

**PROMOTING OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010:
A REVIEW OF THE PROSPECTS, CHALLENGES AND THE WAY FORWARD¹****Abstract**

The Act aims to intensify Nigerian companies' involvement in the oil and gas industry by repositioning the Nigerian energy sector towards maximizing the benefits of the law to enhance local capacity. However, the government political will has not been demonstrated to achieve this via effective monitoring and implementation of the Act for sustainability for Nigerians and future generations' benefits. The research adopts library-based doctrinal legal research techniques with a conceptual legal approach with primary sources such as case laws, *stare decisis*, and secondary bases, for instance, schoolbooks and academic journals written by renowned legal scholars. The main finding of study is the absence of close monitoring and weak enforcement of the Act by the Nigerian Content Development and Monitoring Board which is a challenge that should be combated. The Board and other regulatory bodies' inability to bridge the capacity disparity hamper oil and gas international businesses from conforming with the Act. The study designed a hybrid model for transforming Nigeria's oil and gas sector to promote efficiency and to increase indigenous human capacity participation in the sector. The study recommends the need to amend the law in conformity with the International Trade and Investment Treaties, which Nigeria is a signatory. The study advocates research and development to encourage technological progress that will break new grounds and enhance local content. A brief summary and potential implications of the study were stated. The study ends with the suggestion for more researchers to utilise the quantitative method to propel more research on this area of law.

Keywords: Local Content Act, Nigeria Oil Industry, Economic Development, Oil and Gas.
JEL Classifications: K42, Q5, K2, Q4, K32, K12, P28.

1.0 Introduction

The oil and gas sector is the mainstay of Nigeria's economy, requires significant indigenous participation in the industry for the country's economic sustainability. The Nigerian oil and gas industry has been controlled by foreign conglomerate oil and gas firms. The state ownership of natural resources is a principle enshrined in the international law under permanent sovereignty over natural resources the United Nation General Assembly 1952 -1962. This was designed to edge out the people out of control over their natural resources.

Nigeria has been attached with the unappealing rank of being both one of the world's main producers of crude oil and the leading importers of refined petroleum products. Like most

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Nigerians, oil firms rely on foreign oil firms or expatriates for their technical operations due to the deficient local expertise's².

The Western concept of energy resources ownership was a strategy conceived by the colonialist to control, dominate both the domestic, international oil markets and to exploit and held on to the people's natural resources, which lead to the enactment of the repealed Mineral Oil Ordinance of 1948 which vested the regulation of all-natural resources and mineral oils in, beneath or upon any land in Nigeria on the crown.

However, after independence, Nigeria adopts the colonial legal regime on energy into our Constitution without considering our particular circumstances, cultural difference, and other salient features crucial to our energy sector. According to section 44 (3) of the 1999 Constitution (as amended) of the Federal Republic of Nigeria, which provides as follows:

"Notwithstanding the preceding, the entire possessions in and regulation of all-natural resources and minerals oils and natural gas, in, underneath or upon any land in Nigeria or in under or the territorial waters and Exclusive Economic Zone of Nigeria shall vest in the government of Nigeria."

Also, section 1(1) Mineral and Mining Act Laws of the Federation of Nigeria 2004 provides as follows:

"The entire property in and control of all minerals, in under or upon any land in Nigeria, its contiguous continental shelf and of all rivers, stream and watercourse throughout Nigeria, any area covered by territorial waters or constituency, the exclusive Economic Zone shall be vested in the Government for and on behalf of the people of Nigeria."

Besides, the energy sector realities and dynamics made it inevitable for Nigeria to restructure its oil and gas industry via a legal instrument to guarantee sustainable development and use of energy resources in the interest of both the existing Nigerians and the upcoming generations. Due to this, the Federal Government of Nigeria enacted the Nigerian Oil and Gas Industry Content Development Act 2010 (NOGICD) Act to promote indigenous participation and develop local oil and gas industry capacity. The local content Act is a tool for accomplishing fiscal growth in a country blessed with an abundance of oil and inorganic resources³.

The local content contribution in the Nigerian oil and gas industry has been made via numerous statutes such as the Production Sharing Contract. The Nigerian National Petroleum Corporation

²Omorogbe, Y., Keynote Address: 'Energy and Economic Development: Policies, Institutional Frameworks and Strategic Options,(2014), in Adenikinju A., Iwayemi Akin and Iledare, W., Nigerian Association of Energy Economics, Proceedings of the 2014 NAEE /IAEE Conference, Energy Access for Economic Development Policy, Institutional Frameworks and Strategic Options, xxiii.

³Oniemola, P.K., Gbede, O, A Decade After Reflections on Some Salient Provisions of the Nigerian Oil and Gas Industry Content Development Act 2010, (2020), 11(4), The Gravitas Review of Business and Property Law, 138-153.

enters into as the Federal Government representative makes provision for local content. Also, the corporation, through its Strategic Business Unit, is driving the initiative of its National Content Unit. The Nigerian Petroleum Technology Development Fund (PTDF) establishment develops local capacity through constant specialised training and research commercialisation via registration of intellectual property rights and human capital development.

The Federal Government interest in the oil and gas industry was reduced to nominative proprietorship of the petroleum, taxes, levies and royalties⁴. Due to this, many states with a large deposit of oil and gas have currently enacted local content legislation to promote local involvement and economic growth in the countries⁵. The clever use of local, individual, physical resourcefulness and services with values and procedures are established to ensure that this objective is accomplished, which is the purpose of the Local Content Act to utilise the law as an instrument for economic growth and development.

This article assesses the Oil and Gas Industry Content Development Act, 2010 with the prospects, problems and proffers lasting panaceas to the problems confronting the implementation of the two actualised its aims and proffers answer to the question assessment of the oil and gas industry Content Development Act, 2010: are there prospects, challenges and panaceas? The study is divided into five sections. Section one contains the introduction; section two discusses the literature review, section three considers the statement of the problem, while section four examines the theoretical framework on local content in the oil and gas industry, section five analyses the findings and results of the research, synopsis of the Local Content Act, problems militating against the enforcement of the Act, other fundamental legal framework regulating the oil industry, comparison of local content laws in other Jurisdictions with policies strategies Nigeria can absorb from the selected case study nations were considered. Prospects of the oil and gas industry Content Development Act, 2010 with the hybrid model for transforming Nigeria's oil and gas industry local content Act. The paper concluded with suggestions and policy implications of the study.

2.0 Literature Review

The necessity to encourage local content for economic growth via the deliberate use of Nigerian personnel, substantial resources and facilities in the nation's oil and gas sector. According to Yemi Oke⁶, local content is a protectionist policy aimed at shielding various spheres of Nigeria's economy to guarantee government control of its vital areas. This view was further alluded to by Omorogbe⁷ who describes the local content policy as distinguishable from nationalisation. The individuals and states' right to permanent sovereignty on their natural resources and incomes must be utilized to benefit their citizens' welfare and growth and

⁴Declan, H., *Nigerian Oil and Gas Law: Cases, Commentaries, and Materials*, (2018, Westhill Publishers Company, Lagos), 3.

⁵Acheampong, M., Ashong, M., and Svanikier, V.C., 'An Assessment of Local -Content Policies in the Oil and Gas Producing Countries', (2016), *Journal of World Energy Law and Business*, 282.

⁶Oke, Y., 'Multi-Jurisdictional Evaluation of the Nigerian Oil and Gas (Industry and Content Development) Act, (2012), 2(1), *University of Ibadan Law Journal*, 153.

⁷*Ibid*, note 2.

society's security. However, nationalisation or expropriation should be based on community needs, safety measures or indigenous advantage and upon reimbursement of suitable repayment or recompense under nations' law.

Okafor and Aniche⁸ argue that the country is richly blessed with abundant mineral and human resources to the extent that it is ranked the seventh (7th) the main producer of crude oil globally. Despite low revenues made by the Federal Government from the sector, which is approximately \$10 billion a year, input to Gross Domestic Product (GDP) is insignificant, can be more or less than 30%. This low turnover of the oil and gas industry is repeatedly ascribed to foreign domination of the industry and dwindling inputs by Nigerian oil companies.

Balouga⁹ also argue that regardless of the enactment of the local content policy in 2006 and enactment of the Nigerian Oil and Gas Industry Content Development Act in 2010, citizens have a very insignificant portion of the oil and gas transactions over the ages, approximately 14%. For a nation with vast oil and gas resources and substantiated recoverable reserves of approximately 37 billion barrels, her incapability to utilise the oil wealth for national growth and poverty diminution has been the utmost problem bedeviling the country.

Moreover, local content failure is attributed to poor implementation of the law by the Nigerian Content Development and Monitoring Board due to lack of commitment on the Board's part to enforce the Act effectively. Also, in harmony with Balouga¹⁰, who argues further that despite Nigeria's enormous natural resources, the country remains one of the poorest, and scientifically deteriorating, countries in the globe as its oil revenues has not utilised to improved her citizens' welfare as over 90% of the annual oil sector expenditures evade the national economy as capital flight.

3.0 Statement of Problem

After discovering crude oil on a large scale in the country in 1958, the industry has been dominated by foreign oil firms against the state expectation that indigenous firms would develop with benefits accruing to the national economy. However, this goal remained elusive as foreign oil firms dominate the industry¹¹. This has occasioned capital flight, unemployment, lack of technical know-how, and reverse economic growth.

The abysmal level of indigenous participation in the sector and the growing necessity to encourage and improve indigenous capacity in all areas of the economy with Nigerian exploit its natural resources. Dependence on imported refined petroleum products, goods, services and preference for expatriates' personnel has hampered the national goal of achieving economic

⁸Okafor, J., and Aniche, E., (2014), A Critical Appraisal of Enforcement of Nigerian Oil and Gas Industry Content Development (NOGICD) Act, 2010, *Journal of Law, Policy and Globalization* 31, 82.

⁹Balouga, J., (2012), Nigerian Local Content: Challenges and Prospects, *International Association for Energy Economics*, 23.

¹⁰*Ibid.*,

¹¹Omorogbe, Y., *The Oil and Gas Industry: Exploration and Production Contracts* (Lagos: Florence and Lambert, Nigeria 2008), 12-13.

independence and development. This further necessitates the need to enact local content law to drive economic development, empowerment and more employments in Nigeria devoid of negotiating a value, well-being, security and ecological benchmarks¹².

Some policies and laws enacted by Nigeria were not tailored towards encouraging local oil firms willing to do genuine oil transactions, grow gradually and attain international status. For instance, crude oil lifting was designed to encourage big oil firms. This necessitates the need to overhaul the regime on the oil and gas industry.

Nigerians as staff or managers are often mere onlookers not involved in the oil and gas operations as NNPC are mostly monitoring non-operator due to lack of technological know-how; due to this, the nation is often short-changed by the International oil firms which their parent corporations manage as Nigerian management has little or no control in critical decisions of the firm. Even where Nigerians give the firm some measure of control of the oil and gas sector to be involved in the oil field operations and management, corruption and indolence reduce them to mere onlookers and implementers tells them¹³.

To significantly increase the inputs to the gross domestic product from the upstream sector, which is currently low due to weak enforcement of the local content Act for sustainable economic growth in Nigeria's oil industry. As indigenous oil firms are edged out of the sector, leaving the industry open for foreign oil firms to dominate the sector and saturate the sector with expatriates to take jobs many Nigerians are qualified for. This has worsened the country's unemployment situation, and further weakened the country's economy through incessant capital flight.

4.0 Theoretical Framework on Local Content in the Oil and Gas Industry

The study leans on comparative cost advantage and balanced growth theory in the quest to assess the Oil and Gas Industry Content Development Act, 2010 for sustainable growth for Nigeria through enhancement of local capacity. Relative advantage is when a nation has an edge or superiority in the manufacturing of commodities or services and where the prospective manufacturing price is lesser. David Ricardo articulated the essence of the concept of comparative advantage in 1817. He argues that countries have different factors of endowments such as labour, land and capital contributions and will focus on export of those commodities such as crude oil and utilise intensively the production factors in which they are most endowed. Nigeria is among the leading producers and international trader of crude oil in Africa and the top ten leading producers globally but its oil and gas industry, thus creating unemployment among its citizenry and capital flight¹⁴.

¹²Olujobi, O.J., Oyewunmi, O.A., (2017), Annulment of Oil Licences in Nigeria's Upstream Petroleum Sector: A Legal Critique of the Costs and Benefits International Journal of Energy Economics and Policy, 7(3), 364-369.

¹³Adamu K. U., Nigerian Oil and Gas Industry Institutions, Issues, Law and Policies (2017 Malthouse Law Books), 46.

¹⁴Iwayemi, A., Energy Resources and Development in Nigeria, (2012), available at www.naee.org.ng, 1.

In the same vein, another theory utilised in the study is an economic theory propounded by Ragnar Nurkse in 1907-1959 is to help emerging countries such as Nigeria to accomplish balanced growth. The theory advocated that the Federal Government needs to make large investments in the oil sector. Utilising this analogy, balanced development of our nation's natural energy resources through the use of the Local Content Act to build local capacity can make Nigeria a well-diversified, energy secured nation that will promote its economic growth and development¹⁵.

5.0 Discussions of Findings and Results

5.1 Synopsis of the Local Content Act

After several years of uncertainty on the rationale and implementation of the Nigerian Oil and Gas Industry Content Development Act, it was signed into law on April 22, 2010, by President Goodluck Jonathan to correct the imbalance in the sector and to ensure mandatory employment of Nigerians which has been a concern to the government and sustainability of the sector. The Act has many salient provisions for promoting the Nigerian local capacities and reformation of the sector. The planning, scrutinising, and execution of the Nigerian content is bestowed on the Nigerian Content Development and Monitoring Board (NCDMB) (Section 69 of the Act). Under section 107 of the Act defines Nigeria content as:

"The quantum of composite value added to or created in the Nigerian economy by systemic developments of capacity and capabilities through the deliberate utilisation of Nigerian human material resources and services in the Nigerian oil and gas industry."

Section 1 of the law provides for the application of the Act to all matters regarding the Nigerian content, such as operations or transactions connected to the oil and gas sector, while the section of the Act appeal to all stakeholders in the oil and gas sector to reflect on Nigerian content as an imperative component of their overall project growth and administration.

Section 3(1) provides that indigenous oil firms and independent are to be granted matchless attention in the grant of oil blocks, oil field license and oil lifting where the contract is to be awarded and in the grant of licenses or permits in respect of any activities in the oil and gas sector, conformity with the local content is a prerequisite for the grant section 3(1) of the Act. Section 3 adopt the word "First Consideration" and "Exclusive Consideration" for indigenous oil firms in the award of contracts but will only be disqualified where they do not possess the required competencies essential to secure the contracts.

Section 3(2) (3) reinforces compliance with the law, and section 4 establishes the Nigerian Content Monitoring Board while sections 71 and 72 provides for the Governing Council for the Nigerian Content Development and Board. Sections 6, 7, and 8 require modifying all pre-existing petroleum contracts with the proposal or plan for Local Content made available to the Board disclosing conformity with the Act.

¹⁵Oguine, I., 'Nigerian content in the Nigerian petroleum industry: Legal and Policy Issues', (2011), Journal of Energy & Natural Resources Law, 29(4), 405-430.

The Board is authorised to make available a Certification of Authorisation to an operator. Sections 28 and 29 require first consideration of engagement and schooling to give Nigerians in the sector detailed employment and training plans. However, this has not been strictly enforced by the Board. Section 31(1) made provision for a succession plan regarding positions not occupied by Nigerian.

To reduce the tension associated with “Nigerianisation and operator may retain five (5) percent maximum of the administration ranks as an emigrant to pay attention to investors' concerns as stated under section 32 of the Act. The Act provides for Research and Development regulation and programs with the budget, but this has not been complied with by many oil firms due to the absence of stringent sanctions for non-compliance. Sections 43 and 47 of the Act dwells on the transfer of technology and require every oil firm to have a plan to be submitted to the Board. Oil firms and other individuals who participated in any operation in the oil sector necessitating legal service shall utilise the services of indigenous Legal Practitioners whose offices located in Nigeria and submission to the Board every six (6) months Legal Services Proposal as stated under sections 51(1) (2) of the Act.

The Board implements the provisions and coordination of the Local Content Act. The effectiveness of the Board is fundamental to the success of the Act. Under section 68 of the Act infringement of the Act's provision by the oil, the firm attracts a fine of five percent (5%) of the task worth will be levied as a sanction or outright cancellation the project. The penalty appears stringent due to the complexity of the provisions of the Act. However, no record of any convicted oil firm has been kept.

5.2 Problems Militating against the Enforcement of the Act

Some problems have been hindering the success of the Act from accomplishing its objectives: Lack of adequate funds and delays associated with the release of budgetary allocations or funds have affected the Board's operation due to understaffing that result in poor monitoring and low enforcement of the Act in the sector. The absence of a financial benchmark of gift or value of the gift the Board can receive may call into question the Board's integrity due to integrity risks and likely compromise by gift. It is difficult for local contractors to access funds due to their inability to satisfy the essential requirements, such as collateral, banking regulations, and business plans. Access to funds will enable them to improve their research, development and quality control¹⁶.

The Act contravenes the International Trade and Investment law's provisions; therefore, there is a necessity to harmonise its provisions in the enforcement of the Nigeria Oil and Gas Industry Content Development Act to prevent the breach of an international agreement on Bilateral

¹⁶Omorogbe, Y., 'The Legal Framework for the Production of Petroleum in Nigeria', (1987), Journal of Energy and Natural Resources, 1.

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Investment Treaties¹⁷. The Local Content Act does not offer a link with the Department of Petroleum Resources (DPR) agencies and the Nigerian National Petroleum Corporation (NNPC) that regulate the industry. The Act did not consider the provisions of the National Office for Technology Acquisition and Promotion (NOTAP) Act 1979 to ensure practical cooperation with other regulatory agencies such as the Nigerian National Petroleum Corporation, the National Office for Technology Acquisition and Promotion and other relevant agencies to enrich the terms and rationale of the Act.

Further, section 43 of the Act requires that any technology being imported to the country through technology transfer must be registered with the National Office for Technology Acquisition and Promotion. This has occasioned regulatory hurdles to investors and the prescribed conditions stipulated by the Nigerian Content Monitoring Board. This may amount to over-regulation of technology transfer in the sector, which may discourage some investors.

Occasionally, Joint Venture partners may experience some challenges with the Local Content Act where their operations' needed skill is not available within Nigeria due to Nigerian firms' inability to supply goods and services required by the international oil firms¹⁸. Therefore, there is the need to build local capacity with resources needed to meet the Act implementation. Therefore, there is a need to execute the subsisting local content provisions in all valid oil and gas contracts to deter non-compliance in the sector¹⁹.

Insufficient capacity to execute the local content prerequisites as the oil and gas activities are capital intensive, and some commercial banks are not willing to offer long term loans or financial facilities in support of oil and gas operations due to non-application of reserved based lending like the international financial institutions which utilise this to finance oil and gas projects.

The penalty of cancellation of contract or payment of 5 percent as fine for the local content act's infringement appears to be extreme considering the country's current economic reality. The focus should be the increase in local capacity rather than penalisation.

A Nigerian Content Development Fund set up under section 104 of the Act and section 104(2) of the Act requires oil firms to pay 1(one) percent of the contract's monetary value in the upstream sector the Local Content Development Fund as a levy. Also, section 105 of the Act empowered the Nigerian Maritime Administration and Safety Agency (NIMSA) and the Board to enforce section 110 of the Coastal and Inland Shipping (Cabotage) Act No.5, 2003 local content development. Effective implementation of the Act is another challenge of the law.

¹⁷Okpe, F., *Foreign Direct Investment and Investment Treaty Arbitration Concerning Nigeria* (PhD Thesis, University of Aberdeen, 2014), 217.

¹⁸Olujobi, O.J., Ufua, D.E., Olokundun, M., Olujobi, O.M., *Conversion of Organic Wastes to Electricity in Nigeria: Legal Perspective on the Challenges and Prospects*, *International Journal of Environmental Science and Technology*, (2021), available at <https://doi.org/10.1007/s13762-020-03059-3> (accessed January 3, 2021), 3.

¹⁹Nwaokoro, J., 'Beyond Legislation: Contract Alternative to Legislating Local Content in Nigeria', (2009), 18(1), *Currents: International Trade Law Journal*, 42-54.

Therefore, there is a need for its provisions should be diligently operationalized for the law's efficacy.

The Act prohibits the Board from accepting suspicious donations or gifts but fails to define what constitutes suspicious donations. This *lacuna* may give room for corruption and bribery, which may influence the Board's discharging its duties²⁰. The absence of a constant power supply, efficient transportation system and basic social amenities are challenges facing business operations in Nigeria as a stable and conducive business environment is *sine qua non* to the efficient local content development programme²¹. The institutional challenge is another problem facing the sector; therefore, there is the need for overhauling the legislation regulating the sector for efficiency due to conflicting roles among the various regulatory institutions as regulations ought to be separated from commercial operations²².

Some of the measures introduced in the Act, such as the preferential treatment of local oil firms, may occasion some level of discrimination against foreign oil firms which conflict with the country's international obligations, such as the "National Treatment Obligations", are incorporated in various Bilateral Investment Treaties, World Trade Organisation Agreement, Treaty on Trade-Interconnected Investment processes and Universal agreement on trade and services. However, foreign oil firms are enjoined to perceive local content as a prospect rather than a business drawback by utilising the Act's advantages to promote good host government relationships in the sector.

This may create restrictive trade and investment measures due to discrimination and stringent local sourcing requirements against foreign goods and services. This may distort trade, investment and upsurge the industry's production cost instead of encouraging healthy trade competition to encourage economic development.

The law is silent on the agitations of environmentalists and human rights on the rights of the inhabitants of the oil communities to the healthy environment due to the incessant environmental degradations occasioned by exploration and production activities of oil firms in the sector which destroys their means or sources of livelihood and socio-economic life of the people²³. The law is also silent on controlling natural and mineral resources between Nigeria's Federal government and oil-bearing communities²⁴. Section 44(3) of the 1999 Constitution and section 1 of the Petroleum Act confers exclusive control of all mineral oil and natural resources on the Federal Government should be amended.

²⁰Olujobi, O.J., Legal Framework for Combating Corruption in Nigeria – the Upstream Petroleum Sector in Perspective, (2017), 3(25), Journal of Advanced Research in Law and Economics, VIII, 956 – 970.

²¹Olujobi, O.J., Oyewunmi, O.A, Oyewunmi, A.E., (2018), Oil Spillage in Nigeria's Upstream Petroleum Sector: Beyond the Legal Frameworks, International Journal of Energy Economics and Policy, 8(1), 220-226.

²²Akpanika, O.I., 'Technology Transfer and the Challenges of Local Content Development in the Nigerian Oil Industry', (2012), 11(2), Global Journal of Engineering Research, 123-131.

²³Udeme, E., The Niger Delta and Oil Politics, (2004), International Energy Communications Ltd, V.I, Lagos, 49.

²⁴Nwapi, C., Defining the Local Content Requirements in the Oil and Gas and Mining Sectors in Developing Countries, (2015), 8(1), Law and Development Review, 187-216.

Also, the law fails to make provision for Nigerians' employment in strategic positions and interests or positions of the various stakeholders in the sector. Consequently, serious consideration should be given to harmonising the law with foreign participation in its oil and gas sector. Another challenge is corruption and bad governance, where some officers in the sector award contract to themselves and their cronies, which is unethical and unacceptable to the standard of uprightness and business practice. This will hinder the objective of the local content Act.

For a successful local content policy or law, there is the need for social infrastructure and attitudinal change to combat corruption tendencies, sabotage to guarantee an enabling environment for local content to thrive through reliable institutional and legal framework supported with the right social attitudes of Nigerians.

5.3 Other Fundamental Legal Framework Regulating the Oil Industry

Besides, national legal regime such as section 16 (2) of the 1999 Constitution ensures that Nigeria's economic policies are tailored towards guaranteeing all citizens' well-being but in justiciability of this section and lack of a business-friendly environment have hampered this laudable objective²⁵Petroleum Act 1969 CAP P10 Laws of the Federation 2004, Deep offshore and Inland Basin Production Sharing Contracts Act CAP D3 Laws of the Federation of Nigeria 2004 offer encouragement to oil firms in the inland basins and deep offshore areas in the country. The Associated Gas Re-Injection Act (as amended) Cap A25 Laws of the Federation of Nigeria 2004 regulate the rejection of associated gas into oil wells. Environmental Impact Assessment Act Cap E12 Laws of the Federation laws of Nigeria 2004 make it mandatory for impact assessment to be done before the commencement of any energy project or other activities to ascertain its effects on the environment²⁶.

The Land Use Act CAP L5 Laws of the Federation of Nigeria controls land proprietorship rights and occupancy system while the Exclusive Economic Zone Act Cap E17 LFN 2004 describes the country's exclusive economic zone's limits. Oil Pipelines Act CAP 07 LFN regulates the construction and operation of oil pipelines. The Petroleum Profits Tax Act Cap 13 Laws of the Federation of Nigeria 2004 enforces tax on oil firms' profits in the upstream oil sector. The Firms Income Tax Act Cap C21 LFN 2004 executes tax on profits of firms engaged in downstream oil activities while the Education Tax Act Cap E4 LFN2004 imposes 2(two) percent tax on the revenues of oil firms in the country. The Value Added Tax Act Cap VI LFN 2004 imposes a tax on consumable goods and services. Oil Terminal Dues Act Cap 08 (LFN) Laws of the Federation of Nigeria controls the costs of terminal charges on any vessel discharging oil from terminals in the country. Pre-Shipment Inspection of Export Act CAP P25 LFN regulates the scrutinisation of oil and goods before their consignment or freight abroad.

²⁵Alemika, E.J., The Non -Justiciability of Chapter II of the 1999 Constitution: Implication for Development in Nigeria, (2011), 1(1), Benson Idahosa University Law Journal, 256.

²⁶Oke, Y., Comparative Appraisal of the Legal Regime of Local Content Policy in the Energy Sectors of Nigeria, In Energy Resources Law and Practice Oil and Gas Law, Practice Cases and Theories, (2019 Princeton and Associates Publishing Co. Ltd), 167.

The Deep-Water Allocation to Firms (Back in Rights) Regulations 2003 empowered the Federal Government with the right into offshore oil concessions located in depths of 200 meters and beyond offshore. The Offshore Oil Revenues (Registration of Grants) Act Cap 04 Laws of the Federation of Nigeria require all instrument registration to grant any lease or license in contiguous states. Oil in Navigable Waters Act Cap 06 Laws of the Federation of Nigeria 2004 regulates crude oil transportation in the country's waters and proscribes the discharge or leakage of oil from any means into Nigeria's maritime waters.

The pending Petroleum Industry Governance Bill (PIGB) 2017 imposes an obligation on the Nigerian government to promote indigenous oil firms in the sector. It empowers the Petroleum Inspectorate to revoke licenses or permits of any firm if local Nigerian content is not complied with an obligation on the licensees' part to present a comprehensive staffing and schooling Nigerians' plan. However, the present draft provisions before the National Assembly do not adequately cater for gas and crude oil. Therefore, there is a need for reform of the sector. Therefore, there is a need for policy redirection to enhanced Nigerian participation in the oil and gas industry

5.4 Table 1: Comparison of Local Content Laws in other Jurisdictions

The following countries were selected to compare local content: United Kingdom, Norway, Brazil, Indonesia, Malaysia, Mexican, Venezuela, United States, Australia, Denmark, Timor-Leste, Saudi Arabia and Iran. The countries were selected because they had stringent local content policies and regulations in their oil and gas industry and are endowed with natural resources. Policies strategies or lessons Nigeriacan absorb fromthechosencasestudynations were also considered as stated below:

S/N	Countries	Local Content Policies /Laws	National Oil Firms	Lessons Learn
1.	United Kingdom	The local content law ensures that licenses are only awarded where there is a commitment to use British suppliers for the proposed project. The licensing policy requires ministerial approval for development plans to maximization of British content. The country adopts discretionary policy by allotting oil block to firms who undertake to use British suppliers. It maximizes opportunity in exploration activities UK oil firms.	The United Kingdom does not have a national oil company. British National Oil Corporation	Regular monitoring of oil firms to ensure compliance with the local content Act.

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2.	Norway	The local content regulation obliged Norwegian firms to be included in all requests to bids with priority for Norwegian services. Legal research and development of 50% are to be done in Norway. The local content is about 51 percent.	Statoil (now Equinor) was created as a government oil firm in 1972. Den Norske Stats Oljeselskap A/S.	Consistent monitoring of oil firms to ensure compliance with the local content Act.
3.	Brazil	The Brazilian National Petroleum Policy 1953 establishes Petrobras as the national oil firm. Local content law focuses on protectionism. It allows only Brazilian oil firms to participate in oil mining activities. State monopoly of exploration, production, refining and transportation of oil.	Petrobras was established as a state-owned oil firm.	It established a certification scheme to access conformity by oil firms.
4	Indonesia	Importation is only permitted when local vendors cannot produce superior specifications and must be done, the Indonesian agent. Oil firms Failure to satisfy the local content levels detailed in their agreements is penalised with fines or annulment of their licenses.	Pertamina was set up in 1968 as a national oil firm.	Oil firms must procure specific goods and services locally. It often uses a production sharing contract as a vehicle guarantee national interests in the sector.
5.	Malaysia	Petroleum Development Act, 1973 vest the right to engage in production sharing contracts on its citizens. Local content in Malaysian is about 70 percent of oil firms with local management are preferred.	Petronas was established in 1974 and exclusively owned by the government of Malaysia.	Local content in Malaysian is about 70 percent of oil firms with local management are preferred.
6.	Mexican	The oil workers union largely influences the oil sector. The union has four directors out of nine. It is obliged to sources for capital locally.	Pemex, the national oil firm, was set up in 1938	It is obliged to sources for capital locally.

7.	Venezuela	The country commenced oil drilling in 1917, and its oil industry was nationalised in 1976.	Petroleos de Venezuela (PDVSA) is a national oil firm set up in 2010 as the sector's major player.	Consistent scrutinisation of oil firms to ensure compliance with the local content Act.
8.	United States	The country is a giant in offshore engineering, design, construction and supply, and local content needs to protect local oil firms. The United States Jones Act 1920 is a strategy to restrict non-US vessels from offshore activities in the United States.	The United States does not have a national oil company.	Regular monitoring of oil firms to ensure compliance with the local content Act.
9	Australia	Operating a protectionist local content rule ensures that their oil and gas firms utilise the sector's utmost benefits. The Australian Industry Participation Framework 2001 offers a good prospect for investment in the oil industry.	Apache corporation is an independent energy firm; it is the second-largest oil producer. It uses Sixteen (16) oil and gas facilities and churns out over 30% of Western Australia's municipal natural gas.	Regular monitoring of oil firms to ensure compliance with the local content Act.
10	Denmark	In Denmark, there is an absence protectionist regime that paves the way for a transparent oil market. The Danish Energy Administration coordinate and implement the government's policies and regulations devoid of local content.	Orsted is a Danish state-owned company. It was founded in 1972 to manage the country's oil and sector.	Steady supervision of oil firms to guarantee compliance with the local content policy.
11.	Timor - Leste	It has a protectionist local content policy; application for a license to operate in the oil industry must include training and employment of their nationals. The Timor-Leste Content Committee	The state oil firm Timor Gap set up in 2011 under Decree-Law No. 31/2011 to perform the government's best interests in the oil and gas sector.	It is a tool for the development of local suppliers for the economic benefit of the country.

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		administers the Local content policy.		
12.	Saudi Arabia	Preference is given to Saudi nationals over expatriates and shall employ and train Saudi nationals.	Saudi Aramco is the world's leading oil and gas firm with proven reserves of 332.9 billion oil barrels. The firm earned a revenue of \$465.4 billion annually (NS Energy, 2019).	Regular supervision of oil firms to guarantee compliance with the local content policy.
13.	Iran	The Local Content policy obliges oil firms to utilise Iranian subcontractors for projects, thereby increasing local content.	National Iranian Oil company has 156.53 billion barrels of oil reserves of liquid hydrocarbons and 33.79 trillion cubic meters of natural gas.	Steady supervision of oil firms to guarantee compliance with the local content law.

The United Kingdom and Norway have local content laws in their oil and gas industry. In the United Kingdom, licenses are awarded where there is a commitment to use British suppliers. Before Ministerial approval, development plans must demonstrate efforts taken to ensure utilisation of British contents. While in Norway, the national oil firm Statoil makes it mandatory for all Joint Operating Agreement to comprise Norwegian oil firms in all requests for bids and Norwegians firms' utilisation. Statoil has Fifty-One (51) percent in each committee but utilises its voting power to influence Norwegian vendors' selection. It laws a detailed plan for research and development to be executed in Norway²⁷.

5.5 Prospects of the Oil and Gas Industry Content Development Act, 2010

The Local Content Act enhances economic development and promotes the diversification of oil and gas reserves via local participation. The oil and gas industry's economic growth prospect is further worthwhile if the indigenous people participate in the industry's development. This will enhance the retention of more capital in the state due to excessive benefits in increasing the operations, thereby creating an opportunity for diversification of the economy, create opportunities for investment and employment opportunities²⁸. The local content Act has the prospect of connecting the oil and gas industry with another facet of the economy by creating an opportunity for financing and employment prospects for Nigerians to their contributions to the gross domestic product. It will promote technology transfer that will improve the country's economy, reducing importing technological expertise. It will promote healthy competition

²⁷Asiago, B. (2017). Norwegian local content model a viable solution. *US-China Law Review*, 14(7), 471-497.

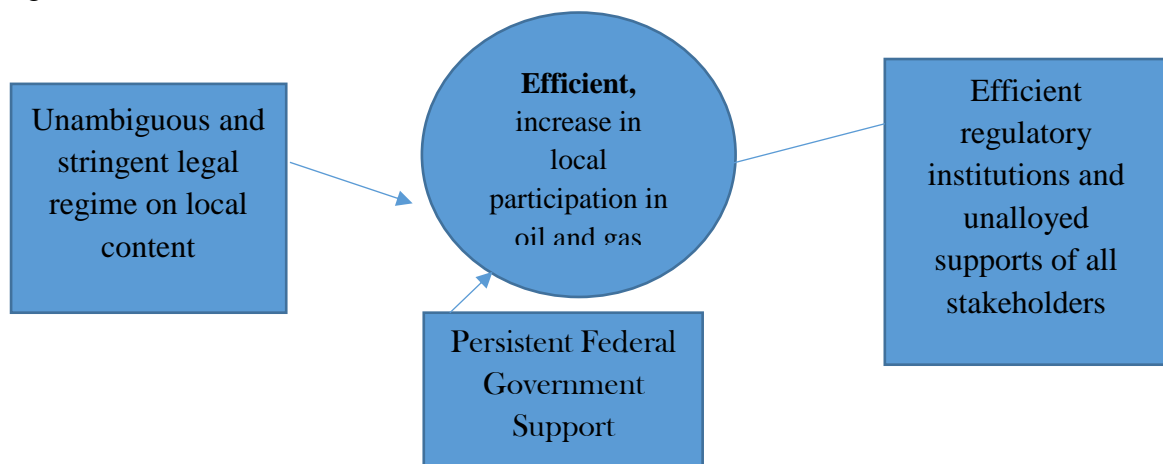
²⁸*Ibid*, note 8.

between the local oil firms and the multinational oil firms, thereby promoting Nigerians' employment opportunities²⁹.

The Act will generate more revenues for the Federal Government. Therefore, there is a need to develop local capacity and skills to reduce over-dependence on expatriates to satisfy the industry's need for skills and capacity to enhance the country's economy's values³⁰. Increase in local value creation and involvement in the industry's value chain. It has the prospect of attracting billions of Naira worth of investments into the Nigerian economy. It will enhance participation in deep-water offshore and fabrication activities. It will complement the amnesty programmed to ensure peace and national security.

5.6 Figure 1: Hybrid Model for the Transformation of Nigeria's Oil and Gas Industry Local Content Act

The paper advocates a hybrid model for transforming Nigeria's oil and gas sector to promote efficiency and increase indigenous human capacity participation in the sector as represent in the figure 1,2 and 3 below:

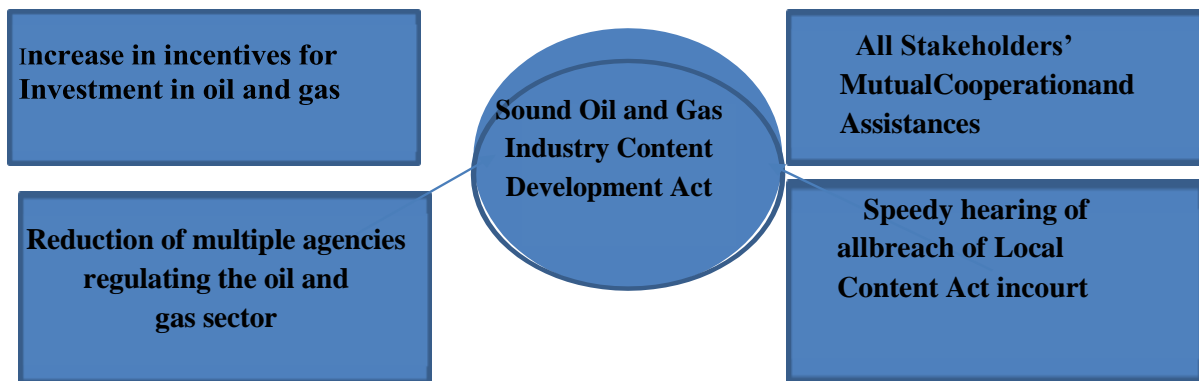


Sources: The Author Created the Figure

²⁹Olujobi, O.J., Combating Insolvency and Business Recovery Problems in the Oil Industry: Proposal for Improvement in Nigeria's Insolvency and Bankruptcy Legal Framework, (2021), 7, e06123, Heliyon, 1.

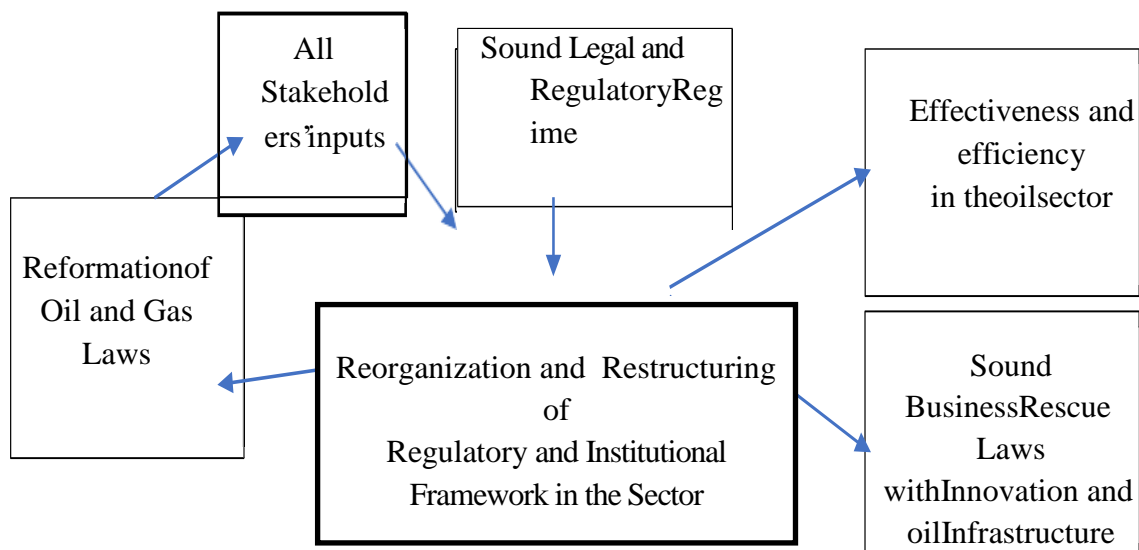
³⁰ Dike, O., (2016), Measuring and Implementing the Nigerian Content: Key Legal Requirements of the Local Content Act, available at <https://businessday.ng/analysis/article/measuring-and-implementing-nigerian-content-key-legal-requirements-of-the-local-content-act-1/> (accessed February 15, 2021), 12.

Figure 2: Stakeholders Transformation Model



Sources: The Author Created the Figure

Figure 3: Legal Regulatory Transformation Model



Sources: The Author Created the Figure

5.7 Study Limitation and Implications: Lack of data on the local content act and due to confidentiality clauses in most oil and gas agreements that prevent public disclosure of oil transactions has limited generalising the research findings, therefore, limiting access to some required information for the research. However, its findings are also suitable for adoption in reforming the sectors in dealing with some petroleum firms' operational clandestineness and regulatory agencies in the industry. There is a need to properly collate data on Nigeria's local content for efficient intervention and tracking of compliance with the Act. Upcoming researchers are also commended to utilise the quantitative assessment method to appraise the advocated suggestions to supplement the current literature in the field.

6.0 Conclusion and Policy Implications

Governments of many nations oil-producing nations are adopting local content law as an instrument to drive economic development. The Nigerian Oil and Gas (Industry Content and Development) Act 2010 is specific law aims to tackle lopsided, foreign-dominated oil and gas industry to protect and develop indigenous human resources to participate favourably with transcontinental oil companies in the sector by mainstreaming indigenous oil firm into the oil and gas industry for full operations through the local content development programme. This will reduce capital flight abroad, generate employment opportunities, create more social infrastructure in society, and value the country's economy by enhancing local skills and capacity.

Nigeria's existing international obligations notwithstanding, the necessity of local content measures cannot be overemphasized. It should be encouraged in all sector to promote rapid economic development and to build indigenous capacities. For the successful execution of the aims of the Nigerian content Act, there is the need for amendments of the legislation regulating the sector, and strong political will must be demonstrated for effective implementation and monitoring of the law for maximum impacts on Nigerians, including the present and future generations, through sound enabling environment and social infrastructure to encourage vibrant local oil firms and entrepreneurs to invest and participate in oil and gas operations actively.

6.1 Recommendations

There is a need for the amendment of the Act in technology transfer and funding to enhance the local content Act. Ambiguous provisions in the Act should be amended to grow the country's oil and gas sector. The Local Content Act aims to enhance Nigerians' quality of life and living conditions; however, multinational oil firms' investments cannot be ignored to guarantee their contractual obligations. Henceforth, there is the need to inserts Nigerian Content Policy Clauses on the various concession agreements to ensure that Nigerians are strategically and gainfully employed in the exploration and production of oil and gas in Nigeria to promote the objectives of the Act.

Adopting Technical Assistance Agreements by the Federal Government in the oil and gas sector operations where the government is responsible for financing oil projects, owns the crude oil, equipment and facilities relating to the projects. The multinational is mere contractors who only offer technical services, devoid of any interest in the oil but an agreement to train and equip Nigerians. This will guarantee the development of viable indigenous oil industry.

Provisions of essential infrastructure and facilities such as steady power supply, safe and reliable means of transportation and social security will ensure successful implementation of the Nigerian Local Content Act with stringent sanctions against any contractor for non-compliance.

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It is pertinent to note that the local content policy's execution will not create conflict between the multinational oil firms and the government as some of the firms have similar legislation in their respective home countries and other locations where they operate. However, they should not be exposed to extreme severe business conditions.

There is the need for an investment-friendly environment to make the local content act a viable legal instrument for propelling economic development in Nigeria through the establishment and funding of the Nigerian Content Fund to make funds available to local oil firms at affordable rates to build capacity. Facilities, infrastructure for research and development must be put in place for the Nigerian Local Content Act to thrive; all hands must be on the deck. Though there are challenges against the enforcement of the Act, there is also an antidote to them.

Also, there is a need for consistency and transparency in the implementation of the Local Content Act. This is essential to achieve energy security and sustainability. Total institutional reform of the Nigerian Content Development and Monitoring Board is overdue. All relevant policies and institutional arrangements should be enacted to eliminate all constraints against the Act's successful enforcement.

The local content Act should have serious and unambiguous sanctions for non-compliance among all stakeholders in the sector. Confidentiality clause may sometimes encourage corruption in the sector, hence removing confidentiality Clauses in all contracts and leaseholds to encourage transparency and public disclosure of all contracts, transactions, and cooperation rather than discrimination with the foreign oil firms promote healthy competition in the sector. As petroleum industry reform is the key to unlock development in Nigeria, energy access is the basic requirement for Nigeria and Nigerians' development. The law should evolve to satisfy the everchanging oil and gas situations, which are often influenced by economic, social and political circumstances³¹.

The country should diversify its national revenue base to decline extreme reliance on crude oil revenues by mainstreaming other revenue sources, such as direct tax and improving other nation's wealth segments. Expanding the nation's wealth sources will combat rent-seeking activities in the country and guarantee the local content law's execution. There is a need to overhaul the existing Bilateral Investment Treaties (BITs) and other investment agreements in conformity with the terms in its Local Content Act.

Finally, there is the need to enrich the Nigerian Content Development and Monitoring Board (NCDMB) administrative and institutional capacity to scrutinise compliance with the Act efficiently through efficient equipping and financing of the Board to enhance its capacity to bridge the identified gaps. Appealing fiscal policy measures, such as discount in import duties and other consumables besides tax incentives for local oil and gas firms, will promote investment and economic growth in the country by giving incentives for higher compliance.

³¹Pereira, E. G., Mathews, C., & Trischmann, H., Local Content Policies in The Petroleum Industry: Lessons Learned. (2019), ONE J: Oil and Gas, Natural Resources, and Energy Journal, 4(5), 631-674.