



Nigerian Oil and Gas Industry Content Development Bill signed into law

The Nigerian Oil and Gas Industry Content Development Act (the “**Act**”) introduces far reaching reforms; and all oil and gas arrangements, contracts and operations are now required to meet minimum Nigerian content thresholds and indices specified in the Act and the Schedule thereto.

Scope

- All operators, contractors, sub-contractors, regulatory authorities and other entities carrying out projects, operations, activities or transactions in the Nigerian oil and gas industry are required to consider Nigerian content as an essential factor in their project conceptualization, development and management.
- “Operator” is defined to cover the Nigerian National Petroleum Corporation, its subsidiaries and joint venture partners, Nigerian and foreign oil & gas companies operating in the Nigerian oil and gas industry under any petroleum arrangement.
- “Nigerian oil and gas industry” is defined broadly to include upstream and downstream operations; covering exploration, exploitation, transportation and marketing activities.

Highlights of Key Requirements

- Nigerian independent operators must be given first consideration in the award of oil blocks, oil fields, oil lifting licenses and in all projects.
- Indigenous service companies that demonstrate ownership of equipment, personnel and capacity will be preferred for execution of service contracts.
- First consideration will be given to services provided from within Nigeria and to goods manufactured in Nigeria.
- Nigerian citizens will be granted preference for employment and training opportunities in the Nigerian oil and gas industry.
- Junior and intermediate cadre positions are exclusively reserved for Nigerians; while operators may retain a maximum of 5% of management positions for expatriates (to represent interests of foreign investors), subject to the approval of the Nigerian Content Monitoring Board.



- Operators bidding for licenses, permits and other interests must submit a Nigerian Content Plan (and demonstrate compliance with Nigerian content requirements) as part of the criteria for evaluation of their bids.
- Operators are obliged to comply with several Nigerian content requirements when issuing adverts, pre-qualification notices and invitations to tender for contracts, as well as when they evaluate bids and award contracts.
- Insurance, financial and legal services in relation to oil and gas **operations, businesses and transactions** must now be rendered by Nigerian service providers.
- In exceptional cases, operators may engage foreign insurance and financial services providers where the Nigerian Content Monitoring Board (and the National Insurance Commission, in the case of insurance services) is satisfied that it is impracticable to procure the services of Nigerian providers or that local capacity has been exhausted.
- Schedule to the Act requires a minimum of 50% participation by Nigerian law firms for legal consultancy services in relation to **projects** executed in the Nigerian oil and gas industry.
- The Act imposes several periodic reporting obligations on operators, including:
 - a) Quarterly reports of contracts, subcontracts and purchase orders proposed for award and execution in the upcoming quarter;
 - b) Quarterly reports of contracts, subcontracts and purchase orders awarded in the preceding quarter;
 - c) Bi-annual Legal Services, Financial Services and Research & Development Plans;
 - d) Annual Technology Transfer Plan and annual report of results of such technology transfer initiatives;
 - e) Quarterly reports of compliance with Research & Development Plans; and
 - f) Annual Nigerian Content Performance Report, covering all projects and activities carried out in the year under review.

Penalty for Non-compliance

- Any operator, contractor or subcontractor who carries out a project without complying with the provisions of the Act commits an offence and is liable, upon conviction, to pay a fine equivalent to 5% of the sum of each project in respect of which the offence is committed, or cancellation of the project.



Administration and Funding

- The Act establishes a Nigerian Content Monitoring Board to enforce and monitor compliance with standards enshrined in the Act.
- When the Board becomes fully operational, all functions and powers previously conferred on other government agencies and departments with respect to Nigerian content issues in the oil & gas industry will be transferred to the Board.
- The Act also establishes a Nigerian Content Development Fund into which shall be paid 1% of the value of every contract awarded to any operator, contractor, subcontractor or other entity involved in any project, operation, activity or transaction in the upstream sector.
- This fund shall be employed for promoting activities aimed at entrenching and developing Nigerian content in the Nigerian oil and gas industry.

We are available to provide further clarifications and advice as you may require.

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