) he is convicted of a felony or any offence involving dishonesty
23 or fraud;

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

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

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

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

3 **151.** Where a member ceases to hold office for any reason before the
4 expiration of his term, another person representing the same interest as that
5 member shall be appointed in his place to finish the unexpired residue of the
6 term.

7 **152.** The President may remove a member if he is satisfied that it is
8 not in the interest of the Agency or the public that the member continues in that
9 office.

10 **153.** A member of the Council shall be paid such allowances and
11 expenses as may be determined by Revenue Mobilization, Allocation and
12 Fiscal Commission using the scale applicable in Nigeria oil and gas industry.

13 **154.-(1)** There shall be an Executive Secretary for the Agency, who
14 shall be appointed by the President.

15 (2) The Executive Secretary shall be-

16 (a) the Chief Executive and Accounting Officer of the Agency;

17 (b) responsible to the Council for the execution of the policies and the
18 administration of the daily affairs of the Agency; and

19 (c) a graduate of at least 15 years with cognate experience in the
20 Nigeria power industry.

21 (3) The Executive Secretary-

22 (a) shall be appointed for a term of four years in the first instance; and

23 (b) may be appointed for a further term of four years and no more.

24 **155.** The Executive Secretary shall be paid such remuneration as may
25 be specified in his letter of appointment or as determined by the Revenue
26 Mobilization, Allocation and Fiscal Commission using the scale applicable in
27 the Nigeria oil and gas industry.

28 **156.** The Executive Secretary shall cease to hold office if any of the
29 conditions specified in section 77 pertaining to cessation of membership of the
30 Council applies to him.

1 157. The Executive Secretary may resign his appointment by a
2 written notice under his hand delivered to the President.

3 158. The Council may appoint for the Agency such number of
4 employees as may in the opinion of the Council be expedient and necessary
5 for the proper and efficient performance of the functions of the Agency and
6 shall pay them remunerations and allowances as it determines using the
7 scale applicable in the Nigeria oil and gas industry.

8 159. The Council shall have power to appoint for the Agency either
9 directly or on secondment from the Public Service of the Federation, such
10 number of employees as may, in the opinion of the Council, be required to
11 assist the Agency in the discharge of any of its functions under this Act.

12 160. The person seconded under Section may elect to be
13 transferred to the service of the Agency and the previous service he may
14 have rendered in the public service shall count as service to the Agency for
15 the purpose of any pension subsequently payable by the Agency.

16 161.-(1) The Service in the Agency shall be approved service for
17 the purposes of the Pension Reform Act.

18 (2) The officers and other persons employed in the Agency shall be
19 entitled to pension, gratuities and other retirement benefits as are enjoyed by
20 persons holding equivalent ranks in the Civil Service of the Federation.

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

24 162.-(1) The Agency shall establish and maintain a fund to which
25 all monies accruing to it shall be paid into or from which shall be defrayed all
26 expenditure incurred by the Agency.

27 (2) The Fund of the Agency shall consist of-

28 (a) all subventions and budgetary allocations provided by the
29 Federal Government;

30 (b) sums accruing to the Agency by way of donations, gifts, grants,

1 endowment, bequest or otherwise;

2 (c) interest and revenue accruing from savings and investments made
3 by the Agency;

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

8 (e) other revenues accruing to the Agency from any other source.

9 **163.** The Council shall, not later than 30th September of each year,
10 submit to the National Assembly, through the Minister, an estimate of the
11 projected expenditure of the Agency during the next succeeding year and shall
12 include a copy of the audited accounts of that year and a copy of the auditor's
13 report.

14 **164.-(1)** The Agency may accept gifts of money, land or other
15 property on such terms and conditions, if any, as may be specified by the person
16 or organization making the gift.

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

19 **165.** The Council shall approve any expenditure of the Board and
20 shall-

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

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

25 **166.** The audit of the council shall be in accordance with the
26 provisions.

27 **PART IV - SOLID MINERALS**

28 **167.** In this part, unless the context otherwise requires:

29
30

1 168. Notwithstanding anything to the contrary contained in any
2 enactment, schedule, regulation or any other instrument, there shall be, in
3 the issuance of, and/or granting of permit, license, lease or any other
4 instrument conferring right of operation in the Solid Minerals Mining
5 Sector of the Nigerian economy, exclusive consideration to Nigerian
6 indigenous companies which demonstrate capacity to execute any work in
7 the Solid Minerals Mining Sector in the Nigerian economy.

8 168. Upon the commencement of this Act, all permits, licenses and
9 leases arrangements, agreements, contracts or memoranda of understanding
10 relating to any operation or transaction in the Solid Minerals Mining Sector
11 shall be in conformity with the provisions of this Act and any Regulation
12 issued by the Board.

13 170. In the bidding for any permit, license, lease or any grant
14 conferring interest on an operator for development of mineral resources in
15 Nigeria and before carrying out any project in the Solid Minerals Mining
16 Sector, an operator shall submit a Nigerian Content Plan ("the Plan") to the
17 Board demonstrating compliance with the Nigerian content requirements of
18 this Act.

19 171. The Board shall review and assess the plan and, if satisfied
20 that the plan complies with the provisions of this Act and Regulations made
21 under the Act, issue a Certificate of Authorization ("the Certificate") to the
22 operator for that project.

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

28 173.-(1) A plan shall contain provisions intended to ensure that-

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

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

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

7 174.-(1) As from the commencement of this Act, the minimum
8 Nigerian content in any project to be executed in the Nigerian Solid Minerals
9 Mining Sector shall be set out in a Regulation to be made by the Board in
10 conjunction the Minister responsible for minerals development in Nigeria.

11 (2) All operators, alliance partners, contractors, sub contractors in the
12 Nigerian Solid Minerals Mining Sector shall comply with the minimum
13 Nigerian content for particular project item, service or product specification set
14 out in the Regulation made pursuant to sub-paragraph (1) of this Section.

15 175. Subject to section of this Act, the Nigerian Content Plan
16 submitted to the Board by an operator shall contain a detailed plan, satisfactory
17 to the Board, setting out how the operator and their contractors will give first
18 consideration to Nigerian goods and services, including specific examples
19 showing how first consideration is considered and assessed by the operator in
20 its evaluation of bids for goods and services required by the project.

21 176. The Nigerian content plan submitted to the Board by any
22 operator or alliance partner shall contain detailed plan on how the operator or
23 its alliance partner intend to ensure the use of locally manufactured goods
24 where such goods meet the specifications of the Sector.

25 177. All operators and project promoters shall consider Nigerian
26 content when evaluating any bid where the bids are within 1 % of each other at
27 commercial stage and the bid containing the highest level of Nigerian content
28 shall be selected provided the Nigerian content in the selected bid is at least
29 15% higher than its closest competitor.

30 178. All operators and alliance partners shall maintain a bidding

1 process for acquiring goods and services which shall give full and fair
2 opportunity to Nigerian indigenous contractors and companies.

3 179. The award of contract shall not be solely based on the
4 principle of the lowest bidder where a Nigerian indigenous company has
5 capacity to execute such job and the company shall not be disqualified
6 exclusively on the basis that it is not the lowest financial bidder, provided the
7 value does not exceed the lowest bid price by 15 percent.

8 180.-(1) For all proposed projects, contracts, subcontracts and
9 purchase orders estimated by operator to be in excess of \$ 500,000 (USD),
10 the operator shall provide to the Board for approval, advertisements, pre-
11 qualification criteria, technical bid documents, technical evaluation criteria
12 and the proposed bidders lists.

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

17 181.-(1) The operators shall submit to the Board, 30 days prior to
18 the first day of each quarter, a list of all contracts, subcontracts and purchase
19 orders exceeding \$1,000,000 (USD) which will be bided or executed in the
20 upcoming quarter.

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

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

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

27 (c) the Invitation to Tender (ITT) issuance date, ITT closure date
28 and award date; and

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

1 **182.** Subject to section 17 of this Act, the Board shall advise the
2 operator, by the first day of each quarter, which contracts and sub-contracts
3 have been designated by the Board for review and shall advise the operator of
4 the outcome of such contract review.

5 **183.** Prior to issuing of adverts or pre-qualification notification to
6 prospective bidders, the operator or the project promoter shall submit to the
7 Board the following for review and approval-

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

9 (b) a copy of the pre-qualification notification, if these documents
10 differ from the standard pre-qualification notification previously reviewed by
11 the Board;

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

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

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

20 (a) a list of bidders;

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

23 (c) a description of corporate ownership (main shareholders by
24 percentage) of bidders;

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

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

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

29 **185.** Prior to the award of contract, subcontract or purchase order to
30 the selected bidder, the operator shall submit to the Board-

- 1 (a) the name of the selected contractor or vendor;
- 2 (b) a list of designated sub-contractors or sub-vendors;
- 3 (c) where applicable, a list of proposed sub-suppliers;
- 4 (d) for construction or service contracts; the estimated Nigerian
- 5 employment (in person-hours);
- 6 (e) contract or purchase order commencement and completion
- 7 dates;
- 8 (f) award Notification Form signed by an appropriate official of the
- 9 operator ; and
- 10 (g) statement of award rationale (evaluation of bids) showing-
- 11 (i) percentage difference in price between selected bidder and each
- 12 bid,
- 13 (ii) a primary location of work associated with each bidder,
- 14 (iii) estimates of Nigerian content associated with the bid of each
- 15 bidder calculated in accordance with the definition of Nigerian content to be
- 16 provided by the Board, and
- 17 (iv) other information relevant to the evaluation of bidders
- 18 including where applicable, a summary of the technical, commercial and
- 19 Nigerian content aspects of the bid evaluations.

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

26 187.-(1) The operator shall submit to the Board, within 30 days at
27 the end of each quarter, a listing of all contracts, subcontracts and purchase
28 orders exceeding \$1,000,000 (USD) or such other limit as the Board may
29 determine, awarded in the previous quarter.

30 (2) This listing shall provide-

- 1 (a) a list of all items and services;
- 2 (b) value of contract or purchase order;
- 3 (c) name of successful contractor or vendor;
- 4 (d) a primary location of work;
- 5 (e) estimates of Nigerian content;
- 6 (f) commencement and completion date; and
- 7 (g) any other information required by the Board for the purposes of
- 8 implementing the provisions of this Act.

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

14 189. The operator shall locate, within the project office, personnel
15 with decision-making authority in accordance with a list of personnel to be
16 approved by the Board.

17 190. Subject to Section of this Act, the Board shall have powers to
18 require any operator to maintain an office in a Community where the operator
19 has significant operations.

20 191.-(1) Subject to section of this Act, Nigerians shall be given
21 the first consideration for employment and training in any project executed by
22 any operator or project promoter in the Nigerian Solid Minerals Sector.

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

26 192. The plan submitted by any operator or project promoter for any
27 project shall contain an Employment and Training Plan (E and T Plan) which
28 shall include-

- 29 (a) an outline of the-
- 30 (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 the 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.

193. Where Nigerians are not employed because of their lack of
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.

194.-(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.

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

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

3 **195.** For each of its operations, an operator or project promoter may
4 retain a maximum of five per cent of management positions as may be
5 approved by the Board as expatriate positions to take care of investor interests.

6 **196.-(1)** Upon the commencement of this Act, the operators shall
7 make application to, and receive the approval of, the Board before making any
8 application for expatriate quota to the Ministry of Internal Affairs or any other
9 agency or Ministry of the Federal Government.

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

11 (a) job Titles;

12 (b) description of responsibilities;

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

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

16 **197.** Notwithstanding any provision in this Act, all projects or
17 contracts shall contain a "Labour Clause" mandating the use of a minimum
18 percentage of Nigerian labour in specific cadres as may be stipulated by the
19 Board.

20 **198.** All operators and companies operating in the Nigerian Solid
21 Minerals Sector shall employ only Nigerians in their junior and intermediate
22 cadre or any other corresponding grades designated by the operator or
23 company.

24 **199.-(1)** The operator shall submit to the Board and update, every six
25 months, the operator's Research and Development Plan (R and D Plan).

26 (2) The R and D Plan shall-

27 (a) outline a revolving three to five year plan for solid minerals
28 related research and development initiatives to be undertaken in Nigeria,
29 together with a breakdown of the expected expenditures that will be made in
30 implementing the R and D Plan; and

1 (b) provide for public calls for proposals for research and
2 development initiatives associated with the operator's activities.

3 **200.** The operator shall report to the Board, on quarterly basis, with
4 respect to its R and D activities and the Board shall compare these activities
5 to the operators R and D Plan.

6 **201.**-(1) The Board shall in conjunction with the Minister
7 responsible for solid minerals matters in Nigeria make regulations
8 establishing the minimum standards, facilities, personnel and technology
9 for training in the solid mineral development sector of the Nigerian
10 economy.

11 (2) The regulations made pursuant to sub section of Section...
12 of the Act shall specify modalities for involving operators as partners in
13 training and development.

14 **202.**-(1) The Board shall in conjunction with the Minister
15 responsible for solid minerals matters in Nigeria make regulations setting
16 out targets to ensure-

17 (a) full utilization and steady growth of indigenous companies
18 engaged in exploration;

19 (b) seismic data processing;

20 (c) engineering design;

21 (d) reservoir studies;

22 (e) manufacturing and fabrication of equipment; and

23 (f) other facilities as well as the provisions of other support services
24 for the Nigeria Solid Minerals Sector.

25 **203.** The Board shall in conjunction with the Minister responsible
26 for solid minerals matters in Nigeria make regulations which shall require
27 any operator or company or its professional employees engaged in the
28 provision of engineering or other professional services in the Nigerian Solid
29 Mineral Sector to be registered with the relevant professional bodies in
30 Nigeria.

1 **204.** Each operator shall carry out a programme in accordance with
2 the country's own plans and priorities, to the satisfaction of the Board, for the
3 promotion of technology transfer to Nigeria in relation to its solid minerals
4 development activities.

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

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

15 **207.** The Board shall consult with the relevant arms of Government
16 on appropriate fiscal framework and tax incentives for foreign and indigenous
17 companies which establish facilities, factories, production units or other
18 operations in the solid mineral sector in Nigeria for purposes of carrying out
19 production, manufacturing or for providing services and goods otherwise
20 imported into Nigeria.

21 **208.** There shall be imposed on every sale of
22 made by any operator a five percent (5%) development charge of the
23 monetary value of the sale and the money derived therefrom shall be paid into
24 a Fund to be known as "National Solid Mineral Development Fund" which
25 "Fund" shall be administered by the Board to promote Nigerian Content in the
26 Solid Minerals Sector especially in respect of the execution of projects that will
27 enhance acquisition of equipment and technologies by Nigerians to
28 independently exploit solid mineral resources.

29 **209.** The Board shall in the discharge of the obligation under Section
30 ... of this Act, ensure that beneficiaries of the "National Solid Mineral

1 Development Fund" are Nigerians spread across the various States of the
2 Federation.

3 **210.** There is hereby established a "Department of Nigerian
4 Content Development and Enforcement on Solid Minerals" (in this Act
5 also referred to as "Department").

6 **211.** The Department shall be under the Honourable Minister
7 responsible for solid minerals development in Nigeria.

8 **212.** The functions of the Department shall be to-

9 (a) implement the provisions of this Act and regulations made
10 under the Act in relation to matters on the Solid minerals mining Sector in
11 Nigeria;

12 (b) supervise, coordinate, administer, monitor, manage and
13 enforce the implementation and development of Nigerian content in the
14 Solid minerals mining Sector in Nigeria as specified in this Act in the
15 operations of operators, contractors and all other entities in the Solid
16 minerals mining Sector of Nigeria;

17 (c) appraise, evaluate and approve the Nigerian content plans and
18 reports submitted to the Department in respect of matters in the Solid
19 minerals mining Sector in Nigeria as specified by the provisions of this Act;

20 (d) award Certificate of Authorization and conduct reviews of the
21 Nigerian content plans and reports submitted to the Department in
22 compliance with any Regulation made by the Honourable Minister pursuant
23 to the provisions of this Act;

24 (e) assist local contractors and Nigerian companies to develop their
25 capabilities and capacities in the Solid minerals mining Sector to further
26 the attainment of the goal of developing Nigerian content in the Nigerian
27 Solid minerals mining Sector;

28 (f) make procedures to guide the implementation of this Act and
29 ensure compliance with all the provisions of this Act in matters touching on
30 the Solid minerals mining Sector in Nigeria;

1 (g) monitor and coordinate the Nigerian content performance of all
2 operators in the Solid minerals mining Sector under this Act;

3 (h) make auditing procedures and conduct regular audits for the
4 purposes of monitoring and enforcing compliances with the provisions of this
5 Act as such provision relates to the Solid minerals mining Sector in Nigeria;

6 (i) provide guidelines, definitions and measurement of Nigerian
7 content indicator to be utilized in the Solid minerals mining Sector in Nigeria;

8 (j) conduct studies, researches and investigations that may further the
9 attainment of the goal of developing Nigerian content in the Solid minerals
10 mining Sector;

11 (k) organize conferences, workshops, seminars, symposia, trainings,
12 road shows and other public education fora to further the attainment of the goal
13 of developing Nigerian content in the Nigerian Solid minerals mining Sector;

14 (l) take steps to encourage indigenous professionals in Diaspora to
15 collaborate with resident Nigerian engineers and/or engineering facilities and
16 use their expertise to develop the Nigerian Solid minerals mining Sector;

17 (m) promote mutually beneficial Public Private Partnership (PPP) by
18 encouraging direct collaboration in production and manufacturing ventures of
19 products, such as fittings, spare parts, domestic wares and etc., between foreign
20 manufacturers and indigenous engineering facilities, and those to be brought in
21 by foreign investors at reasonable cost;

22 (n) establish Centres for Acquisition of Technology in the oil and gas
23 producing areas of the Country for the promotion of technology utilization,
24 strengthening of technology management capability and information system,

25 (o) in collaboration with any reasonable and responsible entity
26 promote Research and Development in all sectors of the Nigerian Solid
27 minerals mining Sector;

28 (p) enforce the provisions of this Act and subject to the provisions of
29 the Constitution of the Federal Republic of Nigeria, to prosecute offenders in
30 respect of breaches touching on the Solid minerals mining Sector matters

1 under this Act.

2 (q) shall promote the acquisition of bulk product manufacturing
3 licenses from foreign manufactures for the use of locally trained medium
4 and large scale manufacturers. and,

5 (r) do legally anything necessary to be done to facilitate the
6 carrying out of its functions.

7 **213.-(1)** The Department.....

8 PART V - CONSTRUCTION INDUSTRY

9 **214.** In this part, unless the context otherwise requires:

10 "Company" or "companies" wherever refers to legal entities supplying
11 essential goods and/or providing support services in the construction
12 industry;

13 "Department" means the Department established under this Act to ensure
14 the development and enforcement of the Nigerian Content in the
15 Construction Industry established under this Act;

16 "Construction" includes erection, maintenance, repairing of structures
17 including buildings, roads etc.

18 "Expatriate" refers to a Non-Nigerian citizen temporarily or permanently
19 residing in Nigeria;

20 "Licence" means a licence issued under any Regulation either existing
21 and/or to be made under any law to regulate any aspect of the Construction
22 Industry in Nigeria;

23 "Licensee" means any person who holds a licence issued or deemed to be
24 issued by any agency of the Federal Government under the Federal
25 Ministry of Works and Housing to carry on any regulated activity in the
26 Construction Industry in Nigeria;

27 **215.** Notwithstanding anything to the contrary contained in any
28 enactment, schedule, regulation or any other instrument, there shall in the
29 exercise of powers and /or functions in respect of the issuance of, and/or
30 granting of permit, license, lease or any other instrument conferring right of

1 operation in the Construction Industry in the Nigerian economy, be exclusive
2 consideration to Nigerian indigenous companies which demonstrate capacity
3 to execute any work in the Construction Industry.

4 **216.** All Federal MDAs, Federal Government Owned Companies
5 (either fully or partially owned) Federal Institutions and Public Corporations,
6 Private Sector Institutions, Business Enterprises and Individuals carrying out
7 activity in any area in the Construction Industry in Nigeria shall in the award of
8 any contract for any project in respect of any construction appertaining to
9 building of houses, roads etc. in Nigeria ensure that first consideration is given
10 to qualified Nigerian Companies and /or firms for the supply of goods and
11 works, and for the provision of services.

12 PART VI - DUTY TO MONITOR AND ENFORCE COMPLIANCE OF
13 NIGERIAN CONTENT BY LICENCEES

14 **217.** All regulatory authorities, operators, licensees, lessees,
15 contractors, subcontractors, alliance partners and other entities involved in any
16 project, operation, activity or transaction in Nigeria shall consider, apply and
17 also ensure the compliance by any person working under them the Nigerian
18 content policies.

19 **218.** The At the commencement of this Act and notwithstanding the
20 provision of any enactment, law, Schedules and/or Regulations any subsequent
21 contract, permit, license, lease, sub contract, Local Purchase Order, and/or any
22 award for job for the execution of work, provision of goods and services given
23 by any Ministry, Extra Ministerial Department and Agency of the Federal
24 Government of Nigeria, Federal Government Owned Companies (either fully
25 or partially owned) Federal Institutions and Public Corporations, in
26 contravention of the provisions of this Act, Schedules and Regulations is void
27 and unenforceable.

28 **219.** Each Ministry, Extra Ministerial Department and Agency of the
29 Federal Government of Nigeria, Federal Government Owned Company (either
30 fully or partially owned) Federal Institution and Public Corporation, Minerals

1 title holder, Oil and Gas title holder shall create and maintain a desk office
2 for the deployment by the Board of its staff to the desk office so created for
3 the purposes of monitoring and reporting compliance or otherwise with the
4 provisions of this Act by the organization.

5 PART VII

6 220.-(1) All operators, project promoters, alliance partners and
7 Nigerian indigenous companies engaged in any form of business,
8 operations or contract in any sector of the Nigerian economy, shall insure all
9 insurable risks related to its business, operations or contracts with an
10 insurance company, through an insurance broker registered in Nigeria under
11 the provisions of the extant Insurance Act.

Duty to patronise
insurance, legal
and financial
services

12 (2) All operators, project promoters, alliance partners and Nigerian
13 indigenous companies engaged in any form of business, operations or
14 contract in any sector of the Nigerian economy shall submit to the Board, a
15 list of all insurance companies and insurance brokers through which
16 insurance covers were obtained in the past six months, the class of insurance
17 cover obtained and the expenditures made by the operator;

18 (3) The insurance programme shall include-

19 (a) a comprehensive report of-

20 (i) insurance covers obtained in the past six months of all insurance
21 by expenditure,

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

24 (iii) the projected expenditure for the covers;

25 (b) a list of-

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

28 (ii) the class of insurance cover obtained;

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

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

1 Naira and foreign currencies.

2 221. No insurance risk in Nigeria shall be placed offshore without
3 the written approval of the Nigerian Content Development and Enforcement
4 Board and the Minister responsible for insurance matters in Nigeria both of
5 whom shall ensure that Nigerian local capacity has been fully exhausted.

6 222.-(1) All operators, contractors and other entities engaged in any
7 operation, business or transaction in any sector of the Nigerian economy
8 requiring legal services shall retain only the services of a Nigerian legal
9 practitioner or a firm of Nigerian legal practitioners whose office shall be
10 located in any part of Nigeria.

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

13 (3) The Legal Services Plan (LSP) shall include-

14 (a) comprehensive report on;-

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

16 (ii) a forecast of legal services required during the next six months,

17 and

18 (iii) the projected expenditure for the services;

19 (b) a list of-

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

21 (ii) the nature of work done;

22 (iii) the expenditure made by the operator; and

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

25 223.-(1) All operators, contractors and any other entity engaged in
26 any operation, business or transaction in any sector of the Nigerian economy
27 requiring financial services shall retain only the services of Nigerian financial
28 institutions or organizations, except if the transaction relates to securing loan
29 from a foreign financial institution at a lower interest rate compared to what is
30 obtainable in the financial sector in Nigeria, provided also that in other cases

1 of deviation from using financial institutions in Nigeria, the operator,
2 contractor and /or the entity shall obtain an approval from the Board with
3 cogent and verifiable reason(s) for justification.

4 (2) All operators shall submit to the Board, every six months its
5 Financial Services Plan (FSP).

6 (3) The FSP shall include-

7 (a) financial services utilized in the past six months by
8 expenditure;

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

11 (c) the projected expenditure for the services;

12 (d) A list of-

13 (i) financial services utilized in past six months,

14 (ii) the nature of financial services provided, and

15 (iii) the expenditure for financial services;

16 (e) a list of-

17 (i) financial services utilized in the past six months,

18 (ii) the nature of financial services provided, and

19 (iii) the expenditure for financial services made by the operator or
20 its main contractors;

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

24 224. As from the commencement of this Act, all operators, project
25 promoters, contractors and any other entity engaged in any sector of the
26 Nigerian economy shall carry out all fabrication and welding activities in
27 Nigeria.

28 PART VIII

29 225. Every Ministry, Extra Ministerial Department and Agency of
30 the Federal Government of Nigeria shall in the award of contracts give

Ministries, Extra
Ministerial
Departments and
Agencies

1 preference to Nigerian Companies and firms provided; where Nigerian
2 companies and firms lack capacity to execute the contract bided for, preference
3 shall be given to foreign companies or firms with demonstrable and verifiable
4 plan for indigenous capacity development, prior to the award of the contract.

5 **226.** Every Ministry, Extra Ministerial Department and Agency of
6 the Federal Government of Nigeria shall, where any contract is to be awarded
7 to any foreign company, ensure that Nigerian counterpart staff are engaged
8 from the conception stage to the terminal stage of the project.

9 PROHIBITION OF ISSUANCE OF VISAS

10 (1) It shall be unlawful for any public officer charged with the
11 responsibility of issuing visas to issue visa to any foreign worker whose skill is
12 readily available in Nigeria.

13 (2) Any public officer charged with the responsibility of issuing visas
14 who issues visa to any foreign worker whose skill is readily available in
15 Nigeria has committed an offence and shall be punished by being sentenced to
16 a Correctional Facility for a period of Two (2) years without an option of fine.

17 (3) Every Ministry, Extra Ministerial Department and Agency of the
18 Federal Government of Nigeria and any entity awarding contract in Nigeria
19 shall introduce Margin of Preference in every competitive bidding in the
20 evaluation of tenders, from indigenous suppliers of goods manufactured
21 locally over foreign goods which Margin of Preference shall be 15% margin
22 of preference for international competitive bidding for Goods, 7.5% for Works
23 for domestic contractors and 15% Margin of Preference for Domestic
24 Contractors for Goods and 7.5 % for works.

25 (4) No foreign companies or firms shall be engaged in contracts for
26 Works, Goods and Services in the country in violation of relevant laws,
27 regulations and international best practice on acquisition of technology.

28 PART IX - DISPUTE RESOLUTION

29 **227.**-(1) Any dispute arising from the application and/or
30 enforcement of the provisions of this Act, its Schedules, Regulations and/or

1 any term and condition of any agreement, memorandum of understanding,
2 arrangement howsoever described shall be resolved, in the first instance, on
3 an amicable basis and where parties cannot resolve their dispute by an
4 amicable settlement, such dispute shall immediately be referred to the
5 Chief Judge of the Federal High Court who shall constitute an Arbitration
6 Panel to arbitrate on the dispute and resolve the matters between the parties
7 as quickly as practicable.

8 (2) The Arbitration Panel shall consist of not less than three (3)
9 Judges of the Federal High Court among whom one of the Judges shall be
10 appointed as Chairman.

11 (3) Where the dispute is in the nature of a bona fide investment
12 dispute, and such dispute is not amicably settled as provided under
13 subsection (1) of this section, it shall be resolved in accordance with the
14 provisions of the Nigerian Investment Promotions Board Act, Cap. N117
15 Laws of the Federation of Nigeria, 2004.

16 (4) Where the dispute referred to in this Part cannot be resolved in
17 accordance with the provisions of subsection (1) and (3) of this section
18 same shall be resolved in the Federal High Court.

19 **228.**-(1) The Nigerian Oil and Gas Industry Content Development Repeal
20 Act, 2010 is hereby repealed.

21 (2) The repeal shall not affect anything concluded and done under
22 the said Act.

23 **229.** This Bill may be cited as the Nigerian Content Development Citation
24 and Enforcement Bill, 2019.

FIRST SCHEDULE

Sections

CODE DESCRIPTION

NIGERIAN CONTENT (NC) LEVEL

FEED AND DETAILED ENGINEERING AND
OTHER ENGINEERING SERVICES

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
FEED and Detailed engineering on Onshore facilities	90%	Man-Hour
FEED and Detailed engineering on Offshore facilities- Shallow Water	90%	Man-Hour
FEED and Detailed engineering on LNG facility	50%	Man-Hour
FEED and Detailed engineering on Gas gathering 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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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/packages	50%	Tonnage

MATERIALS AND PROCUREMENT

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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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	60%	Tonnage
Protective paints	60%	Litres
Glass Reinforced Epoxy (GRE) pipes	60%	Tonnage

WELL AND DRILLING SERVICES/PETROLEUM TECHNOLOGY

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
Reservoir Services	75%	Spend
Well completion services (permanent gauges and intelligent wells)	80%	Spend
Wire line services (electric open holes, electric cased hole, slick line)	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, Gyro, PLT, P erforation, 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, hard banding, 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
Petro physical Interpretation Services	75%	Volume/ Man-hour
Extended Well Test/Early Production Services including Provision of Floating or Jack up Production Unit	50%	Spend
Provision of all Catering, Cleaning, Office and Security Service at Location/Platform	80%	Spend
Rental of Drill Pipe	75%	Spend
Electric Open Hole	45%	Spend
Electric cased Holes	100%	Spend
Slick line	100%	Spend
Well head Safety panels	100%	Spend
CHEMICAL:		
Drilling, process, Maintenance	90%	Spend
RESEARCH AND DEVELOPMENT SERVICES (R AND D -RELATED TO OPERATOR'S IN - COUNTRY		
<i>Description</i>	<i>NC %</i>	<i>Measured Unit</i>
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		
<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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, Diagenesis, Geostratigraphy, Fluid 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		

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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	70%	Spend
Truck Package/Product Transportation Services	100%	Spend
HEALTH, SAFETY AND ENVIRONMENT		

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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/Heating/Sanitary Services	85%	Man-Hours
Waste Disposal/Drainage Services	100%	Man-Hours
Industrial Cleaning Services	100%	Man-Hours
Disposal/Distribution and Waste Transport Services etc.	100%	Spend
Safety/Protection/Security/fire fighting System Services	90%	Man-Hours
Preservation of Mechanical and Electrical Components Services	95%	Man-Hours

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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
Network Installation/Support Services	85%	Spend
Software Development and Support Services	45%	Spend
Computer Based Modelling Services	51%	Spend
Computer Based Simulation/Training Programs Services	51%	Spend
CALICAP 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 Consultancy 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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
Telecommunication Services	90%	Man-Hour

Supply of crew men for domestic coastal services	80%	Number
Diving/RO'v/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 Service	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-hours/
		Spend
Supply Vessels	45%	Man-hours/
		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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
General Banking Services	100%	Usage
Monetary Intermediation Services	70%	Usage
Credit Granting Services	50%	Loan Amount
Security Braking and Fund Management Services	100%	Spend
Financial Management Consultancy Services	70%	Spend
Accounting Services	70%	Man-hours
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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
Surface Treatment, Sandblasting, Painting,		

Coating and Fire proofing Services	80%	Man-Hour
Subsea construction services	45%	Man-Hour
Hook-up and commissioning including marine installation services	75%	Man-Hour
Installation of subsea packages	45%	Man-Hour
Electrical/Instrument Services	45%	Man-Hour
Insulation Services	50%	Man-Hour
Diving/ROV /Submersible operations	75%	Man-Hour
Subsea Construction Services	45%	Man-Hour
Pipe Cutting and Bending Services	100%	Man-Hour
Catalyst Handling/Regeneration Services	85%	Man-Hour
Bolt Tensioning Services	75%	Man-Hour
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 Demagnetising 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/
		Tonnage/Rate
Pipe laying/Cable Laying Services	50%	Man-Hour
Trenching and Excavation Services	100%	Man-Hour
Cranes/Crane Barges/Heavy Lift Vessels	100%	Man-Hour
Marine Services	65%	Man-Hour/
		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
 Process Testing including Helium and Nitrogen
 Services

INSPECTION, TESTING AND CERTIFICATION

Description

Material Technology/ Anti-Corrosion/Surface
 Protection Services
 Non-Destructive Testing (NOT) Services
 Pipeline Flushing, External/Internal Inspection,
 Pigging Services
 Rate

Pressure Testing Services	55%	Spend
Instrument Testing/Calibration Services		
Load Testing Services	65%	Spend
Diving/ROV operations		
Laboratory Testing Services	NC%	Measured
Dimensional Control/Verification Services		Unit
Third Party Measurement Services		
Other Inspection Services	85%	Man-Hour
Quality Management Systems Certificate	60%	Man-Hour
Environmental Management Systems Certificate	85%	Man-Hour/
Safety Management System Certification	90%	Man-Hour
Information Security Management Systems	90%	Man-Hour
Certificate	85%	Man-Hour
Certification of Welders	75%	Man-Hour
Certification by NOT personnel	65%	Man-Hour
Certification of machinery and equipment	55%	Man-Hour
Certification on NOT Personnel	45%	Man-Hour
Certificate of Machinery	45%	Man-Hour
Certification of Cranes and Lifting Appliances	45%	Man-Hour
Certification of Pressurised Equipment	55%	Nos. of
Evaluation and Certification of Software and Electronics (IT)		Certification obtained
Notified Body for Machinery	45%	Nos.
Notified Body for simple Pressure Vessels	45%	Nos.
Notified Body for Telecommunication Terminal Equipment		
	45%	Nos.
	50%	Nos.
	45%	Man-Hour
	45%	Numbers
	50%	Nos.
	50%	Nos.
	45%	Nos.
	45%	Nos.
	45%	Nos.
	45%	Nos.
	45%	Nos.
	50%	Nos.

Notified Body for Personal Protection Equipment	45%	Nos
Notified Body for Lifts	50%	Nos
Notified Body for Pressure Containing Equipment	45%	Nos
Integrity Management Services	50%	Nos
Other Certification Services	50%	Nos
Other Testing Services	49%	Man -Hour
PROJECT MANAGEMENT/CONSULTING		
<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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 Jointing 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 Control Works and Consultancy	65%	Spend

SURVEYING/POSITIONING SERVICES

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
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

<i>Description</i>	<i>NC%</i>	<i>Measured Unit</i>
Car 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
Buildings including Services Stations	70%	Tonnage

Engineering Modification and Maintenance

Services for a Site/Platform	90%
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SHIPPING

*Description**NC%**Measured**Unit*

Domestic coastal carriage of petroleum products	60%	Spend
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Tow of oil and gas infrastructure and vessels		
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conveying Oil and Gas products from or to any		
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Port or point in Nigerian waters	90%	Spend
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Supply of very large crude carriers (VLCC)	90%	Spend
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SECOND SCHEDULE

1.0 Interpretation

In this Schedule, unless the context otherwise permits:

(i) A Multinational Company or MNC means a company that has its head office located in a country other than Nigeria and operates in more than one country;

(ii) A Nigerian Company means an entity registered in Nigeria under the Companies and Allied Matters Act 1990 or any succeeding legislation and for the purposes of this Schedule shall include Business Names and the equity shares in the said Company shall not be less than 90% owned by Nigerians and the Management positions of the company shall be composed of not less than 90% of Nigerians;

(iii) A System Integrator or SI means an individual or a business that develops CT systems for clients by combining hardware and software products from vendors;

(iv) Agency or NITDA means National Information Technology Development Agency;

(v) An ICT Professional Service Firm or IPSF means any entity providing ICT consulting and/or system integration services;

(vi) Commission or NCC means the Nigerian Communications Commission;

(vii) ICT Company means Information and Communications Technology companies. It comprises all Information Technology and Telecommunication Companies as used in this Guidelines;

(viii) ICT Hardware Company means an entity which designs, manufactures, assembles, maintains and repairs ICT hardware or peripheral components;

(ix) ICT means Information and Communications Technology, which is a combination of supporting infrastructure, equipment and services that enables remote gathering, processing, storage, conveyance and delivery

1 of various forms of information;

2 (x) Independent Software Vendor or ISV means any individual or an
3 entity that makes and sells software products that run on one or more computer
4 hardware or operating system platforms;

5 (xi) Indigenous Software Enabled Product or Services Firms
6 means any indigenous company utilizing software as a critical component for
7 delivery of product or service that is designed and developed in Nigeria;

8 (xii) Indigenous company means a company incorporated in Nigeria
9 with a minimum of 90% equity stakes and voting rights by Nigerians, with at
10 least 80% Nigerian staffers in management positions, at least 90% technical
11 and R&D employees being Nigerians. The Company must also be registered
12 with Corporate Affairs Commission (CAC);

13 (xiii) Information Technology System includes computing and
14 communication devices whether networked or not;

15 (xiv) Internet Service Provider or ISP means an entity licensed by the
16 Commission to provide internet services;

17 (xv) Local Content means the quantum of local value added to the
18 development, design, fabrication and assembling of ICT products and services
19 in Nigeria measured in monetary terms as a proportion of production cost or the
20 proportion of indigenous manpower involved in the various stages associated
21 with the provision of an ICT service in Nigeria;

22 (xvi) Local manufacturing means designing, assembling, fabricating,
23 or producing of goods that meet a specified performance requirement through
24 incremental use of local content by value and volume;

25 (xvii) MDAs mean all Ministries, Departments and Agencies of the
26 Federal Government of Nigeria;

27 (xviii) National Digital Marketplace (NDM) is an industry vetted
28 repository of all indigenous digital and Information Technology enabled
29 products and services developed by Nigerian entrepreneur's available use or
30 consumption by the Nigerian Government;

1 (xxix) Networking Service is the process of connecting two or
2 more devices together through wired or wireless interface for the purpose of
3 sharing or transferring data, voice and related services in line with defined
4 international standards and specifications.

5 (xxx) ONC means the Office for Nigerian Content Development
6 in ICT;

7 (xxxi) Original Design Manufacturer or ODM means an entity that
8 designs and manufactures a product which is specified and eventually
9 branded by another company for sale;

10 (xxxii) Original Equipment Manufacturer or OEM describes an
11 entity who designs a product directly or indirectly and submits this design to
12 an Original Design Manufacturer for manufacturing;

13 (xxxiii) Raw Materials are commodities, parts or substances that
14 are assembled or processed to form a final product;

15 (xxxiv) Software Development Firm or SDF means an entity that
16 consists of at least five active developers with competencies across popular
17 technologies and platforms - developing, testing and managing software
18 solutions.

19 (xxxv) Small and Medium Scale Enterprises (SMEs) are entities
20 registered as limited liability companies in Nigeria or business names
21 registered with the Corporate Affairs Commission (CAC) to carry business
22 in Nigeria with an annual turnover of less than One hundred million Naira
23 annually (N100,000, 000. 00) and staff strength of not more 30 persons;

24 (xxxvi) Technology companies means entities that develop
25 and enable software developers to develop software applications for the
26 platform by using well defined sets of standards. These include operating
27 systems, runtime libraries, databases and cloud-based platforms;

28 (xxxvii) Telecommunication Service Providers are entities that
29 provide voice, data, and other services to end users over wired or wireless
30 networks licenced with the NCC.

1 (xxxviii) Telecommunications Company is an entity that provides
2 enabling infrastructure upon which telecommunication services are provided
3 and supported as well as telecommunication equipment manufacturers and
4 licenced by the NCC;

5 (xxxix) Value Added means additions or enhancements that
6 increases the value of an existing product or an offered service.

7 2.0: Application:

8 (i) This Schedule shall apply to all Federal MDAs, Federal
9 Government Owned Companies (either fully or partially owned) Federal
10 Institutions and Public Corporation, Private Sector Institutions, Business
11 Enterprises and Individuals carrying out business in Nigeria within the specific
12 areas addressed in these Schedule;

13 (ii) The relevant part of these Guidelines shall form part of any
14 existing or future requirement for periodic accreditation and renewal of
15 licence of ICT Companies, including OEMs, ODMs, NITDA registered
16 entities and NCC licensees. It shall also apply to the granting of approvals or
17 permits for the establishment of new manufacturing or assembly plants,
18 software houses, ICT parks and allied facilities.

19 9.1 Indigenous Original Equipment Manufacturers shall:

20 1. Maintain active licence with NITDA, and certification for
21 each product renewable every two years.

22 2. Re- certification will be based on the following conditions:

23 (a) Maintain local capacity for the production of multiple computing
24 form factors and devices - desktops, laptops, tablets, smartphones, network
25 devices, alphabets, handheld devices for payments, educational, health or
26 developmental purposes, etc. either directly or through a local ODM;

27 (b) Assemble or manufacture all hardware within Nigeria and
28 maintain fully staffed facilities for this purpose;

29 (c) Hold and maintain relevant product and quality certifications of
30 locally and internationally acceptable standards;

1 (d) Have verifiable proof of investment as contained in Appendix
2 A Schedule A before being granted a licence to operate as an OEM in
3 Nigeria:

4 Provided such investments are in equipment, process development, human
5 capacity development or research and development (R&D), and;

6 (e) Hold and maintain relevant platform certifications.

7 (3) Maintain at least 40% local content by value and volume
8 either directly or through outsourcing to local manufacturers engaged in any
9 segment of the product value chain.

10 4. Maintain in-country Research and Development projects or
11 initiatives for the purpose of product and service conceptualisation,
12 innovation, adaptation, design and prototype development.

13 5. Design and develop products that support Nigerian languages
14 and local use cases.

15 6. Design, promote or sell products that are affordable, competitive
16 and innovative, offering benefits in any or more of the following areas; cost,
17 battery capacity, rigidity, compatibility with renewable energy sources or
18 functionality. Innovation in this context need not be in aesthetics or high-end
19 capacity requirements as available in the market.

20 7. Must install licenced Operating System (OS) on all locally
21 designed or assembled hardware devices in-line with customers' needs.

22 8. To always maintain a minimum inventory to be at least 20% of
23 registered capability to ensure ample number of devices and parts are
24 available on request.

25 9. Setup and operate after sales support, warranty support, return /
26 repair centre as well as a customer service centre for their products. This can
27 be outsourced locally.

28 10. Secure and provide corporate indemnity or performance
29 guarantees for customers and clients, either directly or through resellers.

30 11. Hold and maintain relevant product and quality certifications

1 of local or international acceptable standards

2 12. Subject themselves to regular NITDA led inspection of factory
3 premises and manufacturing processes.

4 13. Provide verifiable documentation of source of component parts
5 and notify NITDA of any changes in the source.

6 9.2 Indigenous Original Design Manufacturers shall:

7 1. Maintain active certification with NITDA, renewable every two
8 years.

9 2. Recertification will be based on meeting the following conditions:

10 (a) Have similar capacity to OEMs for ICT devices manufactured
11 and assembled where their devices are sold in their own names or other private
12 labels;

13 (b) Maintain local capacity to assemble and install ICT devices;

14 (c) Hold and maintain relevant product and quality certifications of
15 locally and internationally acceptable standards at local facilities of all devices
16 assembled in Nigeria and for sale in the Nigerian Market;

17 (d) Have verifiable proof of investment as stated in Appendix A
18 Schedule B:

19 (i) Provided such investments are in factory floor development,
20 equipment, process development, human capacity development or research
21 and development (R&D), Subject to regular inspection of R&D facilities,
22 factory premises and manufacturing processes.

23 (e) Hold and maintain relevant platform certifications in line with the
24 demands of the OEMs.

25 3. Submit to NITDA one (1) device either manufactured or assembled
26 in its name or in a private label or on behalf an OEM for batch approval.

27 4. Maintain at least 70% local content by value and volume either
28 directly or through outsourcing to local manufacturers engaged in any segment
29 of the product value chain.

30 5. Seek higher levels of backward integration within 12 months from

1 the start of local operations.

2 6. Provide to NITDA affidavit of source of component parts and
3 notify NITDA of any changes in the source.

4 7. ODMs must maintain a minimum capitalization of one billion
5 Naira.

6 8. Setup and operate after sales support, warranty support,
7 return/repair centre as well as a customer service centre for their products.
8 This can be outsourced locally.

9 9.3 Hardware Multinational Companies/OEMs shall:

10 (i) Provide a detailed local content development plan for the
11 creation of jobs, recruitment of Nigerians, human capital development, use
12 of indigenous ICT products and services for value creation.

13 2. Notify NITDA of the commencement or launch of any
14 developmental or Corporate Social Responsibility (CSR) project or
15 program at least 15 days before the commencement of such program, stating
16 in clear terms the following:

17 (a) location(s) where the activity will take place;

18 (b) number of intended number of beneficiaries for the activity;

19 (c) name and other details of local partner implementing the
20 activity.

21 9.4 MDAs shall:

22 1. Source and procure 40% computer hardware and associated
23 devices only from NITDA approved ODMs or OEMs.

24 2. Purchase devices that have soft and hard keyboards capable of
25 supporting Nigerian languages and the Naira sign (?).

26 3. Give preference to companies with existing hardware support
27 facilities and functional service stations with impressive customer service
28 metrics measured frequently.

29 4. Include the cost of support and maintenance in Bill of Quantities
30 (BOQ)/Bill of Materials (BOM) for all government ICT deployments.

1 5. Ensure where practicable all IT projects as turnkey deployments
2 and not mere supply of components. Vendors must demonstrate appropriate
3 systems integration capability in order to qualify for large-scale projects.

4 6. State categorically on any document issued for the solicitation of
5 offers, bids, proposals or quotation for the supply or provision of hardware
6 computing devices that preference is to be granted to indigenous NITDA
7 certified ODMs or OEMs

8 9.5 The Nigerian Content Development and Enforcement
9 Commission (NCDEC) shall in conjunction with the National Information
10 and Technology Development agency of Nigeria (NITDA) shall:

11 1. Lead and facilitate product demand generation initiatives such as
12 Assisted PC or tablets purchase programmes.

13 2. Promote the use of digital technologies as well as local
14 development of software solutions for Education by facilitating Computer
15 purchase programmes, provide incentives for software solutions in education
16 and drive technology adoption initiatives in education.

17 3. Collaborate with ICT development agencies in neighbouring West
18 African states in order to establish regional Information Communication
19 Technology trade shows that will provide a platform to grow the local industry

20 4. Facilitate discussions with industry groups and other affiliated
21 groups, to engender local value creation.

22 5. Publish technical standards of various ICT components, devices,
23 subassembly etc. as a guide for local OEMs.

24 6. Provide incentives and motivation for ODM/OEMs to develop
25 their own unique local content products and services.

26 7. Facilitate aggregation of large scale purchase by the Federal
27 Government of products assembled by an ODM in Nigeria.

28 8. Issue periodic specification of Basic Computing devices for use by
29 MDAs for the benefit of national development

30 9. Ensure that industry participants benefit from all investment

1 incentives available to them by working with other government agencies to
2 ensure that ICT firms benefit from such available incentives.

3 10.1 International Software Vendors (ISVs) shall:

4 1. Register their products, capabilities and organisation on the
5 Nigerian Content Development and Enforcement Commission (NCDEC)
6 and NITDA portals.

7 2. Demonstrate the ability to provide on-going support and
8 continuous development and maintenance of any software deployed.

9 3. Disclose and offer all public sector discounts on software
10 licences on terms negotiated with NITDA.

11 10.2 Software Development Firms (SDFs) and Indigenous
12 Software Enabled Products or Services firms shall:

13 1. Register their products, capabilities and organisation on the
14 National Digital Marketplace (NDP). The service will be provided free of
15 charge and will ensure Nigerian Content Development and Enforcement
16 Commission (NCDEC) and NITDA awareness of available resources.

17 2. Demonstrate the capacity to provide on-going support
18 and continuous development and maintenance of any software sold or
19 deployed.

20 3. Design and develop products and services that support Nigerian
21 languages and local use cases.

22 4. Have access to seed capital and grants for start-ups, incubation
23 programmes and other forms of government-backed schemes.

24 5. Hold and maintain relevant or any other standard certification in
25 order to qualify for large scale software development bids.

26 10.3 Software Multinational Companies/OEMs shall:

27 1. Provide verifiable information and sign affidavits about the
28 origin, safety and workings of software being sold and deployed within the
29 country in order to ascertain the full security of the product and protect
30 National security.

1 2. Negotiate Universal License Agreements (ULA) with NITDA and
2 shall offer agreed licenses and services to the public sector on terms agreed.

3 3. Provide a Local Content Development Plan to Nigerian Content
4 Development and Enforcement Commission (NCDEC) and NITDA for their
5 platforms and products as part of requirements for registration within Nigeria
6 and pre-qualification for any project to be carried out with any MDAs. This
7 applies to multinationals already registered and operating within the country.

8 4. Notify Nigerian Content Development and Enforcement
9 Commission (NCDEC) of the commencement or launch of any developmental
10 or Corporate Social Responsibility (CSR) project or program at least 15 days
11 before the commencement of such program, stating in clear terms the
12 following:

13 (a) location(s) where the activity will take place;

14 (b) number of intended number of beneficiaries for the activity;

15 (c) name and other details of local partner implementing the activity.

16 10.4 All Federal MDAs, Federal Government Owned Companies
17 (either fully or partially owned) Federal Institutions and Public Corporations,
18 Private Sector Institutions, Business Enterprises and Individuals carrying out
19 business in Nigeria shall,

20 1. Source locally all software and software enabled products and
21 services for which there is indigenous capacity to design, develop,
22 compile, test, troubleshoot, launch, maintain and improve such software
23 application.

24 2. Source and procure software from only indigenous software
25 development companies; where the capacity for developing such software
26 does not exist locally, procurement, installation and support will be provided
27 by a Nigerian company.

28 3. Where local software is purchased, time allowances must be made
29 for debugging and maturation of software as part of software development life
30 cycle.

1 4. Not consider urgency for deployment of software or a
2 requirement of complexity as valid reasons for non-purchase of indigenous
3 software.

4 5. Consider all software solution projects as turnkey deployments
5 and not mere supply of licenses of software. Therefore, the vendor must
6 demonstrate systems integration capability in order to qualify to carry out
7 the project deployment.

8 6. Carry out risk-based due diligence to identify, prevent and
9 mitigate actual and potential adverse impacts that may arise from using
10 software, including risks that arise from technical dependencies on
11 software conceptualized and developed outside Nigeria.

12 7. Obtain evidence of the origin, and workings of all software
13 being used including adequate assurance of the full security of source code.

14 8. Compel the software development firm or indigenous company
15 to design, develop and deploy the software in line with the Standards
16 for Data Interoperability issued by NITDA.

17 9. Not disqualify any indigenous firm from an award of contracts
18 on the basis of a determination of a demonstrable lack of the year of
19 incorporation; but on the basis of qualification, competence and experience
20 of the company and its management in the execution of similar contract.

21 10. Ensure all software development projects valued at ten billion
22 Naira (N10b) or below are;

23 (a) Procured solely from indigenous software development
24 companies or;

25 (b) Where capacity to develop such projects do not exist in Nigeria
26 and as verified by NITDA, such a project may be executed in joint venture
27 with a non-indigenous firm, where the local firm must participate and use
28 local resources in the development of the project and shall be the lead
29 service provider for the project;

30 (c) Indigenous partners in the joint venture project shall be entitled

1 to not less than 40% of the total value of the development project;

2 (d) Where foreign software technology is procured under
3 Section.....b; support, implementation, capacity development and training
4 must be conducted with local partners in Nigeria who must be indigenous
5 companies within the meaning of these Guidelines and who must be entitled to
6 at least 40% of the gross charges for such services;

7 (e) Where value of software to be procured is in excess of five billion
8 Naira (N5b) an express approval of NITDA will be required with a justification
9 and proof of inability to secure local capacity or alternative products locally.

10 11. Provide detail functional and non-functional specification for the
11 requirement for any software to be developed and deployed.

12 12. Note that procurement of bespoke enterprise software from non-
13 indigenous developers is hereby prohibited for the following categories:

14 (a) Enterprise Resource Planning (ERP);

15 (b) Human Resource Management;

16 (c) Enterprise Internet/Intranet/Extranet Portals;

17 (d) Education Content and School Management Systems;

18 (e) Learning Management and/or Learning Content Management
19 Systems;

20 (f) Training Systems;

21 (g) Document Management Systems;

22 (h) E-commerce Systems;

23 (i) Payment Systems;

24 (j) Invoicing and Accounting Systems.

25 13. State categorically on any document issued for the solicitation of
26 offers, bids, proposals or quotation for the supply or provision of software that
27 preference is to be granted to indigenous software development firms.

28 10.5 The Nigerian Content Development and Enforcement
29 Commission (NCDEC) shall in conjunction with the National Information
30 and Technology Development agency of Nigeria (NITDA) shall:

1 1. Enhance and promote the use of digital technologies as
2 well as local development of software solutions for the critical sectors
3 including but not limited to health, education and security.

4 2. Champion and encourage the set-up of Business Incubator
5 Schemes to accelerate capacity and access of indigenous companies to
6 secure ICT projects in the public sector.

7 3. Partner with financial institutions, venture capital firms, MNCs
8 with venture capital divisions as well Angels investors to create a vibrant
9 Venture Capital ecosystem for the ICT sector.

10 11.1 Telecommunication Companies shall:

11 1. Provide a local content development plan for the creation of
12 jobs, recruitment of Nigerians, human capital development, use of
13 indigenous ICT products and services for value creation.

14 3. Use locally developed or manufactured software components,
15 equipment, cables and devices for the provision of communication services

16 4. Host all subscriber and consumer data within the country in line
17 with existing legislation.

18 5. Peer their internet traffic at any Internet Exchange Point in
19 Nigeria.

20 6. Use indigenous companies to build network infrastructure (both
21 active and passive). These include but not limited to cell sites towers, base
22 stations, cables, software, network equipment and ensure that at least 80%
23 of the value and volume are locally sourced.

24 7. Use indigenous companies for the provision of at least 80% of
25 all Value Added Services and network services on the networks. TSP must
26 also ensure that such companies are creating at least 80% of the volume and
27 value of services provided locally.

28 8. Demonstrate verifiable evidence of Investment of at least 1% of
29 annual turn-over in ICT Research and Development in Nigeria in
30 accordance with the Companies Income Tax Act (CITA) 2004.

1 11.2 NITDA and NCC shall:

2 1. Collaborate to promote the setup of Nigerian Telecommunication
3 companies spanning the entire value chain, ranging from Network services,
4 hardware to software, networking to data management in order to drive greater
5 local participation.

6 2. Collaborate to promote the development of local companies that
7 can provide ICT products and services.

8 3. Collaborate to foster the growth of value adding entities by
9 encouraging innovation in new and emerging technologies.

10 4. Provide incentives and motivation for Telecommunication
11 companies to develop their own unique local content products and services.

12 12.1 Networking Service Companies shall:

13 1. Provide a local content development plan for the creation of jobs,
14 recruitment of Nigerians, human capital development, use of indigenous ICT
15 products and services for value creation.

16 2. Use locally developed or manufactured software, equipment and
17 devices for the provisioning of data services in Nigeria except where such
18 software, equipment and devices are not available locally, the networking
19 services company shall obtain written approval of the Agency to purchase it
20 outside Nigeria.

21 4. Host all subscriber and consumer data within the country.

22 5. Peer their internet traffic at any internet exchange point in Nigeria.

23 6. Use indigenous companies for the provision of all network services
24 and delivery of projects on their networks.

25 7. Demonstrate verifiable evidence of Investment of at least 3% of
26 annual turn-over in Research and Development in ICT in Nigeria which shall
27 be tax deductible.

28 8. Provide evidence of the origin, source, paths, workings of network,
29 Internet tools and services as well as adequate access to ascertain the full
30 security of communications being sent through such platforms.

1 9. Maintain security and audit protocols for all services being
2 rendered to citizens, corporations and government.

3 10. Hold and maintain relevant locally and internationally
4 acceptable standards

5 12.2 MDAs shall:

6 1. Host their websites locally and under a registered.gov.ng
7 domain.

8 2. Source network and Internet services from licensed indigenous
9 service providers.

10 3. Ensure that all routes of network traffic between communication
11 points are known and monitored routinely.

12 4. Maintain security and audit protocols for all services being
13 rendered to citizens, corporations and Government.

14 12.3 NCDEC, NITDA and NCC shall:

15 1. Promote the adoption of .ng domain name by Nigerian
16 companies.

17 2. Promote and facilitate investment in the setup of Nigerian
18 networking and internet service companies spanning the entire value chain
19 in order to drive greater local participation.

20 3. Promote the development of indigenous companies to provide
21 ICT products and services.

22 4. Foster the growth of value adding entities by encouraging
23 innovation in new and emerging technologies.

24 5. Provide incentives and motivation for Networking and Internet
25 Service companies to develop ICT local content products and services.

26 13.1 Data and Information Management Companies shall:

27 1. Register their products, capabilities and organization on the
28 NITDA portal.

29 2. Host all sovereign data locally within the country and shall not
30 for any reason host any sovereign data outside the country without an

1 express approval from NITDA.

2 (f) Approval shall only be granted taken into consideration any of the
3 following:

4 (g) Compliance with the Nigeria Data Protection Regulation, where
5 personal data is in consideration;

6 (h) A consideration on the implication of the Nigeria Cloud Policy;

7 (i) A guarantee that the Nigerian Government has unfettered right to
8 access and retrieve its data wherever it is located;

9 (j) An undertaking of non-disclosure of Nigeria's government data to
10 any third party without the express consent of the government;

11 (k) A guarantee of adequate and appropriate data security process;
12 security process shall be reviewed and accepted by NITDA before approval is
13 giving;

14 (l) The Nigerian Government shall have a choice of the jurisdiction
15 where data will be hosted;

16 (m) An undertaken for periodic submission of Third-Party Audit
17 reports for review by NITDA;

18 (n) Where service to be offered to government is Software as a
19 Service (SaaS) to improve the efficiency or performance of government;

20 (o) Where SMEs offers service to government from a public
21 cloud environment, such service must be registered and verified on the
22 National Digital Marketplace, furthermore client MDA shall be responsible
23 for backing up data from the service provisioning in public cloud.

24 3. Comply with and compel corporate and personal clients to strictly
25 adhere to various data protection provisions in Nigeria and Guidelines on Data
26 Protection by NITDA when hosting personal identifiable data.

27 4. Hold and maintain relevant locally and internationally acceptable
28 standards

29 5. Proactively sell and market the .ng TLD in line with provisions of
30 Nigeria Internet Registration Association (NiRA) policies.

1 13.2 MDAs shall:

2 1. Promote as mandatory the presence of system logs and other
3 computer data logging technologies to aid in the effective troubleshooting
4 and forensic investigation of events in Government systems.

5 2. Be responsible for ensuring that reasonable care is taken to
6 adequately secure the sovereign data that is created, transferred and stored in
7 digital formats.

8 3. Ensure that all sovereign data is hosted locally on servers within
9 Nigeria.

10 13.3 NCDEC and NITDA shall:

11 1. Promote and support local data hosting firms and set appropriate
12 service level requirements and standards for data service provisioning for
13 such service.

14 2. Work with relevant institutions to design and determine data
15 formats and interchange standards across all levels of Government and
16 between various departments.

17 3. Promote awareness of appropriate data formats, database
18 technologies, computer security and other data and information
19 technologies that will be used by the Government in order to achieve the
20 right degree of security.

21 4. Work with the Nigerian Copyright Commission towards the
22 implementation of the treaties of the WIPO, as well as drive the local
23 adaptation of specific provisions.

24 5. Work with the Nigerian Copyright Commission, Copyright
25 Reform Expert Working Group, National Office for Technology Acquisition
26 and Promotion, as well as with non-governmental and civil organizations
27 like Intellectual Property Institute, Nigerian Chapter of the World
28 Intellectual Property Organization, Copyright Society of Nigeria, to achieve
29 the harmonisation of Intellectual Property rights so as to provide an
30 incentive for innovators and creators.

1 14.1 All Information Technology, Online Service Provisioning and
2 Internet Content Multinational Companies in Nigeria:

3 1. Shall demonstrate evidence of operations and projects of R&D
4 departments or divisions that carry out value added services in-country,
5 employing Nigerians in R&D to contribute to job creation and empowerment
6 of Nigerians.

7 2. Maybe eligible for tax relief for R&D as provided for by extant
8 Nigerian Tax Laws or other incentives available under the NITDA Act 2007.

9 3. Notify NITDA of the commencement or launch of any
10 developmental or Corporate Social Responsibility project or program at least
11 15 days before the commencement of such program, stating in clear terms the
12 following:

13 (a) location(s) where the activity will take place;

14 (b) number of intended number of beneficiaries for the activity;

15 (c) name and other details of local partner implementing the activity.

16 14.2 Indigenous or Nigerian Companies:

17 All indigenous or Nigerian Companies who have secured IT projects or
18 contracts with any Federal Public Institution or Government owned
19 companies either fully or partly, of which the gross value of the project is Five
20 Hundred Million Naira (N500,000,000,00) or above shall:

21 (i) Engage on the project, a start-up or incubation team for the purpose
22 of R&D on the project;

23 (ii) Engage Nigerian graduates with IT background as interns on the
24 project;

25 (iii) Submit to NCDEC a Local Content Plan Comprising of the
26 following reports:

27 (a) detailed project scope;

28 (b) details of non-indigenous partners and monetary value of their
29 service or products in the project;

30 (c) number of Nigerians to be deployed for the project;

1 (d) detail description of Nigerian solutions or products utilized in
2 the project;

3 (e) number of non-Nigerians to be deployed for the project;

4 (f) Number of Nigerian graduate interns to employed for the
5 project;

6 (g) R&D plan and details of any start-up or incubation teams
7 involved in the project;

8 (h) disclose if the project has implications for national security.

9 14.3 NCDEC, NITDA and NCC shall:

10 1. Proactively address perception of quality of locally made ICT
11 products and services by working with leading national and global quality
12 organizations, and local industry groups to train and assist local ICT
13 companies to improve their products, services and processes.

14 2. Promote capacity building in relevant ICT thematic
15 proficiencies in tertiary institutions and designated Centres of Excellence.

16 3. Empower Centres of Excellence around key emerging
17 technologies and promote the creation of a minimum of six Centres of
18 Excellence in partnership with Nigerian tertiary institutions.

19 4. Designate Centres of Excellence based on set eligibility criteria,
20 application and evaluation in line with the defined criteria.

21 5. Produce national ICT skills gap report in collaboration with
22 relevant stakeholders.

23 6. Support academic research projects being conducted by
24 Nigerian scholars and educational institutions in Nigeria which focus on
25 developing the ICT sector in the country.

26 7. Promote and support the commercialisation of research
27 activities in order to engender and encourage entrepreneurship and skills
28 development.

29 8. Provide incentives for Nigerian companies to support and
30 develop leading and emerging technologies.

1 9. Support technology incubation programs, Start ups communities,
2 ICT clusters and other IT development networks to stimulate the growth of the
3 sector.

4 10. Partner with relevant organizations and other appropriate bodies
5 to setup a Technical & Vocational Skill Acquisition and Training Programme
6 for ICT practitioners and small-scale entrepreneurs.

7 11. Mandate all IT third service providers with existing IT contracts,
8 partnerships or service agreements with the Federal Government to engage
9 graduate interns as a necessary component of IT service delivery for the
10 Federal Government.

11 Internship duration, stipend and number of interns shall be evaluated on a case
12 by case basis.

13 APPENDIX TO THE SECOND SCHEDULE

14 Table A:

15 Hardware Device Classes for OEMs

16 Class	Device Range	OEM
17 Class 1	PCs/Laptops/Printers	N50M
18 Class 2	Phone, Tablets	N30M
19 Class 3	Setup boxes, Smart meters	N10M
20 Class 4	Embedded IC/IoT	-
21 Class 5	Accessories(keyboard, 22 mice etc)	-

23

24 Table B:

25 Class	Device Range	ODMs
26 Class 1	PCs/Laptops/Printers	N900M
27 Class 2	Phone, Tablets	N305M

1	Class 3	Setup boxes, Smart meters	N75M
2	Class 4	Embedded IC/IoT	N50M
3	Class 5	Accessories(keyboard,	N30M
4		mice etc)	

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Nigerian Oil and Gas Industry Content Development Act, 2010 and Enact the Nigerian Content Development and Enforcement Act to make for provisions for the Development and Enforcement of Nigerian Content and for the Establishment of Entities.

