

The Role of the Nigerian Oil and Gas Content Act in the Promotion of Sustainable Economic Development

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1. Abstract

Most Nigerian citizens wallow in poverty despite the fact that Nigeria earns hundreds of trillions of dollars from crude oil exploration. Environmental terrorism has become the order of the day as pipelines and oil installations are being vandalized, coupled with increase in the kidnapping of oil workers and members of their families.

The world is currently in search of sustainable future that will deliver better living standards by accelerating increasing employment. There are over two million unemployed youths and 40% illiteracy level in Nigeria. How can the Content Act promote inclusive and sustainable economic growth, full and productive employment and decent work for all? What mechanisms are put in place to ensure compliance with the minimum Nigerian Content? Considering the level of corruption in Nigeria, is there any hope that compliance with the Nigerian Content Development Act will be enforced?

This paper looked at the Nigerian oil and gas industry, the legal/institutional framework for the maximization of earnings from the oil and gas industry, and the Oil and Gas Content Development Act in particular. Hindrances to the effective operations of the Act were also deliberated upon and how the petroleum industry can usher in sustainable development in Nigeria.

The paper made use of primary and secondary sources of information from the library. The paper concluded that as plausible as the Nigerian Content Development Act, it cannot deliver sustainable economic development because there are no efficient strategies to ensure implementation of the provisions of the Act.

Key Words: Sustainable development, Nigerian Content, Sustainable Economic Development

2. Introduction

Nigeria earns hundreds of trillions of dollars from crude oil exploration¹. Yet, the country is riddled with poverty² as most Nigerian are living below the poverty level³. Environmental terrorism has become the order of the day as pipelines, oil installations are being vandalized with increase in the kidnapping of oil workers and members of their families⁴. There are over two million unemployed youths and 40% illiteracy level.⁵ The Nigerian oil and gas content act was formulated to compel multinational corporations operating in the oil and gas sector to afford Nigerians better opportunities to participate in the management, control employment and utilization of those goods manufactured in Nigeria.

Oil is a very decisive element in defining the politics of the world. The lives of people are affected and the destiny of nations is determined by the result of activities in the oil and gas industry.⁶ In spite of the prime place of oil in the economy of any nation, activities in the oil and gas industry remain a major source of pollution.⁷

¹ Uba Aham, (2008) "More Money, More Problems" Tell Magazine of February 18, 2008 p. 26

² Voilet Aigbokhaevbo (2009 "Environmental Terrorism in the Niger Delta: Implication for Nigeria's Developing Economy IELR2 2009

³ Voilet Aigbokhaevbo (2009 "Environmental Terrorism in the Niger Delta: Implication for Nigeria's Developing Economy IELR2 2009

⁴ Freedom Onuoha (2007) "Poverty Pipeline Vandalization/Exploration and Human Security: Integrating Disaster Management into Poverty Reduction in Nigeria" Africa's Security Review 16(2), p. 94

⁵ Ollor (2002) "Unemployment illiteracy, Niger Delta's Major Problem" The Guidian News Paper (Nigeria) May 1, 2002

⁶ Legborsi Saro Pyagbara (2007) "The Adverse Effects of Oil Pollution in the Environment and Wellbeing of a Local Indigenous Community: The Experience of the Ogoni People of Nigeria" International Export Group Meeting on Indigenous Peoples and Protection of the Environment, Russian Federation, Khabarovsk

⁷ Kamalu O. J. and Wokocho, C. C (2011) Land Resource Inventory and Ecological Vulnerability: Assessment of Onne Area in Rivers State, Nigeria, Research Journal of International and Research Sciences 3(5)

Gas flaring causes surrounding communities to suffer from increased health risks,⁸ results in premature death and respiratory disorder⁹ etc.. In all of these, the people in oil producing areas are left to wallow in abject poverty in the midst of plenty. This set-back to the aspiration of the kind of world that is desired by all is a challenge to the post 2015 development agenda. The approach of this paper is to examine the Nigerian Content Development Act in relation to sustainable economic development.

3. The Oil and Gas Industry

Nigeria is African largest producer of oil, and the seventh largest producer world wide. This it does through joint venture agreements with Shell, Chevron, Agip, Texaco, and Exxon companies. Oil exploration activities with Shell BP¹⁰ alone under the auspices of joint venture accounts for 50% of Nigeria's total oil production from more than eighty oil fields. With Chevron PNC¹¹, Nigeria operates 60/40% joint venture, the second largest oil producer in Nigeria with the NNPC¹².

The Nigerian Oil and Gas Industry Content Act was enacted with the aim of providing for a systematic development of the capacity and the capabilities of the Nigerian economy through the deliberate utilization of Nigerian human, material resources as well as services in the Nigerian oil and gas industry. Nigeria is a consumer and a mono-cultural producer of oil having its economic and political destiny hinging on oil¹³. The Oil and Gas Industry was defined¹⁴ as activities connected with the exploration, development, exploitation, transportation and sale of Nigerian oil and gas resources including upstream and downstream oil and gas operations.

The year 2030 has been targeted to achieve sustainable management of and efficient use of natural resources. The country is blessed with enormous resources yet, majority of Nigerians still live below the poverty level. Nigeria relies so much on her oil and gas industry in meeting the needs of her populace. Nigeria earns hundreds of trillions of dollars from crude oil exploration. Despite this, the value added to the Nigerian economy is minimal and most Nigerians still wallow in abject poverty. Improving the welfare of the people requires promote inclusive and sustainable economic growth, full and productive employment and decent work for all and appropriate mechanisms to ensure compliance with the Nigerian Content Development Act so as to deliver sustainable economic development in Nigeria.

4. Institutional Framework For The Maximization of Earnings From The Oil and Gas industry

4.1 The Petroleum Training Institute Act 1972

This Act¹⁵ established the Petroleum Training Institute to provide courses for instruction, training and research in petroleum technology and to produce technicians and other skilled personnel required to run the petroleum industry.¹⁶

4.2 The Petroleum Technology Development Fund Act 1973

This Act¹⁷ repealed an earlier Act titled: The Gulf Oil Training Fund (Administration) Act 1964. The Petroleum Technology Development Fund Act was established for the purpose of training and educating Nigerians in the petroleum industry. By this Act, Nigerians are to be trained to qualify as graduates, professionals, technicians and craftsmen in the field of engineering, geology, science and management in the petroleum industry. Such training is to take place either in Nigeria or abroad.¹⁸ The training includes sponsoring regular or necessary

⁸ Canadian Public Health Association. "Background to 2000 Resolution No. 3: gas Flaring", Canadian Public Health Association Position Paper

⁹ Collins, C. and Oshodi, O (2010) "Improper Abandoning of Oil", Nigerians in America available at <http://www.nigeriansinamerica.com/articles/4403/1/Improper-Abandonment-Of-Oil/Pagel.html>

¹⁰ Shell Petroleum Development Company (SPDC)

¹¹ Chevron Nigeria Limited

¹² Nigerian National Petroleum Corporation

¹³ Odularu Gbadebo Olusegun (2008) "Crude Oil and the Nigerian Economic Performance" Oil and Gas Matters, Available at <http://www.ogbosru/eng> (accessed on 11/11/2011)

¹⁴ Section 106 of the Nigerian Oil and Gas Industry Content Act 2011

¹⁵ Cap. P. 15 Laws of the Federation of Nigeria, 2004

¹⁶ Section 1(2) of the Nigerian Oil and Gas Industry Content Act 2011

¹⁷ Cap P 16 Laws of the Federation of Nigeria 2004

¹⁸ Section 2(e) of the Petroleum Training Development Fund Act 1973

visits to oil fields, refineries and petrochemical plants, and for arranging any necessary attachments of personnel to establishments connected with the development of the petroleum industry in Nigeria or abroad.

4.3 Petroleum Equalization Fund Management Board Act 1975

The Petroleum Equalization Fund Board Act¹⁹ was intended to be applied for the reimbursement of petroleum marketing companies for any losses suffered by them arising from the sale of petroleum products at uniform prices throughout Nigeria. The Act also established a management board to manage the affairs of the fund.²⁰

4.4 Nigerian Investment Promotion Commission Act

The Nigerian Investment Promotion Commission Act²¹ established the Nigerian Investment Promotion Commission to encourage and promote investment in the Nigerian economy and for related matters including the initiation of support measures to enhance the investment climate in Nigeria for both Nigerians and non Nigerian investors.²²

4.5 Petroleum Act

The Petroleum Act²³ provides for the exploration of petroleum from territorial waters and the continental shelf of Nigeria and to vest the ownership of and all onshore and offshore revenue from petroleum resources derivable there from in the Federal Government and other incidental matters. The Minister is empowered by the Act²⁴ to make regulations for matters relating to licences and leases granted under the Act and operations.

4.6 Petroleum (Drilling and Production) Regulation 1969

This regulation²⁵ provides that the licensee of an oil prospecting licence and the lease of an oil mining lease, submits a detailed programme for the recruitment and training of Nigerians for the approval of the Minister of Petroleum. The regulation²⁶ also made provision for the training of Nigerians in all phases of petroleum operations irrespective of whether such phases are being handled directly by the lessee or through agents or contractors

4.7 The Minerals And Mining Act CAP M12 LFM 2004

The Minerals and Mining Decree 1999, now Minerals and Mining Act of 2004 was promulgated in order to ensure that mining and its associated activities are carried out in an environmentally sound manner. The Act makes it an offence to cause alteration in the water supply enjoyed by any person or land among other offences.²⁷

4.8 The Oil In Navigable Waters Act CAP. O6 LFN 2004

The Act²⁸ seeks to control and to prohibit the discharge of certain oils²⁹ into prohibited sea areas³⁰ and territorial water and aims at reduction of the incidence of pollution of the world's high seas, the Nigerian water courses in particular.

4.9 The Oil Pipelines Act CAP O338, LFN 2004

This Act³¹ makes major provision for oil pollution.³² The Act³³ prohibits alteration in the flow of water in any navigable waterway capable of obstructing or interfering with free and safe passage of vessels, canoes or other crafts by the licensee of an oil pipeline.

¹⁹ Cap p 11 Laws of the Federation of Nigeria 2004

²⁰ Section 2 of the Petroleum Equalization Fund Management Board Act 1975

²¹ Cap N117 Laws of the Federation of Nigeria 2004

²² Section 4(b) of the Nigerian Investment Promotion Commission Act (NIPC) Act

²³ Cap P 10 Laws of the Federation of Nigeria 2004

²⁴ Section 9 of the Petroleum Act

²⁵ Section 26(1) of the Petroleum (Drilling and Production) Regulation 1969

²⁶ Section 26(2) of the Petroleum (Drilling and Production) Regulation 1969

²⁷ Section 69 of the Minerals and Mining Acts

²⁸ Oil in Navigable Waters Act Cap. 06, Laws of the Federation 2004

²⁹ Such as crude oil, fuel, lubricating oil and heavy diesel oil

³⁰ Section 1(2)(a) and (b) Oil in Navigable Waters Act, Cap 06, LFN 2004

4.10 The Associated Gas Re-Injection Act (CAP A25 LFN 2004)

The Act was enacted “to compel every company producing oil and gas in Nigeria to submit preliminary programmes for gas re-injection and detailed plans for implementation of gas re-injection”.³⁴ Oil firms are to develop gas utilization programmes or pay fines in default. The principal purpose of this Act is to check the flaring of gas by oil prospecting/producing companies operating within the shores of Nigeria, with the aim of ensuring that gas is re-injected and not flared.³⁵ As stipulated by the Act, no company engaged in the production of oil or gas shall flare gas produced in association with oil without the permission of the Minister in writing.³⁶

4.11 The Nigerian Oil and Gas Industry Content Development Act 2011

The Nigerian Content Development Act is the latest effort by Nigeria to afford the Nigerian citizens more presence in the Oil and Gas Industry. It is a major achievement in paving the way for greater participation of Nigerians in the Nigerian oil and gas sector. The thrust of the Act is to stop oil and gas from being an “enclave” economy and to create linkages to the wider economy, and also to ensure that substantial proportion of activities, materials, engineering parts and human capital utilized in the Nigerian oil and gas sector is domiciled in the country. By the Act³⁷, all regulatory authorities and operators, contractors and subcontractors, alliance partners and other entities involved in any projects, operations or transactions in the oil and gas industry are mandated to consider Nigerian content as an important element of their overall project development and management philosophy for project execution. It defined the “Nigerian Content” as the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacities through deliberate utilization of Nigerian human, material resources and services in the Nigerian Oil and Gas industry.

The Act only allocates 5% management positions to expatriates. According to the Act³⁸, Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licences, oil lifting licences and in all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfillment of such conditions as may be specified by the Minister. It was also provided in the Act³⁹ that there shall be exclusive consideration to Nigerian indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute such work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the schedule to this Act. The Act⁴⁰ provides that compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licences, permits and any other interest in bidding for oil exploration, production, transportation and development or any other operations in the Nigerian oil and gas industry.

In order to afford protection to domestic production, contracting parties are mandated not to utilize their internal taxes, laws and regulation relating to distribution or use of products or requirement affecting internal sales, offering for sale, purchase, transportation of products, be it imported or domestic⁴¹. A fund⁴² is also established by the Act⁴³ for the purpose of implementing the Nigerian Content Monitoring Development. This Fund is to be funded by 1% deductions made at source from every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any project operation activities or transaction in the upstream sector of the Nigerian oil and gas industry.

The Act⁴⁴ established the Nigerian Content Monitoring Board, a body to whom it transferred all functions and powers hitherto conferred on any agency or department of the federal government of Nigeria saddled with the responsibility of implementation of the Nigerian content development or policy on the Nigerian oil and gas

³¹ Cap 338 of 1990 Laws of the Federation of Nigeria

³² Section 11(5)© of the Oil Pipelines Act

³³ Section 14(a) of the Oil Pipelines Act

³⁴ Long Title of the Associated Gas Re-Injection Act Cap A25 LFN 2004

³⁵ Adewale, O.(1989) “Law and Policy in the Development of Indigenous Oil and Gas Industry in Nigeria”, *The Nigerian Journal of Contemporary Law*, Vol. 16, p. 121

³⁶ Section 3 of the Associated Gas Re-Injection Act

³⁷ Section 2 of the Nigerian Oil and Gas Industry Content Development Act 2011

³⁸ Section 3(1) of the Nigerian Oil and Gas Industry Content Development Act 2011

³⁹ Section 3(2) of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁰ Section 3(3) of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴¹ See the section on National Treatment on Internal Taxation and Regulation Clause

⁴² Known as the Nigerian Content Development Fund.

⁴³ Section 104 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁴ Section 103 of the Nigerian Oil and Gas Industry Content Development Act 2011

industry by any law and enactment. The Board is vested with the responsibility of making procedure to guide, monitor, coordinate and implement the provisions of the Act.⁴⁵ The Board is also empowered by the Act⁴⁶ to implement the provisions of the Act with a view to ensuring a measurable and continuous growth of Nigerian Content in all oil and gas arrangements, project operations, activities or transactions in the Nigerian oil and gas industry.

An operator who is interested in bidding for any licence, permit or interest in the Nigerian oil and gas industry is placed under a mandate by the Act⁴⁷ to submit to the Board, a Nigerian Content Compliance Plan before he can carry out any project. Such a person can only be issued a certificate of compliance with the Nigerian content requirement by the Board, if the Board is satisfied that the person has complied with the provisions of the Act.⁴⁸ The compliance plan is to ensure that first consideration shall be given to services provided from within Nigeria and to goods manufactured in Nigeria,⁴⁹ without satisfactory effort to ensure the upgrading of the manufacturing sector which has suffered depression for decades.⁵⁰ The compliance plan is also to ensure that Nigerians are given first consideration for training and employment in the work programme for which the plan was submitted⁵¹. Where skilled labour is not available in Nigeria, the operator requires the prior to approval of the Board before applying for expatriate quota to the Ministry of Internal Affairs or any other agency or Ministry of the Federal Government.⁵² The Act only allocated 5% management position to expatriates. Where Nigerians are not employed for lack of training, the operator is assigned the responsibility of ensuring 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 efforts and procedure for its execution should be contained in the operator's E and T plan.

The Act⁵³ stipulates unequivocally that all contracts or projects whose total project exceed 100 million dollars should contain a "Labour Clause" mandating the use of minimum percentage of Nigerian labour in specific cadres as may be stipulated by the Board. The operator is mandated to submit a succession plan to the Board for any position not held by Nigerians and the plan should provide for Nigerians to understudy each incumbent expatriate for a minimum period of 4 years. At the end of the period the position should become Nigerianized. The junior cadre and intermediate cadre levels or any corresponding grades designated by the operator or company are to be occupied solely by Nigerian⁵⁴ instead of just limiting their work to building of roads, staff houses and recreation facilities, clearing of drilling sites transportation of materials and equipment etc which had been the case hitherto⁵⁵.

The Nigerian content plan submitted to the Board is expected to contain a detailed plan satisfactory to the Board, setting out how the operator and their contractors will give first consideration to Nigerian goods and services including specific examples showing how first consideration is considered and assessed by the operator in its evaluation of bids and goods and services required by the operator. For every project for which a plan is submitted, an operator is given the mandate⁵⁶ to carry out a programme and make expenditure, to the satisfaction of the Board for the promotion of education, attachments, training, research and development in Nigeria in relation to its work programme and activities. Where the goods meet the specification of the industry, the plan is also mandated⁵⁷ to contain detailed plan on how the operator or its alliance partner intends to ensure the use of locally manufactured goods. The Board is also mandated by the Act⁵⁸ to consider the Nigerian Content when evaluating any bid where the bids are within 1% of each other at the commercial stage. The bid to be selected is that which contains the highest level of Nigerian Content provided the Nigerian content in the selected bid is at least 5% higher than its closest competitors.

⁴⁵ Section 4 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁶ Section 5 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁷ Section 7 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁸ Section 8 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁴⁹ Section 10(1)(a) of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵⁰ Simbo Banjoko (2009) "Nigerian Manufacturing Sector: Bumpy Past, Shaky Future: What Options for Survival, The Nation, July 12, 2009

⁵¹ Section 10(1)(b) of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵² Section 33 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵³ Section 34 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵⁴ Section 35 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵⁵ Odularu Gbadebo Olusegun (2008) "Crude Oil and the Nigerian Economic Performance" Oil and Gas Matters, Available at [Http://www.ogbosru/eng](http://www.ogbosru/eng)

⁵⁶ Section 37 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵⁷ Section 13 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁵⁸ Section 14 of the Nigerian Oil and Gas Industry Content Development Act 2011

The Act also provided that Nigerians should be given the first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian Oil and Gas industry. However, the Board is required by the Act⁵⁹ to ensure that the operator or project promoter maintains a reasonable number of personnel from areas where it has significant operation. This is a palliative measure targeted at curtailing the restiveness in the Niger Delta area and aimed at quelling militancy of the youth in the Niger Delta region who engaged themselves in environmental terrorism due to pervasive underdevelopment and unemployment in these areas. The Act therefore seeks to assure the militant a better future which is anticipated by their increased preferential participation in the oil and gas sector as embodied in the Act.

The Act tries to intervene to make provision for necessary platform to ensure transfer of technology to Nigerians and erode the monopoly which non Nigerians had retained for several years in the technical aspect of the oil and gas sector. In order to encourage technological and infrastructural development, the Act⁶⁰ mandates the Minister to make regulations which would require any operator to invest in or set up a facility, factory, production units or other operations within Nigeria for the purpose of carrying out any production, manufacturing or for providing a service otherwise imported into Nigeria. To this end, the Board is given the responsibility of giving full and effective support to technology transfer by encouraging and facilitating the formation of joint ventures, partnering and the development of licencing agreements between Nigerian, foreign contractors and service or supplier companies. Agreements of all such joint ventures or alliances are expected to meet the requirements of the Nigerian Content Development to the satisfaction of the board. It is also the responsibility of the Board stated in the Act⁶¹ to constitute an industry databank of available capabilities and to establish a consultative body⁶² through the operation of a system⁶³ that will provide a platform for information sharing and collaboration in the Nigerian oil and gas industry with regards to upcoming projects in the oil and gas industry and to provide information on available local capabilities and other policy proposals which may be relevant to Nigerian content development.⁶⁴ Operators or contractors or any other entity are forbidden by the Act⁶⁵ from obtaining financial services extraterritorially except where it is impracticable to retain a Nigerian financial institution or organization. All fabrications and welding activities engaged in by contractors, project promoters and operators and any other entity engaged in the Nigeria are required by the Act⁶⁶ to be carried out in Nigeria. The Board is also to make use of the fund from the Nigerian Content Development Fund for projects, programmes and activities directed at increasing the Nigerian Content in the oil and gas industry.⁶⁷ 1% of total contract sum awarded in the upstream sector is required to be paid into the Nigerian Content Development Fund (NCDF) deductible at source.

The minimum Nigerian content in any project to be executed in the Nigerian Oil and Gas Industry shall be consistent with the level set in this Act.⁶⁸ However, where there is inadequate capacity to any of the targets in the schedule to this Act, notwithstanding the provisions of subsection (1), the minister may authorize the continued importation of the relevant item and such approval by the Minister shall not exceed 3 years from the commencement of this Act.⁶⁹ Where a project description is not specified in the schedule to this Act, the Board shall set the minimum content level for the project or project item pending the inclusion of the minimum content level for the project or project item through an amendment of the schedule to this Act by the National Assembly⁷⁰. All operators are required to comply with the minimum Nigerian Content for particular project item, services or product specification set out in the schedule to this Act.

The Act is held⁷¹ to constitute a forced arrangement between multinational oil corporations operating and proposing to operate in Nigeria and the locals without taking cognizance of the evident constraints of the practical application of most of its provisions. No sufficient safe-guard has been provided to ensure transparency in the implementation of the Act. The Act was passed in haste with total disregard to the need to establish an

⁵⁹ Section 28 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁶⁰ Section 47 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁶¹ Section 56 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁶² Known as the Nigerian Content Consultation Forum

⁶³ Known as Joint Qualification System (JQS)

⁶⁴ Section 57 of the Nigerian Oil and Gas Industry Content Development Act 2011

⁶⁵ Section 52 of the Act

⁶⁶ Section 53 of the Act

⁶⁷ Section 104 of the Act

⁶⁸ Section 11(1) of the Act

⁶⁹ Section 11(4) of the Act

⁷⁰ Section 11(2) of the Nigerian Oil and Gas Industry Content Development Act 2011

⁷¹ Voilet Aigbokhaevbo (2011) "Nigerian Oil and Gas Industry Content Development Act 2011: Mediocrity on the Prowl" *Journal of Private and Property Law*, Vol. 2, 2011, University of Ibadan pp 193-209

enabling functional social-economic environment. The Act regarded⁷² as an impulsive policy and a protectionist step. Despite the promotion of healthy competition as a way of providing an impetus for innovation, improved productivity, and its benefit to consumers⁷³, the Act discourages foreign competition

5.0 Hindrances to Effective Operation of the Nigerian Content Development Act

The attainment of the spirit and intent of the Content Act is bedeviled with some challenges that could hamper economic development.

5.1 Corruption

Corruption remains an endemic challenge in Nigeria. Corruption can stifle accountability and result in economic subversion. The pervading corruption in the country constitutes a major impediment to the enforcement of the Act. It has been asserted⁷⁴ that the government is the focus of power in most developing countries, determining the level and nature of economic activity. It is often the sole owner of natural resources and the greatest concentration of power, political, economic and bureaucratic. Together with the accelerated pace of economic development which provides such a fertile ground for corruption, clamouring for permits, contracts, import licence and what have you, the temptation becomes overwhelming to jump the queue, to lubricate one's way and make certain results. The requirement to submit a Nigerian content plan every six months as a pre-condition before the award of contract may result in the creation of more bottlenecks in the contract award process and resulting in more corrupt tendencies, if not well managed. Section 37 of the Act has the tendency of opening the flood gate to the issuance of certificate of excellence to contractors even when such contracts are failing as a result of kickbacks received by government engineer which weaken their moral courage to pronounce their work as shoddy.

5.2 Inadequacy of Nigerian Educational Sector

There is no adequate training facilities in the Nigerian educational sector. This is as a result of poor funding by government which is opined⁷⁵ to have compromised technical education and research initiatives. When appropriate skill is lacking in any production system, it results in poor quality output which undermines capacity building and sustainable development in any nation.⁷⁶ This has made it difficult to produce balanced indigenous engineers and technicians to satisfy the local content requirements of the Act.

5.3 Lack of Funds for Indigenous Companies

The oil and gas sector is capital intensive. Indigenous companies lack access to funds to enable them participate effectively and efficiently in this sector of the economy. The Fund established by the Act and managed by the Board should extend its hand to bailing out indigenous companies by operating a kind of revolving loan to indigenous companies to enable them active participation in the oil and gas sector of the Nigerian economy.

5.4 Lack of Well Equipped Manpower

There is nothing mandating members of the Board saddled with the responsibility of monitoring and implementing the Nigerian Content Industry Development Act to keep themselves abreast for effecting monitoring and implementation of the Act. Consequently, their qualification and justification to effectively monitor and implement the act is questionable. Automatic take-over is susceptible to breeding mediocrity and ineptitude because of insufficient inbuilt checks and balances. As a result, If professionalism can easily be sacrificed at the alter of Nigerianization,

5.5 Lack of infrastructural Base

All fabrications and welding activities engaged in by contractors, project promoters and operators and any other entity engaged in the Nigerian arena are required to be carried out in Nigeria. Regular electricity supply required

⁷² Obadan M. I. (2001) "The Role of National planning in a Deregulated Market-Driven and Private Sector-Led Economy". Being a paper presented in a House symposium Organized by the National Planning commission, Abuja on October 3 2001

⁷³ Warrick Smith and Mary Hallward Driemer (2005) "Understanding the Investment Climate" in Finance and Development. The International Monetary Fund Quarterly Publication 42 No. 1

⁷⁴ Eker Vadjer (1981) "The Origin of Corruption and Irregular Incentives in Nigeria" *Journal of African Studies* p. 174

⁷⁵ Odia L. O. and Omofonwan (2007) "Educational System in Nigeria: Problems and Prospects" *Journal of Social Sciences* 14(1) 2007 p.81

⁷⁶ Chinelo Ogoamaka Duze (2011) "Falling Standards in Nigerian Education" *Education Research* 2 p. 803

for the manufacturing and fabrication industry is yet to be given adequate attention as no effort is made to make the oil and gas industry a driver of sustainable electricity production. This has made it difficult for the oil and gas industry to deliver sustainable economic growth. The time-framed given to authorize the continued importation of items where there is inadequate local capacity is unrealistic as all such items required to be produced locally will suffer set-backs as a result of inefficient power supply. This will lead to continuous importation of such items.

6.0 Sustainable Development

Sustainability is the ability to continue a defined behaviour indefinitely. It is the ability of a system to maintain a well defined level of performance over time and if required, to enhance that output without damaging the essential ecological integrity of the system.⁷⁷ It is the ability of a system to keep production and distribution going continuously without failing.⁷⁸ Sustainable development is a dynamic process involving measures of improved performance and efficiency over time. Sustainable development is an ongoing process to improve the living conditions of the present generation that does not compromise the ability of future generations to do so, and that ensures a harmonious integration of the environment, social and economic dimensions of development. Sustainable development is based on a long term approach which takes into account the inextricable nature of the environmental, social and economic dimensions of development activities.⁷⁹ Sustainable development rests on three platforms of social justice, economic prosperity and environmental protection which are interconnected, non-mutually exclusive and nested inside one another. Therefore, the pursuit of sustainable development should be all inclusive. The sustainability of sustainable development rests in the ability of meeting both the social, economic and environmental aspects of sustainable development. The theoretical construct of sustainable development emphasizes an integrative thinking about development and that any weakness in any of the pillars renders the system as a whole useless and hence unsustainable. When conditions for sustainability are met in all three dimensions it is then and only then that there can be said to be a confluence of the three sets of sustainability and that is only then that true sustainable is attained.

7.0 The Oil and Gas Industry and the Delivery of Sustainable Economic Development

Sustainable development is not an option, but an imperative for a world that is becoming more connected and interdependent than ever before. Regions of the world where natural resources are concentrated, like the Nigerian Niger Delta, are often most in need of sustained economic development. The petroleum industry has a responsibility to foster sustained development in ways that will not only provide energy in an efficient manner, but also contribute to economic and human progress. The oil and gas industry can play active role in delivering jobs, stable environment, healthy communities and vibrant economy. by building economic and social value in the communities where they operate. This can be done in a number of ways:

1. By way of sustainable business investment. Investment has been identified⁸⁰ as the basis of any sustainable business or economy. Both current operations as well as future opportunities can be invested in, in order to ensure sustained growth. Such investments serve as a tremendous platform to stimulate broader economic growth.
2. Building a local workforce which must be leveraged into the creation of a trained and skilled workforce. Leveraging core investment to create jobs in local markets has been discovered⁸¹ to have a powerful multiplier effect in the whole local economy, as well as providing the company with a committed workforce. It has been asserted⁸² that the greatest national resource of oil producing countries is not the oil but the people. Investing in human capacity building is imperative if the impact of the oil industry is to be felt in this era of the quest for sustainable development. Engaging,

⁷⁷ Jodha (2003) quoted by Grace O. Evbuomwan, Emmanuel U, Ukeje, Moses F, Out, B.A.G., Amoo, E.A., Essien, L. I, Odey and M. A. Abba, Agricultural Development, Issues of Sustainability, In Nnanna, O. J., Alade, S. O. and Odoko, F. O. (2003) Contemporary Economic Policy Issues in Nigeria, Central Bank of Nigeria Publication, 2003 pp. 185 - 221

⁷⁸ Idachaba, F. S. (2003) Concepts and Strategies of Integrated Rural Development: Lessons From Nigeria. In: Nnanna, O. J., Alade, S. O. and Odoko, F. O. (2003) Contemporary Economic Policy Issues in Nigeria, Central Bank of Nigeria Publication, 2003 pp. 185 - 221

⁷⁹ International Law for Sustainable Development, Centre of International Law for Sustainable Development

⁸⁰ David J. O'Reilly. Chairman and chief Executive Officer, Chevron corp. at the Third OPEC International Seminar which held in Vienna, Austria on Wednesday 13, 2006

⁸¹ - ibid

⁸² David J. O. Reilly supra

- empowering and building the capacity of members of local communities is critical, not only to the success of investments in extractive industries, but also to sustainable development.
3. The enablement of local supply chain. Investment by the petroleum industry can be strategically directed towards the development of local supply chains which expands job opportunities and stimulate the local economy.
 4. Since capacity building has the potentials of protecting and leveraging the value of a core business investment, investing in communities which has capacity building at the centre of community engagement by way of education and training, job creation and health care, will go a long way in strengthen the basic building blocks of a prosperous society.
 5. Supporting policies that promote economic growth and a stable investment environment. The right set of policies that encourages energy investment as well as broader investment across the full economic and social spectrum must be embraced.
 6. Ensuring effective implementation mechanisms such as accountability and transparency as well as monitoring. The impact of the Nigerian Content Development Act will be better felt if it is faithfully implemented.

8.0 Conclusion

After over 5 decades of operation in the oil enclave and the attainment of independence, Nigeria is yet to create the enabling environment to encourage industrial growth and development. Oil and gas are not only major contributors to GDP, but can be employed as drivers of sustainable development. On the contrary however, activities of extractive industry have not recorded much success especially at the community levels. In actual fact, most communities have been further disadvantaged as a result of oil, gas and mining projects. It becomes imperative to ensure that extractive industry carry out their activities in the best way possible right from start in order to yield clear and sustainable benefits for local communities and to enhance sustainable contribution from extractive industries to the sustainable development of communities.

Apart from its people, no resource in the world today is more fundamental to a country's development process than crude oil and its products. The oil and gas industry is the main fuel that drives the Nigerian economic engine. This is because oil has come to be known as the life blood of the contemporary Nigerian economy. The promotion of effective utilization of a country's natural and human resources for national growth and development is the duty of every State.⁸³ Since the State plays a key role in the development of any society, the role of the State in ensuring sustainable development in this sector of the economy by encouraging sustainable business practice that will bring about sustainable development and socially equitable growth.

9.0 Recommendations

There should be sufficient inbuilt checks and balances in addition to an independent body overseeing the activities of the Board. Otherwise automatic take-over stipulated by the Act will be susceptible to the breeding of mediocrity and ineptitude. More local workforce should be built in order to ensure effective management of the oil and gas sector by Nigerians.

Members of the Board should acquaint themselves with the requisite knowledge and understanding to effectively monitor and implement the Act.

Better management mechanism should be put in place in the process of awarding contracts in order to minimize corruption in the oil and gas sector. The award of contracts should be made as transparent as possible.

The operation of the Fund should be extended to indigenous companies as a revolving fund so as to afford them active participation in the oil and gas sector of the Nigerian economy.

Nigerians should be legally empowered to monitor and ensure compliance with the laudable provisions of the Nigerian Content Act so as to ensure full and active participation of Nigerians in the activities in the oil and gas sector of the economy.

⁸³ Idowu, A. A. (1990) "Environmental Degradation and Human Rights violations," Modern Journal of Finance & Investment Law, January, Vol. 3, p. 124

The best resources of this nation is Nigerians. An uninformed workforce remains a deformed workforce. The Nigerian government should invest more in the training of adequate and skilled manpower that will enable Nigerians to truly be in-charge of the Nigerian oil and gas sector.

Nigeria should begin to look beyond the oil and gas sector and extent the Nigerian Content Development Act beyond the oil and gas sector. The Act should be made applicable to every other sector of the Nigerian economy so as to prepare Nigerians for a era of a Nigeria without oil. Diversification is important.

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