

## AN OVERVIEW OF THE NIGERIAN LOCAL CONTENT ACT

*A presentation given at the "AFRICA ENERGY WEEK" Conference.*

*Cape Town, South Africa: 29<sup>th</sup> September 2010.*

*Dayo Okusami  
Partner  
Templars*

---

TEMPLARS

## INTRODUCTION

- Nigerian Oil & Gas Industry Content Development Act (“Local Content Act” or “Act”) applies to all operations in the Nigerian oil and gas industry including Exploration and Production / Service Companies.

## FIRST CONSIDERATION TO NIGERIAN OPERATORS

- Section 3(1): Nigerian independent operators shall be given 1<sup>st</sup> consideration in the award of oil blocks, oil field licences, oil lifting licences and all projects for which contracts will be awarded.
- Section 3(2): Exclusive consideration to Nigerian indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute work on land and swamp operating areas.

## NIGERIAN CONTENT IN BID EVALUATION

- Where bids are within 1% of each other at commercial stage, bid containing the highest level of Nigerian content shall be selected provided the Nigerian content in the selected bid is at least 5% higher than its closest competitor.
- The award of contract shall not be solely based on the principle of the lowest bidder where a Nigerian indigenous company has capacity to execute, the company shall not be disqualified on the basis that it is not lowest financial bidder, provided the value does not exceed the lowest bid by 10% (Section 16).

## LABOUR AND EMPLOYMENT

- Nigerians given 1<sup>st</sup> consideration for employment and training in any project by any operator or project promoter in the industry.
- Section 35 requires all operators and companies to employ only Nigerians in their junior and intermediate cadre.
- Each operator required to submit a succession plan covering any position not held by Nigerians with provision for Nigerians to understudy each incumbent expatriate for a maximum period of **4 years** after which the position shall become Nigerianised (except retention of a maximum of 5% of management positions to take care of the interests of investors).

## PROHIBITION OF IMPORTATION OF WELDED PRODUCTS

- All operators, project promoters, contractors and any other entity engaged in the Nigerian oil and gas industry shall carry out all fabrication and welding activities in – country (Section 53)
- Above is subject to where it can be shown to the Minister of Petroleum Resources there is no capacity for in-country fabrication. In this circumstance, the Minister may approve importation of welded products for a period not exceeding 3 years as stated in Section 11 of the Act.

## NIGERIAN CONTENT MONITORING BOARD

- The Act establishes the Nigerian Content Monitoring Board (“the Board”) which is the regulatory agency vested with the responsibility of regulating Local Content.
- The Board shall implement the provisions of the Bill with a view to ensuring a measurable and continuous growth in Nigeria content in all and gas arrangements, projects, operations, activities or transactions in the Nigerian oil and gas industry

## NIGERIAN CONTENT MONITORING BOARD (II)

Some of the functions of the Board include:

- Approval of Nigerian Content Plan
- Issuance of Certificate of Authorization
- Setting minimum Nigerian content level for project or project items which were not included in the Schedule A to the Act

The Board also has powers to:

- Determine if Nigerian indigenous contractors have the capacity to perform services listed in the schedule of services
- Issuing Regulations for the industry regarding Local Content.



## NIGERIAN CONTENT DEVELOPMENT FUND

- The Act establishes a Nigerian Content Development Fund managed by the Board and funded through a 1% deduction at source of every contract awarded to any operator, contract, subcontractor, alliance partner or any other entity in any project, operation, activity or transaction in the upstream sector on the industry.

## FINANCIAL SERVICES

- All operators, contractors and any other entity requiring financial services shall retain only the services of Nigerian financial institutions, except where to the satisfaction of the board this is impracticable.
- The Act further provides 10% of total revenue from Nigerian operations be retained in a Nigerian bank account. (Effect may be minimal if quantum required to be retained in Nigerian banks is equal or less than Nigerian payment obligations Nigeria (e.g. salaries, rent, supplies etc )
- Also Schedule A provides lower thresholds, e.g. Credit Granting Services (50%); Financial Management Consultancy Services (70%); etc

## LEGAL SERVICES (S.51)

- Section 51 makes it mandatory for operators, contractors and other entities engaged in the Nigerian Oil and Gas industry to retain the services of only Nigerian legal practitioners or a firm(s) of Nigerian legal practitioners whose office is located in any part of Nigeria as well as submit a legal services plan (LSP) to the Board.
- The Act further provides in its schedule a 50% threshold of Nigerian Content for legal services relating to project management and consulting services.

## OFFENCES AND PENALTIES (S.68)

- An operator, contractor or subcontractor who carries out any project contrary to the provisions of the Bill, commits an offence and is liable upon conviction to a fine of 5% of the project sum for each project in which the offence is committed or cancellation of the project

**THANK YOU FOR LISTENING!**

[dayo.okusami@templars-law.com](mailto:dayo.okusami@templars-law.com)

[www.templars-law.com](http://www.templars-law.com)

---

TEMPLARS