

*Extraordinary*



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**PROEM**

The establishment of the Nigerian Content Development and Monitoring Board (NCDMB) in 2010 by the Nigerian Oil and Gas Industry Content Development Act, 2010 (the 'Act') was an initiative designed to drive local content development in Nigeria by the imposition of standards on capacity building, technology transfer and training in the Oil and gas industry.

The overall objective of the following ministerial regulations is to provide pragmatic strategies for the implementation and enforcement of the respective enabling sections of the Act.

**Regulation for the Establishment of Operations in Nigeria 2021** This Regulation provides for the requirements of an operator to invest in or set up facilities or other operations within Nigeria for the purposes of carrying out any services otherwise imported into Nigeria.

THE NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT  
ACT (2010 No. 2)  
REGULATIONS FOR THE ESTABLISHMENT OF OPERATIONS IN  
NIGERIA, 2021



ARRANGEMENT OF REGULATIONS

*Regulation :*

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**THE NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT  
ACT (2010 No. 2)****REGULATIONS FOR THE ESTABLISHMENT OF OPERATIONS IN  
NIGERIA, 2021**

[26th Day of February, 2021]

Commence-  
ment.

In exercise of the powers conferred on the Minister of State for Petroleum Resources by Section 101(1) of the Nigerian Oil and Gas Industry Content Development Act 2010 (the "Act") and of all other enabling powers, the Minister of State for Petroleum Resources hereby makes the following Regulations—

**WHEREAS :**

1.1. Section 47 of the Nigerian Oil and Gas Industry Content Development Act 2010 empowers the Minister to require any Operator in the industry to invest in or establish Facilities in Nigeria for Production or Manufacturing, or for the provision of Services it would otherwise have to import into Nigeria.

Preamble.

1.2. Establishment of development of such Facilities would enhance the attainment of the aims and objectives of the Act, which are—

1.2.1 To advance Nigeria's industrial development through increased indigenous ownership and operation of assets and facilities in the Oil and Gas Industry ;

1.2.2. Drive up the participation of indigenous companies in the Supply Chain and the Value Chain ; and

1.2.3. Enhance the Transfer of Technology to Nigerian indigenous Operators and companies.

1.3. This Regulation prescribes the specifications and minimum standards for establishing, or investing in, any Facility in compliance with Section 47 of the Act and shall apply to any Operator in the Nigerian Oil and Gas Industry.

1.4 This Regulation provides for the adequate utilization of Nigerian Goods, Services, Equipment, Labour and other resources, leading to development of in-country capacity and capability in the Nigerian Oil and Gas Industry, as set forth in Section 4.12 of the Board's Handbook of Operational Guidelines.

2.1. In this Regulation, unless the context otherwise requires—

"The Act" means the Nigerian Oil and Gas Industry Content Development Act, 2010, as amended from time to time ;

"The Board" means the Nigerian Content Development and Monitoring Board ;

Interpretation.

"Compliance Period" means the period specified by the Board under Clause 5.3 of this Regulation or other such period of compliance agreed with, and approved by, the Board under Regulation 5 hereof ;

*"Facility"* means any facility, factory, office, building or group of buildings, production unit, production platform, storage unit, workshop, fabrication yard, foundry, laboratory, testing facility, warehouse, jetty, mill, mint, firm, or other operations used for carrying out the Production, Manufacturing, assembly or installation of Goods, or as base for the provision of Services, within Nigeria ;

*"Goods"* means goods, materials, products, equipment, Marine Equipment, platform jackets, OCTG, and other such products, materials and equipment used in the Oil and Gas industry or in the Operator's Oil and Gas activities ;

*"Investment"* means the definitive devotion or commitment of a significant amount of money or capital by an Operator which results in it holding a significant interest in or ownership of a Facility ;

*"Manufacture"* or *"Manufacturing"* means a process using manual labour or machinery and other equipment, whereby a material is transformed from its crude, raw or unfinished state into a refined, semi-refined, or finished product for operations in or services for the Oil and Gas Industry ;

*"Marine Equipment"* means marine vessels, very large crude carriers, offshore rigs, and other such marine equipment used in the Operator's Oil and Gas Industry activities ;

*"Operator"* means the Nigerian National Petroleum Company (NNPC), its subsidiaries and joint venture partners and any Nigerian, foreign or international Oil and Gas Operating Company or Non-Operating Company ;

*"Production"* means any operations for the purposes of producing Equipment and Goods ;

*"Qualifying Investment"* means an Investment in which an Operator holds an equity or other ownership interest and voting control in a Facility not less than 51% ; and

*"Services"* means services rendered in support of, or for, operations in the Oil and Gas Industry.

2.2. Reference in this Regulation to the Oil and Gas Industry is a reference to the Upstream, Mid-stream or Downstream sector or operations in the Nigerian Oil and Gas Industry.

2.3. Investment, under this Regulations, excludes Community Development Initiatives and/or other Corporate Social Responsibility activities of the Operator.

2.4. Any terms used in this Regulation, which have not been given a meaning under clause hereof, shall bear the meaning given to them under the Act.

### 3.1. OPERATOR SPECIFIC CDIs

3.1.1 Subject to the provisions of the Act and of this Regulation, Operators shall give first consideration to Nigerian made Goods and Services as shall be consistent with the minimum content level set out in the Schedule to the Act as modified from time to time by the Board in accordance with Section 11(2) of the Act.



3.1.2 Where a Nigerian company can demonstrate its ability to provide the relevant Good or Service, the Operator (herein referred to as the "Applicant") shall utilize the services of such Nigerian company, in which case it shall not thereafter need to make an application for authorization in accordance with the provisions of this Regulation 3.1.

3.1.3. Where there is inadequate local capacity for any Goods or Services as stipulated in the Schedule to the Act, the Operator shall put into place, and submit to the Board for approval, a viable plan to cover this gap in local capacity (the "Capacity Development Initiative" or "CDI") within a time frame approved by the Board (the "Initial Compliance Period"). The Operator's proposed CDI may include the importation of the relevant items during this Initial Compliance Period.

3.1.4 The Operator's Capacity Development Initiative ("CDI"), which may include a plan for collaboration with an existing approved CDI, shall indicate the CDI sponsor, list of stakeholders including technical partners and their roles, expected outcomes, time, indicative cost and other relevant information as may be required by the Board.

3.1.5. The Board, upon the written application of the Operator not later than ninety days before the end of the Initial Compliance Period, may extend the Compliance Period for such further period as it shall in the circumstances deem necessary (the "Extended Compliance Period"). An Operator requesting for an extension of the Compliance Period must provide evidence of substantial progress in its CDI.

3.1.6. The Board may recommend to the Minister, for approval, the Operator's CDI, or, as the case may be, the extension of the Initial Compliance Period.

3.1.7. The approval by the Minister for the Operator's proposed CDIs shall be based on the following considerations—

(a) An Operator, requesting for approval to import any Goods, Equipment or Services into the country, shall advertise the need for the Goods and Services on the NJQS for a minimum period of 30 days before applying to the Board ;

(b) The advert referred to in clause 3.1.7(a) shall indicate the description of the Goods or Services required, and the category in the Schedule to the Act in which they fall, respectively and, additionally, shall indicate such other relevant information as quantity and timing, etc.

(c) An application for importation shall include details of the quantity and description of the Goods or Services to be imported and sufficient justification for importation of the Good or Service such as evidence of lack of capacity in-country within the duration of the project or operation where the goods or services are required including outcome of (a) above ;

(d) The Board may hold a joint evaluation with the Applicant Operator to establish the case for importation of the goods or services ; and

(e) Any other conditions as may be prescribed in the operational guidelines issued by the Board.

### 3.2. COMMON INDUSTRY CDIs

3.2.1. The Minister shall require any Operator, Contractor, Subcontractor, Vendor, or any entity to promote, set up, or make a qualifying investment in, a Facility for building in-country capacity in any project connected with the following—

- (i) Fabrication and welding ;
- (ii) Line pipes, pipe coating, OCTG threading ;
- (iii) Painting ;
- (iv) Equipment components ;
- (v) Marine Equipment utilization, servicing, maintenance, or ownership ;
- (vi) Ship building and maintenance ;
- (vii) Rig servicing and maintenance ;
- (viii) FPSO integration and maintenance ; and
- (ix) Such other initiatives as the Minister may designate on the recommendation of the Board.

3.2.2. The Board shall issue Guidelines, Clarifications and Directives as may be necessary to actualize the above.

3.2.3. Notwithstanding clause 3.2.1 above, the Board may with the approval of the Minister, promote, invest in or setup a facility, factory, production units or other operations for building in-country capacity in any project connected with any of the items stipulated in clause 3.2.2 above either solely or in collaboration with any Operator or investor.

3.2.4. Any investment by the Board shall be made in accordance with the Investment Guidelines approved by the Minister or Governing Council.

### 3.3. STAKEHOLDER ENGAGEMENT

3.3.1. The Board shall at the beginning of each year convene a stakeholder engagement to determine areas of inadequate capacities, and agree on Capacity Development Initiatives (CDI) for the industry as well as appropriate fiscal incentives.

3.3.2. The stakeholder engagement referred to in clause 3.3.1 above shall suggest tax and other fiscal incentives for Operators that will encourage compliance with the Act and the Regulations, and the attainment of the relevant objectives.

4.1. Based on the suggestions it receives pursuant to clause 3.3.2 above, the Board may make recommendations to the Minister for tax and other fiscal incentives.



4.2. Prior to submitting the recommendations under Sub-Regulation 4.1 hereof, the Board may seek and obtain the advice, opinion, and guidance, of the Honourable Minister of Justice/Attorney-General as to—

- (1) The advisability of the recommended tax and other fiscal incentives;
- (2) Their consistency or otherwise with existing legislation ;
- (3) The appropriateness of the recommendations ; and
- (4) The arms of Government with the proper jurisdiction to pursue the implementation of the recommendations.

4.3. The Board shall incorporate the advice of the Honourable Minister of Justice in making its recommendations under Sub-Regulation 4.1.

4.4. Any action to be taken by the Minister pursuant to the recommendations, whether in the consultations referred to in Sub-Regulation 4.5 or otherwise, shall be at the sole exclusive discretion of the Minister.

4.5. The Minister shall consult with the relevant arms of Government on appropriate fiscal framework and tax incentives for foreign and indigenous companies which establish or make Qualifying Investments in Facilities or other operations in Nigeria for purposes of carrying out any Production, Manufacturing or for providing Goods and Services otherwise imported into Nigeria.

5.1. Where the Content Plan of an Operator, or any other aspect of the operations or activities of such an Operator, does not comply with, or is inconsistent with, the provisions of Regulation 3 hereof, such defaulting Operator shall, within five (5) business days of receiving relevant notification from the Board, meet with the Board to explore and agree ways and means of achieving the compliance hereunder required.

Consequences  
of Non-  
Compliance.

5.2. The Board shall, where necessary, give the defaulting Operator opportunity for further meetings with the Board to enable them to come to mutual definitive agreement as to the pertinent measures required to achieve compliance with these regulations, (the "Compliance Measures").

5.3. The defaulting Operator shall be allowed not more than sixty (60) calendar days within which to implement the Compliance Measures.

5.4. If at the end of the Compliance Period, the Content Plan, or other operations of such an Operator still does not comply with, or remains inconsistent with, the provisions of Regulation 3 of these regulations, the Board shall withhold approval for such Content Plan or other operations of the Operator.

5.5. The meetings under this Regulation 5, shall be without prejudice to the Stakeholder Engagement referred to in Regulation 3.3 of these regulations.

5.6. An Operator, whose Content Plan or other relevant operations is disapproved pursuant to this Regulation shall be ineligible for the grant of Certificate of Authorization and shall not be allowed to carry on operations in the Oil and Gas Industry. In the case of a Non-Operating Company, it shall be ineligible for continuing registration on the JQS or e-Market.



5.7. The Board shall, from time to time, publish the names of Operators who are in default of the provisions of this Regulation.

5.8. However, the Board shall not publish the name of an Operator before the expiry of a relevant Compliance Period.

5.9. The Board, as it deems appropriate, may also apply any of the sanctions contained in Section 4 of Part 6 (Implementation and Enforcement of Nigerian Content Requirements) of the Board's Handbook of Operational Guidelines.

6.1 An Operator aggrieved by the decision of the Board in relation to the implementation of these Regulations may lodge a complaint with the office of the Executive Secretary of the Board in accordance with the Review Procedure set forth in the Handbook on Operational Guidelines.

This Regulation may be cited as the Regulations for the Establishment of Operations in Nigeria, 2021.

MADE this 26th day of February, 2021.

TIMIPRE SYLVA

*Minister of State for Petroleum Resources*

Disputes,  
Complaints,  
and other  
Miscellaneous  
Provisions.

Short Title.