

**NIGERIAN LOCAL CONTENT DEVELOPMENT AND ENFORCEMENT BILL 2020
(HB. 837)**

**A BILL FOR AN ACT TO ENACT THE NIGERIAN LOCAL CONTENT ACT TO
PROVIDE FOR THE DEVELOPMENT, REGULATION AND ENFORCEMENT OF
NIGERIAN CONTENT IN ALL SECTORS OF THE NIGERIAN ECONOMY EXCEPT
IN THE OIL AND GAS SECTOR AND OTHER MATTERS RELATED
THEREWITH**

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PART I — PRELIMINARY

Objectives of the Bill.

1. The objectives of this Bill are to —

(1) impose Nigerian Content obligations on ministries, extra ministerial departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions, Public Corporations, business enterprises and individuals carrying out any regulated business activity in any sector except in the oil and gas sector of the Nigerian economy;

(2) grant preference to Nigerian citizens, Nigerian companies in the procurement of goods and services in all sectors to which the provisions of this Bill apply;

(3) transfer of skills and technology to Nigerians during execution of activities where public funds belonging to the Federal Government of Nigeria or any of its agencies are used, in the extractive industries, in donor or loan funded projects and in activities carried out by an entity in possession of an investment agreement;

(4) develop the Nigerian Content plans by persons carrying out public works and persons in possession of a permit, license, lease, approvals in the Nigerian economy;

(5) increase the capability and international competitiveness of Nigerian domestic businesses;

(6) create jobs through increased participation of Nigerians in the economic productivity activities in the Nigerian economy;

(7) provide for the submission of the local content plan by contractors, subcontractors, licensees and any other allied entities involved in all sectors that the provisions of this apply to in the Nigerian economy; and

(8) supervise and coordinate the implementation and monitoring of Nigerian Content development in the Nigerian economy.

Application.

2. Notwithstanding anything to the contrary contained in any other enactment or law, the provisions of this Bill shall subject to clause 3 (1) of this Bill, apply to all arms and agencies of the Federal Government of Nigeria and Business Entities in all sectors of the Nigerian economy.

Limitation of Scope.

3.—(1) The provisions of this Bill shall not apply to matters relating to the regulation of Nigerian Content in respect of activities and/or ancillary activities related to, or connected with or arising from the exploration, exploitation, development and transportation in the Nigerian Oil and Gas Industry which shall continue to be regulated by the Nigerian Content Development and Monitoring Board under the Nigerian Oil and Gas Industry Content Act 2010 or any enactment succeeding the said Act.

(2) For the avoidance of doubt, the provisions of this Bill shall apply to all matters pertaining to Nigerian Local Content with respect to operations or transactions carried out in, or connected with, the Nigerian economy in the mining, service, agriculture, transportation, maritime, aviation, tourism, public works and construction, power, Information and Communication technology, manufacturing and health sectors.

PART II — DESIGNATION OF NIGERIAN CONTENT DEPARTMENTS**Establishment of Nigerian Content Departments.**

4.—(1) Each Minister shall for his ministry and all agencies under the supervision of his Ministry create a "Department" to be designated as Department of Nigerian Content Development.

(2) Such designated Department shall —

(a) be responsible for overseeing, coordinating, monitoring, administering and enforcing the implementation of the provisions of this Bill and ensuring measurable and continuous growth in Nigerian Content in relation to the activities of the ministry and agencies under the supervision of the Ministry;

(b) prepare guidelines, to include targets and formats for local content plans and reporting in the Ministry and its extra ministerial departments and other agencies under its supervision;

(c) promote the maximization of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the value chain of the Nigerian economy and their retention in Nigeria;

(d) make appropriate recommendations to the Minister responsible for overseeing the Ministry for smooth implementation of relevant provisions of this Bill as they relate to the activities of the Ministry and agencies under it;

(e) undertake public education to promote public awareness of the benefits of application of Nigerian Content in the work of the ministry and agencies under the supervision of the ministry;

(f) assist Nigerian companies to develop their capabilities and capacities in respect of the area of work the Ministry is responsible for, to further the attainment of the goal of developing Nigerian content in the work of the Ministry;

(g) to advise the Minister in -charge of the Ministry to make internal rules subject to the provision of any Regulation made by the Nigerian Local Content Development Committee;

(h) to guide the implementation and ensure compliance with all the provisions of this Bill in matters touching on the area of the operations of the Ministry;

(i) conduct studies, researches and investigations that may further the attainment of the goal of developing Nigerian Content in the Ministry and its extra ministerial departments and other agencies under the supervision of the Ministry ;

(j) to comply and enforce compliance with any Regulation made by the Nigerian Local Content Development Committee that is applicable to the ministry and agencies of the Federal Government under the supervision of the ministry;

(k) perform any other functions conferred on the Department by the Minister and/or Nigerian Local Content Development Committee provided always that where there is a conflict between the decision of the Minister and that of the Nigerian Local Content Development Committee, the decision of the Nigerian Local Content Development Committee shall prevail.

Powers of the Departments.

5. The Department of Nigerian Content Development shall subject to the approval of the Minister responsible for the activities and operation of the Ministry, have the following powers to —

(a) institute Nigerian content inquiries;

(b) review contracts and activities in reference to Nigerian Content obligations in its Ministry; and

(c) develop a Nigerian content strategy for the implementation of its Nigerian content obligations under this Bill.

Department of Nigerian Content Development to be headed by a Director.

6. A Department of Nigerian Content Development in a Ministry shall be headed by a person who is not less than the rank of a Director in the Ministry.

Nigerian Local Content Development Committee to act as Department in certain cases.

7. The Nigerian Local Content Development Committee established under this Bill shall mutatis mutandis, exercise all the powers and also perform all the functions of a

Department of Nigerian Content Development under this Bill in respect of activities of agencies of the Federal Government which are not under the supervision of a Ministry of the Federal Government.

Independence of the Department.

8. In the exercise of the functions and powers conferred upon the Department under this Bill, a Department shall not be subject to the direction or control of any other person except the Minister of the Ministry who shall ensure that the Department implement the tenor and spirit of the provisions of the Bill in relation to the responsibilities of the Department.

PART III — NIGERIAN CONTENT PLAN

Submission of Nigerian Local Content Development Plan.

9.—(1) Any Nigerian Local Content entity bidding for or applying for any licence, permit, lease, approval or any interest to undertake any regulated activity in any sector of the Nigerian economy to which this Bill applies, shall submit a Nigerian Local Content Development Plan ("the Plan") to the relevant Department and also to the Authority which is to grant the licence, permit, lease, approval or the interest for the undertaking of the activity (also called "Awarding Authority").

(2) A Nigerian Local Content Entity shall, for the purposes of sub clause(1) of this clause submit a long term Nigerian Local Content Development Plan relating to the work programme with respect to the entire project which shall be submitted together with the bid or application to engage in the regulated activity.

Information to be contained in the Nigerian Local Content Development Plan.

10.—(1) A Nigerian Local Content entity shall, in preparing a Nigerian Local Content Development Plan, set out the following information —

(a) the expected quantity and quality of goods and services that may be required for the execution of the project;

(b) the estimated quantum of Nigerian produced goods and services that meet the required standards in the industry to be used out of the total estimated quantity and quality of goods and services that may be required for the execution of the entire project;

(c) the projected number and qualification requirements of Nigerians to be engaged in the execution of the project and the standards for the remuneration of such employees;

(d) strategies for the support of Nigerians' participation in the activities to which the plan relate;

(e) total budget estimate with regard to the implementation of the Nigerian local content components of the entire project.

(2) An entity shall, subject to the provisions of this Bill and for the purposes of sub clause (2) of clause 9 of this Bill, include in its Nigerian Local Content Development Plan, the following —

(a) employment and skills development plan;

(b) research and development plan;

(c) technology transfer plan;

(d) financial services plan;

(e) legal services plan;

(f) insurance services plan;

(g) succession plans for positions not held by Nigerians; and

(h) such other plans as may be prescribed in an appropriate Regulation made pursuant to this Bill.

Duty to acknowledge receipt of the submission of Plan.

11. A Department to whom a Nigerian Local Content Development Plan is submitted shall acknowledge the receipt of the submission within seven days and shall within thirty days of the receipt of the Nigerian Local Content Development Plan review and assess the Plan.

Public Participation in the review and assessment of plans.

12.—(1) The Department shall, in reviewing and assessing the Nigerian Local Content Development Plan under clause 18 of this Bill ensure public participation and shall, for this purpose, —

(a) publicize the plan in at least three widely circulated national newspaper and through such other media including the website of the Department and the Ministry as the Department may consider appropriate;

(b) involve the relevant stakeholders in the industry to which the plan relates and afford such stakeholders an opportunity to be heard; and

(c) take into account any representations that may be made to the Directorate by any person prior to making its decision.

Duty to inform an applicant of decision on the approval or refusal of plan.

13.—(1) The Department shall, upon reviewing and assessing a Nigerian Local Content Development Plan, inform the applicant of its decision to approve or refuse the approval of the plan within a period of seven days from the date of its decision.

(2) Where the Department refuses to approve a plan, it shall furnish the applicant with a written statement of the reasons for the refusal which may include recommendations to the applicant.

Submission of a Revised Plan where a previous plan was refused.

14.—(1) An applicant may, where applicable, within a period of thirty days from the date of notification of the decision by the Directorate refusing to approve the Nigerian Local Content Development Plan and receipt of the written statement under sub clause (2) of clause 13 of this Bill, —

(a) revise the Nigerian Local Content Development Plan taking into account the reasons given for the refusal; and

(b) submit the revised Nigerian Local Content Development Plan to the Directorate.

(2) The revised plan submitted shall be reviewed and assessed and approval given or denied within fifteen days from the date of the receipt of the said revised plan.

Commencement of the utilisation of instrument or execution of project.

15. The utilisation of any instrument or execution of any project to which the provisions of this Bill apply shall not commence until the Nigerian Local Content Entity who is to utilise the instrument or execute the project has applied for and obtained from the relevant Directorate, a Certificate of Authorisation showing that the Nigerian Local Content Development Plan that the entity submitted to the Directorate met the requirements of the provisions of this Bill and has been accordingly approved by the Directorate.

Issuance of Certificate of Authorisation.

16.—(1) A Department upon the receipt of an application for Authorisation from a Nigerian Local Content entity shall within seven (7) days acknowledge receipt and shall within 30 days review and assess the Plan and, if satisfied that the Plan complies with the provisions of this Bill in relation to the Nigerian Content Development, issue a Certificate of Authorisation ('the Certificate') to the entity.

(2) For the purposes of reviewing or assessing the Plan vis-a-vis, the Nigerian Content requirements of this Bill, a Department to which an application for a Certificate of Authorisation is made may conduct a public hearing in relation to the exercise of any of its powers or/and functions under this Bill provided that any such review or assessment is completed and certificate issued or denied within 30 days from the date of the receipt of the application for Authorisation.

(3) Where a public hearing is to be conducted, notice of same published in three National Daily Newspapers and the website of the Ministry shall be deemed sufficient notice to anyone to attend such hearing.

Deviation from Approved Nigerian Content Plan.

17.—(1) An entity or individual who obtains a Certificate of Consent by virtue of an approved Plan shall comply and ensure compliance with the content of the Plan as approved by the Department of the Nigerian Content Development provided that in exceptional circumstances acceptable to the Department, the Department subject to the approval of the Minister may grant an approval for the amendment of the previously approved Plan.

(2) The Department may in its discretion impose a reasonable condition to be fulfilled by the applicant for the grant of an amendment to a previously approved Nigerian Content Plan.

PART IV — PREFERENCE FOR NIGERIAN GOODS AND SERVICES

First Consideration to be given to Nigerian companies and firms.

18.—(1) Every arm, agency of the Federal Government of Nigeria and Nigerian Local Content Entity shall consider Nigerian content as an important element of their overall business development and management and consequently shall ensure that contracts, grants of any permit, license, lease or any other instrument conferring any right on a person to undertake any regulated activity under the control of the Federal Government of Nigeria or any of her agencies in any part of Nigeria shall subject to the provisions of this Bill, be given to a Nigerian company and/or firm that demonstrate capacity to effectively and efficiently undertake the subject activity.

(2) All Nigerian Content entities shall maintain a transparent, fair and liberalised bidding process for acquiring goods and services which process shall give Nigerian contractors and companies possible preferential positions to win bids provided qualities of the goods and services met the required standard set by the Standard Organisation of Nigeria (SON) or any other regulatory body.

(3) The award of contract in Ministries, Extra Ministerial Departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions and Public Corporations where public fund belonging to the Federal Government, any of its extra ministerial departments or agencies is involved, shall not be solely based on the principle of the lowest bidder where a Nigerian company has capacity to execute such job and no Nigerian company shall be disqualified exclusively on the basis that it is not the lowest financial bidder, provided the value does not exceed the lowest bid price by 15% margin of preference for international competitive bidding for Goods, 7.5% for Works for Nigerian Indigenous companies and 15% Margin of Preference for Nigerian Indigenous Companies for National Competitive Bidding for Goods and 7.5 % for works.

Employment for Nigerians.

19.—(1) A person who engages in an activity to which this Bill applies shall in the recruitment of employees, give preference to Nigerian citizens.

(2) A person to whom sub clause (1) applies may only employ non-citizens where —

(a) qualified Nigerians citizens are not available or are incapable of effectively and efficiently performing the particular type of work; and

(b) prior authorization has been granted by the designated Department.

(3) The Department may grant authorization to the employment of a non-citizen where it is satisfactorily shown that every reasonable effort was made to find a suitably qualified Nigerian citizen and none exists.

(4) Every employment position held by a non-Nigerian shall be deputized by a Nigerian citizen for purposes of skills transfer.

(5) A person who engages in an activity to which this Bill applies shall submit to the designated Department a succession plan for every position not held by a Nigerian citizen.

Disqualification from an award.

20. A Nigerian company or firm shall not be disqualified from an award of contracts by Nigerian Content entities on the basis of the year of incorporation; but rather, on the basis of qualification, competence and experience of the management in the execution of similar contracts.

Duty on Bureau for Public Procurement (BPP).

21. Notwithstanding anything to the contrary contained in any enactment, law or Regulation, the Bureau for Public Procurement (BPP) shall not issue any Certificate of No Objection for the award of any contract to which the provisions of this Bill apply without a Certificate of Consent issued in respect of the contract by the relevant Department of Nigerian Content Development.

Solicitation documents to indicate preference for Nigerian companies and firms.

22.—(1) Any document issued by any Ministry, Extra Ministerial Department and Agency of the Federal Government, Federal Government Owned Company (either fully or partially owned) Federal Institution and Public Corporation for the solicitation of offers, bids, or quotations for the supply or provision of goods and works shall expressly indicate the preference to be granted to domestic manufacturers, contractors and suppliers and service providers.

(2) Solicitation documents shall obligate bidders or potential manufacturers, suppliers, contractors and consultants to provide cogent and verifiable statement on the quantum or percentage of locally sourced materials, personnel, financing, goods and services that would be involved and added to the value chain and which can be measured in monetary terms in the execution of the proposed project.

(3) Where a bidder, potential manufacturer, supplier, contractor or consultant is a foreign company or firm, it shall as part of its qualification to bid for the project show proof of the existence of a Joint Venture Agreement between itself and a Nigerian indigenous company which Agreement shall reflect the rights and obligations, including but not limited to the sharing of profits and losses between the foreign company or firm and the Nigerian company.

PART IV — NIGERIAN SUBCONTRACTORS

Requirement to subcontract public works contracts or activities.

23.—(1) Every contract for public works granted to an individual or entity other than a Nigerian company or citizen, shall contain a requirement for such individual or entity to subcontract at least forty per cent of the contracted works to a Nigerian company or citizen where capacity exists.

(2) A person to whom subsection (1) applies shall clearly state in its bid the Nigerian company or citizen it shall subcontract part of its contracted works to.

(3) Each Minister under whom a Department of Nigerian Content Development operates may on case by case basis prescribe the minimum portion of a contract that is to be exclusively subcontracted to Nigerian companies or citizens in sub clause (1) in respect of a particular public works granted under sub clause (1) of this clause.

Liability for subcontracted works.

24. A person who subcontracts part of its contracted works under clause 20 (1) shall at all times be responsible for the performance of the contract and shall, without recourse to the subcontractor.

Compliance by subcontractors.

25. A Nigerian Local Content Entity shall ensure that all their contractors and subcontractors comply with the Nigerian Content requirements under this Bill and any regulation made pursuant to this Bill.

PART V — STANDARDISATION

Standardisation of goods and services.

26.—(1) All Nigerian Content entities shall ensure that —

(a) manufacturers meet set standards of the relevant regulatory bodies and agencies before presenting goods for procurement under the national competitive bidding or any other type of Public Procurement Process.

(b) suppliers and contractors under national competitive bidding process shall disclose local materials (processed or unprocessed), where available, needed for the execution of the project.

(c) shall ensure that for all consultancy contracts awarded to foreign companies, engineering drawings with the necessary calculations, design, etc., are made available to their corresponding Nigerian partners, including arrangements with Small and Medium Enterprises (SMEs) as partners towards local production of needed materials.

(d) foreign companies or firms are not engaged in contracts for Works, Goods and Services in the country in violation of international best practice and/or any provision of an extant law regulating the acquisition of technology and process of public procurement where public fund of the Federal Government of Nigeria is to be involved.

(2) The Standard Organization of Nigeria (SON) in collaboration with relevant Ministries, Extra Ministerial Departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions and Public Corporations shall standardize and certify SME's raw materials, products, processes and personnel, in accordance with international

best practices, and the certificate issued shall be included in the solicitation documents.

Prohibition of imposition of foreign standards.

27.—(1) All Ministries, Extra Ministerial Departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions and Public Corporations and/or contractors, providers or suppliers to these entities shall not require the provision of a good or service or the use of material in carrying on any public works based on standards other than those developed or approved by Standard Organization of Nigeria (SON) or any other national standards body in Nigeria.

(2) Whenever it is unavoidable to use foreign standards by an entity mentioned in sub clause (1) of this clause, the entity shall ensure that an equivalent standard applicable in Nigeria is used.

(3) Wherever there is no equivalent standard applicable in Nigeria, the entity shall apply to the Department of Nigerian Content Development that issued the Certificate of Consent for the project for authorization to use a standard that is applicable to the Department.

Domestication of foreign professional certificates.

28. No Nigerian Content entity shall consider the engagement of the services of Non Nigerian professionals for any contract award, employment, or otherwise except such professional has had his professional certificate(s) domesticated with the relevant professional body in Nigeria.

Registration of Joint Venture and Public Private Partnership Agreements.

29. No agreement between any Nigerian Content entity in respect of any Joint Venture and Public Private Partnership (PPP) for any acquisition of technology shall be effective except the said agreement is registered with the National Office for Technology Acquisition (NOTAP) in accordance with NOTAP Act.

PART VI — CAPACITY DEVELOPMENT

Encouragement of Nigerian professionals in the Diaspora.

30. All Nigerian Content entities shall take active steps to —

(a) encourage Nigerian professionals in the Diaspora to collaborate with professionals working in these Ministries, Extra Ministerial Departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions and Public Corporations and use their expertise to develop, improve and promote Nigerian Content in the work of such Nigerian Content entities;

(b) promote mutually beneficial Public Private Partnership (PPP) by encouraging direct collaboration in production and manufacturing ventures of products, such as fittings, spare parts, domestic wares, etc. between foreign manufacturers and indigenous engineering facilities, and those to be brought in by investors at reasonable cost to the Nigerian Content entities.

Improvement of Nigerian businesses to attain international competitiveness.

31.—(1) To optimize the retention of value from the promotion of value-addition and job creation through the use of Nigerian expertise, goods and services and also to strongly support, encourage and improve Nigerian businesses to possess capabilities and capacities to attain international competitiveness;

(a) the Federal Ministry of Education shall encourage the inclusion of Nigerian Content Development Programmes in the curricula of Secondary Schools and Tertiary institutions in order to inculcate in the students, interest to develop local capacities and capabilities in:

(i) science education,

(ii) skills transfer;

(iii) expertise development;

(iv) transfer of technology and know-how; and

(v) active research and development of emerging technologies;

(2) Nigerian Content entities shall ensure that the standards of control and regulation of infrastructural development in the country are maintained, so as to promote effective and sustainable participation of Nigerian Professionals and contractors in the realization of economic and other beneficial goals in Nigeria.

(3) Nigerian Content entities shall work with the organized private sector (OPS), in consultation with the relevant government agencies both at the Federal and state levels to achieve sustainable personnel Development, Training of Nigerian professionals, contractors, and technocrats.

Incentives to facilitate transfer of technology.

32. Each Department shall, for the purpose of facilitating the transfer of technology and expertise and in consultation with the Nigerian Content Development Committee and the relevant agencies, submit recommendations to the President and Commander in -Chief of the Armed Forces of the Federal Republic of Nigeria to set up criteria for obtaining fiscal incentives by Nigerian Content Entities to facilitate the implementation of activities by —

(a) foreign companies which demonstrate substantial commitment to develop technological capacity and skills of indigenous Nigerian companies and Nigerians; and

(b) indigenous Nigerian companies and Nigerians who establish factories and production units in the country in respect of goods that are largely imported.

Succession Plan.

33.—(1) A person who engages in an activity to which this Bill applies shall submit to the relevant Department a succession plan for every position not held by a Nigerian citizen within a period of six months from the commencement of its operations.

(2) A succession plan shall provide for the understudy, by Nigerians, of each incumbent foreigner for such period as shall be determined by the Directorate on a case by case basis and at the end of such period, the position shall be assumed by the Nigerian.

(3) All positions held by Nigerians shall attract salaries, wages and benefits as may be set out in the conditions of service of the Nigerian Local Content Entity with respect to Nigerian employees.

(4) A Nigerian Local Content Entity shall submit to the relevant Directorate in respect of the activities of the entity, a report on the conditions of service and staff demography of all persons employed or contracted by the entity in connection with its operations.

National Supplier Database for Nigerian entities and citizens.

34.—(1) The Federal Ministry responsible for Labour and Productivity shall in consultation with the Federal Ministries responsible for Trade & Investment, National Planning, Science and Technology, the National Office for Technology Acquisition and Promotion (NOTAP), other relevant agencies of the Federal Government and Nigerian professional bodies and trade associations develop a national supplier database for every sector of the economy.

(2) Every Nigerian company or Nigerian citizen with expertise in Science, Engineering, Technology and other fields of expertise shall be captured in the database

(3) The Ministry responsible for Labour may remove an entity or citizen from the database on where entity or citizen no longer meets the requirements for registration on the database; and

(4) The Minister responsible for Labour and Productivity shall with the approval of the Federal Executive Council make Regulations setting out the qualifications and other relevant criteria for the capturing of Nigerian companies and Nigerian citizens on the National Supplier Database and the maintenance and regular update of the database.

PART VII — ISSUANCE OF WORK PERMITS AND EXPATRIATE QUOTAS

Duty to obtain work permit.

35. Upon the commencement of this Bill, every non Nigerian employed or to be employed in any sector of the Nigerian economy to which this Bill applies shall apply for and obtain a Work Permit from the Nigerian Immigration Service.

Indiscriminate issuance of expatriate quota and work permits.

36. Indiscriminate approval(s) for expatriate quota(s) and work permit(s) or the indiscriminate renewal of these instruments are hereby prohibited.

Duties on ministry and agency responsible for issuance of expatriate quota.

37.—(1) The Ministry responsible for Interior shall —

(a) ensure that Expatriate Quota for projects, contracts and programmes are granted in line with the provisions of the Immigration Act and other relevant laws, where qualifications and competency of Nigerian are not available or cannot be ascertained, which shall be contingent on training such number of persons as may be required for the execution of the contract or project.

(b) where necessary, create a special immigration classification to encourage foreign expatriates, particularly from African countries, with skills that are not available in Nigeria, to reside and work in Nigeria upon obtaining a work permit for the purpose of sharing knowledge with Nigerians.

(2) The Federal Ministry responsible for the issuance of expatriate quota and the agency responsible for the issuance of work permit in Nigeria shall take into consideration the manpower data base of NOTAP, Federal Ministry of Science and Technology, Federal Ministry of Power, Works, and Housing, the Nigerian Academy of Science, the Nigerian Academy of Engineering, Federal Ministry of Petroleum Resources etc., in determining the availability of local skilled manpower in the Nigerian economy to which this Bill applies before any approval of expatriate quota or work permit respectively, is made.

Restriction on grant or renewal of work permit.

38. A person who engages in an activity to which this Bill applies shall not be issued with a work permit or have his or her work permit renewed unless his or her application for a work permit or its renewal is supported by a letter from the Department responsible for the area of skill for which the work permit or its renewal is applied for, certifying that the applicant possesses the skills necessary for the employment and there is no or ascertainable Nigerian citizen possessing such skills.

Restriction on grant or renewal of expatriate quota.

39.—(1) Notwithstanding anything to the contrary contained in any existing enactment, law, Regulation including but not limited to any provision in the Nigerian Immigration Act, a Nigerian Local Content Entity shall not make an application to, and receive the approval of, the Ministry of Internal Affairs or any other agency or Ministry of the Federal Government for any expatriate quota or renewal of any expatriate quota without a prior approval from the relevant Department to make such an application.

(2) The application to be made to the relevant Department for an approval under sub -Clause (1) of this Clause shall be detailed and shall among other information, include —

(a) job Titles;

(b) description of responsibilities;

- (c) the duration of the proposed employment in Nigeria;
- (d) exceptional reason(s) why the services of an expatriate is required;
- (e) the likely countries where the expatriate(s) would be engaged from;
- (f) the remuneration budgeted for the payment of the services of the expatriate(s);
and
- (g) any other information required by the Directorate for the purposes of determining the merit of the application in view of the applicable provisions of this Bill.

PART XII — REJECTION OF LOCAL MATERIALS DURING PROCUREMENT

Local Materials to comply with approved standards.

40. All Nigerian Local Content Entities shall ensure that companies or firms executing projects using local materials comply with approved standard and quality set by the appropriate regulatory agency in Nigeria.

Rejection of produced goods and services during procurement.

41.—(1) A Nigerian Local Content Entity shall only reject a good locally manufactured in Nigeria or a service provided by a Nigerian or an indigenous Nigerian company where such good does not meet the required quality, quantity or timeline for delivery.

(2) Where a good locally manufactured in Nigeria or a service provided by a Nigerian citizen or an indigenous Nigerian company does not meet the required quality, quantity or timeline for delivery or completion, the Nigerian Local Content Entity may, with the written authorization of the Directorate procure the good or service as directed by the Directorate.

(3) Where a good or service is procured in circumstances prescribed in subsection (2), the Nigerian Local Content Entity shall ensure that the good is supplied or the service is provided by an entity that has entered into a joint venture with an indigenous Nigerian company or Nigerian citizen.

(4) The request for authorization under subsection (2) shall state —

- (a) the nature of the good or service to be procured;
- (b) the availability of similar goods or services in Nigerian;
- (c) the purpose for which the good or service is required;
- (d) the minimum quality, quantity and timeline for delivery required by the local content entity;
- (e) the market price for the good or service;

(f) the market price for similar goods or services; and

(g) any other information that may be prescribed by the Minister.

(5) A good locally manufactured in Nigeria or service provided by a Nigerian citizen or company shall not be solely rejected on grounds of —

(a) quality, if —

(i) in case of a good, such a good is certified by a national standards agency in Nigeria to meet the standards developed or approved for that good or service;

(ii) in case of a service, such a service is provided in accordance with best industry practices; or

(iii) the manufacturer of such a good or the person rendering the service is willing and able to produce goods or provide services meeting the required quality within a reasonable time;

(b) price, if —

(i) such a good or service is required by this Act or any other law to be exclusively procured within Nigerian;

(ii) the manufacturer of such a good or the person providing the service is willing and able to negotiate the price for such a good or service; or

(iii) such a good or service is competitive as regards to price when compared with similar goods manufactured or services rendered by persons or entities from member states of the African Union (AU); or

(c) quantity or timeline for delivery, if it can be demonstrated by the manufacturer of the good or the person providing the service that it can meet the quantity and timelines for delivery of such a good or a portion of the required goods or services.

Reservation of goods to be exclusively procured from Nigeria.

42.—(1) Each Minister overseeing a designated Department for Nigerian Content Development shall by a published Regulation reserve in relation to his Ministry and agencies thereunder, contracts for goods or services to be exclusively procured from Nigeria and supplied by a Nigerian Company or citizen.

(2) Notwithstanding sub clause (1) of this clause, where it appears that there is no suitably qualified Nigerian company or qualified Nigerian citizen or by its nature, the good cannot be supplied within the required time line, the contract shall be awarded to a foreign company that has entered into a partnership agreement with a Nigerian company or citizen.

PART V — INSURANCE, LEGAL AND FINANCIAL PLANS

Insurance. Legal and Financial Services Plan.

43. A Nigerian Local Content Entity required under this Bill to submit a Nigerian Local Content Development Plan shall submit to the relevant Department, together with its Nigerian Local Content Development Plan required to be submitted under clause 9 of this Bill, an Insurance. Legal and Financial Services Plan setting out —

(a) the nature of Insurance. Legal and Financial Services required by the entity;

(b) a projection of the Insurance. Legal and Financial Services required for the duration of the project; and

(c) the expenditure plan relating to the use of Insurance. Legal and Financial Services in relation to the project.

Duty to patronise insurance, legal and financial services.

44.—(1) All operators, project promoters, alliance partners and Nigerian companies engaged in any form of business, operations or contract in any sector of the Nigerian economy, shall insure all insurable risks related to its business, operations or contracts with an insurance company, through an insurance broker registered in Nigeria under the provisions of the extant Insurance Act.

(2) All Nigerian Local Content Entities engaged in any form of regulated activities to which the provisions of this Bill apply shall submit to the relevant Department, a list of all insurance companies and insurance brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained and the expenditures made by the operator;

(3) The insurance programme shall include —

(a) a comprehensive report of —

(i) insurance covers obtained in the past six months of all insurance by expenditure,

(ii) a forecast of insurance covers required during the next six months, and

(iii) the projected expenditure for the covers;

(b) a list of —

(i) all insurance companies brokers through which insurance covers were obtained in the past six months,

(ii) the class of insurance cover obtained, and

(iii) the expenditures made by the operator; and

(c) the annual insurance premium budget for the past one year in Naira and foreign currencies.

Offshore placement of insurance risk.

45. No insurance risk in Nigeria shall be placed offshore without the written approval of the relevant Department and the Minister responsible for insurance

matters in Nigeria both of whom shall ensure that Nigerian local insurance capacity has been fully exhausted.

Engagement of Nigerian legal practitioners.

46.—(1) All operators, contractors and other entities engaged in any operation, business or transaction in any sector of the Nigerian economy requiring legal services shall retain only the services of a Nigerian legal practitioner or a firm of Nigerian legal practitioners whose office shall be located in any part of Nigeria.

(2) All operators shall submit to the relevant Directorate every six months, its Legal Services Plan (LSP).

(3) The Legal Services Plan (LSP) shall include —

(a) comprehensive report on:

(i) legal services utilized in the past six months by expenditure,

(ii) a forecast of legal services required during the next six months, and

(iii) the projected expenditure for the services;

(b) a list of —

(i) external solicitors utilized for legal services in the past six months,

(ii) the nature of work done, and

(a) the Chief Executive and Accounting Officer of the Board;

(b) responsible to the Council for the execution of the policies and the administration of the daily affairs of the Board; and

(iii) the expenditure made by the operator; and

(c) the annual legal services budget for the past one year in Naira and foreign currencies.

Nigerian Financial Institutions and foreign loans.

47.—(1) All operators, contractors and any other entity engaged in any operation, business or transaction in any sector of the Nigerian economy requiring financial services shall retain only the services of Nigerian financial institutions or organizations, except where the transaction relates to securing loan from a foreign financial institution at a lower interest rate compared to what is obtainable in the financial sector in Nigeria, provided also that in other any case of deviation from using financial institutions in Nigeria, the operator, contractor and /or entity shall obtain an approval from the relevant Department with cogent and verifiable reason(s) for justification.

(2) All operators, contractors and any other entity engaged in any operation, business or transaction in any sector of the Nigerian economy shall submit to the relevant Department, every six months its Financial Services Plan (FSP).

(3) The FSP shall include —

(a) financial services utilized in the past six months by expenditure;

(b) a forecast of financial services required during the next six months;

(c) the projected expenditure for the services;

(d) A list of —

(i) financial services utilized in the past six months,

(ii) the nature of financial services provided, and

(iii) the expenditure for financial services;

(e) a list of —

(i) financial services utilized in the past six months,

(ii) the nature of financial services provided, and

(iii) the expenditure for financial services made by the operator or its main contractors;

(f) all operators, contractors and sub-contractors shall maintain bank accounts in indigenous Nigeria banks in which it shall retain a minimum of eighty per cent of its total revenue accruing from its Nigerian operations.

Federal Government to encourage use of local financial institutions.

48. The Federal Government of Nigeria shall, for the purpose of enhancing the local capabilities to participate in the value chain of the Nigerian economy, put in place measures, including financial incentives that encourage the use of local financial institutions in financing the development of Nigerian Local Content in all sectors of the Nigerian economy.

PART VIII — NIGERIAN CONTENT TRUST FUND

Establishment of Nigerian Content (Special) Trust Fund.

49.—(1) For the purpose of providing financial support for the development and enforcement of Nigerian Content in the Nigerian economy to which the provisions of this Bill applies, every Minister supervising a Ministry, Extra Ministerial Department, Agency of the Federal Government, Federal Government Owned Company (either fully or partially owned) Federal Institution and Public Corporation shall upon the commencement of this Bill have powers to set up for his Ministry and other Federal Government agencies under the supervision of the ministry, a Trust Fund to be

known as "Nigerian Content (Special) Trust Fund" (also herein called "Trust Fund").

(2) Each Trust Fund set up for a Ministry under which a designated department operates shall comprise of:

(a) an amount constituting one per cent (1%) of the total revenue accruing to the Ministry, Extra Ministerial Department, Agency of the Federal Government, Federal Government Owned Company (either fully or partially owned) Federal Institution and Public Corporation under the supervision of the Ministry;

(b) a two per cent surcharge of every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any contract, operation, activity or transaction in the work of the ministry, extra Ministerial Department, Agency of the Federal Government, Federal Government Owned Company (either fully or partially owned) Federal Institution and Public Corporation under the supervision of the Ministry, which sum for the avoidance of doubt shall be deducted at source and be paid into the Trust Fund.

(c) all monies generated from the operations of the Department under this Bill which monies shall include but not limited to fines and fees.

(d) such monies in favour of the department as may be appropriated to meet the objective of this Bill by the National Assembly in the Federal Government budget;

(e) aids, grants and assistance from international bilateral; and multilateral agencies, non-Governmental organizations and the private sector;

(f) grants, donations, endowments, bequests and gifts, whether of money, land or any other property whatsoever, from any source; and

(g) monies derived from investment made by the Trust Fund.

Departments of the Nigerian Content Development to manage Funds.

50. The Fund established under clause 49 of this Bill shall be managed by the Department of Nigerian Content Development of the Ministry and shall subject to clause 51 of this Bill, shall only be administered for the execution of plans, programmes, projects and other relevant activities specifically aimed at increasing the development of Nigerian content in the sector of the economy in which the Ministry operates.

Use of Funds to defray cost of Administration of the Departments.

51. Each Directorate shall be entitled to twenty per cent from the fund established for its management in clause 49 of this Bill from which fund shall be defrayed all expenditures incurred by the Department in running its day to day affairs in implementing the provisions of this Bill as they relate to the activities of the Ministry under which the Department operates.

Establishment of Nigerian Content Development Committee.

52. There shall be set up by the President and Commander -in- Chief of the Armed Forces of the Federal Republic of Nigeria, a Committee to be known as the Nigerian Content Development Committee which Committee shall be under the supervision of the Vice President of the Federal Republic of Nigeria in the Presidency.

Composition of the Committee.

53. The Committee shall consist of the following —

(a) a Chairman who shall be the Vice President of the Federal of the Federal Republic of Nigeria;

(b) Ministers of the following Ministries:

(i) Finance;

(ii) Information and Communication Technology;

(iii) Petroleum;

(iv) Power;

(v) Science and Technology;

(vi) Solid Minerals and Steel Development;

(vii) Trade and Investment;

(viii) Transport; and

(ix) Works.

(c) a representative of —

(i) Nigerian Society of Engineers;

(ii) Manufacturers Association of Nigeria;

(iii) Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture;

(iv) Nigerian Bar Association;

(v) Association of Telecommunication Companies of Nigeria;

(vi) Licensed Electrical Contractors Association of Nigeria;

(vii) Nigerian Labour Congress;

(viii) Petroleum Technology Association of Nigeria,

- (ix) Nigerian Institute of Architects; and
- (x) Miners Association of Nigeria.
- (d) The Governor, Central Bank of Nigeria;
- (e) Managing Director, Bank of Industry;
- (f) Executive Secretary to the Committee.

Tenure of members.

54.—(1) Any person appointed under sub clause (1) (c) of clause 53 of this Bill to represent interest shall have a non renewable tenure of four years.

(2) A person appointed under sub clause (1) (c) of clause 53 of this Bill shall cease to hold office if —

- (a) he dies;
- (b) he becomes bankrupt;
- (c) he is convicted of a felony or any offence involving dishonesty or fraud;
- (d) he becomes of unsound mind or is incapable for any reason of carrying out his duties;
- (e) he is guilty of a serious misconduct in relation to his duties;
- (f) in the case of a person possessed of a professional qualification, he is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority made in respect of that member; or
- (g) he resigns his appointment by written notice under his hand to the President.

(3) Where a member ceases to hold office for any reason before the expiration of his term, another person representing the same interest as that member shall be appointed in his place to finish the unexpired residue of the term.

(4) A person appointed under sub clause (1) (c) of clause 53 shall be on part time.

Meeting of the Committee.

55.—(1) The Committee shall meet for the despatch of its business at least once every month and at such time as the Chairman may determine;

(2) The Chairman shall preside at every meeting of the Committee, and in his absence, the members present shall appoint a member from among themselves to preside at that meeting.

Remunerations and Allowances.

56. The Chairman and members of the Committee shall be paid such allowances and expenses as may be determined by Revenue Mobilization, Allocation and Fiscal Board.

Powers of the Committee.

57. The Board shall have the following powers to —

(a) to ensure that Departments of Nigerian Content Development established in the ministries by virtue of the provisions of this Bill comply with the provisions of this Bill in the performance of the functions and exercise of powers conferred on these departments under this Bill.

(b) supervise the activities of the Departments; and

(c) make rules and regulations for the proper functioning of the Departments.

Functions of the Committee.

58.—(1) The Committee shall provide a platform for information sharing and collaboration with respect to —

(a) upcoming projects in the Nigerian economy to which the provisions of this Bill applies, in which local participation is required to be facilitated;

(b) information on available local capabilities; and

(c) other policy proposals that may be relevant to Nigerian content development.

Fund of the Committee.

59.—(1) The Committee shall establish and maintain a fund to which all monies accruing to it shall be paid into or from which shall be defrayed all expenditures incurred by the Board.

(2) The Fund of the Committee shall consist of —

(a) five per cent of the Fund of each of the Directorates established under clause 51 of this Bill shall be deducted from the Fund of the Directorates and be paid into this Fund;

(b) all subventions and budgetary allocations provided by the Federal Government;

(c) interest and revenue accruing from savings and investments made by the Board; and

(d) other revenues accruing to the Board from any other lawful source.

Establishment of a Secretariat for the Committee.

60. There shall be established a Secretariat for the Committee which shall be responsible for the following —

(a) ensuring that the meetings of the Committee are effectively and efficiently organized and proper records of minutes made and kept;

(b) acting as the custodian of the Committee's documents and other property;

(c) communicating the decisions of the Committee to the Departments established under this Bill and any other relevant entity;

(d) liaise with the Departments and other relevant entities to ensure that the decisions of the Board to the Departments or such entities are complied with; and

(e) do anything legally necessary to be done to facilitate the carrying out of its functions under this Bill.

Appointment of the Executive Secretary for the Committee.

61. There shall be a Secretary to be appointed by the President on the recommendation of the Secretary to the Government of the Federal Government of Nigeria.

Qualification for the Executive Secretary.

62. The person to be appointed as an Executive Secretary shall be a graduate of at least 15 years out of which he has gained cognate experience in matters relating to Nigerian Local Content Development.

Functions of the Executive Secretary.

63. The Executive Secretary shall be —

(a) the Chief Executive and Accounting Officer of the Secretariat of the Committee;

(b) responsible for the day to day management of the affairs of the Secretariat of the Committee; and

(c) perform any other functions assigned to him by the Committee.

Remuneration.

64. The Executive Secretary shall be paid such remuneration as may be specified in his letter of appointment or as determined by the Revenue Mobilization, Allocation and Fiscal Commission using the scale applicable in similar organisation.

Removal and resignation of the Executive Secretary.

65.—(1) The President may remove the Executive Secretary if he is satisfied that it is not in the interest of the Committee or the public that the Secretary continues in that office.

(2) The Executive Secretary may resign his appointment by a written notice under his hand delivered to the President and Commander in - Chief of the Armed Forces of the Federal Republic of Nigeria.

Criminal offences.

66.—(1) It is a criminal offence for any person or entity —

(a) to neglect, fail or refuse to submit a plan, report or other document required to be submitted under this Bill.

(b) to knowingly make a false statement a plan, report or other document required to be submitted under this Bill;

(c) to connive with any person or entity to circumvent the performance of any duty imposed under this Bill;

(d) to hinder, obstruct or attempt to corruptly influence any public officer exercising any power or performing any duty under this Bill to do or omit to do anything contrary to the stipulation of any provision of this Bill;

(e) to fraudulently misrepresent or attempt to fraudulently misrepresent the fulfillment of Nigeria content obligation(s) under this Bill;

(f) to contravene any lawful directive(s) issued under this Bill;

(g) to engage in fronting practice(s);

(h) to engage in illicit fund transfer;

(i) to sell, transfer or assign any contract, licence, lease or any interest obtained on the basis of being a Nigerian company or a Nigerian citizen to any non Nigerian or a foreigner or a foreign company the subcontract without the authorization from the designated Department;

(j) to whom a contract or part of a contract has been under this Act, to connive or receive, in lieu of carrying out the contracted work, payment from a foreigner or foreign company;

(k) to fail or neglect to perform the contracted works or to abscond or abandon a contract before completion when the said contract was exclusively awarded to the person or company on the basis that such person is a Nigerian or Nigerian company;

(l) to assign or sell its shares or otherwise cease to be a Nigerian entity or citizen at any time after being awarded a contract or a subcontract on the basis of entity or person being a Nigerian company or Nigerian citizen;

(m) having lost being a Nigerian indigenous company or individual, continues to carry on business under such status;

(o) to obtain a contract or subcontract by fraud or misrepresentation of its true ownership or origin; and

(p) to carry out Shoddy work.

(2) A person or entity who commits an offence prescribed in —

(a) sub clause (1) (a) (b), (c), (d), (e) and (f) is liable on conviction, to a term of imprisonment not exceeding five years or to a fine of an amount not less than twenty million Naira but not exceeding fifty million Naira or to both imprisonment and fine;

(b) sub clause (1) (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) is liable on conviction, to a term of imprisonment not exceeding ten years or to a fine of an amount not less than thirty million naira but not exceeding sixty million Naira or to both imprisonment and fine.

(3) Where an offence prescribed in sub-clause (1) is committed by a body corporate, such body corporate and a director, manager, secretary or other similar officer of the body corporate or any local content entity who was purporting to act in any such capacity shall be taken to have committed that offence and shall be liable to be prosecuted and punished as required in sub clause (2).

(4) A person convicted of an offence referred to in subsection (1) shall in addition to the penalty prescribed in subsection (2) and (3), be barred from contracting with a person, or acting as director, manager, secretary or other similar officer of the body corporate for a period of ten years from the date of conviction.

(5) In this clause —

(a) "illicit fund transfer" means an initiative implemented where the financial benefits which ought to have been received by a Nigerian or a Nigerian indigenous company as a result of the implementation of the provisions of this Bill is diverted to a non Nigerian indigenous company under whatever guise.

(b) "unlawful fronting practice" means a transaction, arrangement or other act or conduct that is fraudulently made which directly or indirectly undermines or frustrates the achievement of the objectives of this Bill or the implementation of any of the provisions of this Bill or any other law relating to Nigerian Content.

Criminal offence relating to issuance of work permit and expatriate quota.

67. Any public officer charged with the responsibility of issuing work permits to non - Nigerians who issues any work permit to any non - Nigerian without verification from the relevant body as to the availability of labour and/or services to be rendered in Nigeria by the non - Nigerian applying for a work permit has committed an offence and shall upon conviction be sentenced to prison for a period of Two (2) years without an option of fine in a Correctional Facility.

General penalty.

68. A person who breaches any provision of this Bill for which no penalty is provided shall be liable to a fine not exceeding twenty million naira or a term of imprisonment not exceeding three years or to both.

Imposition of administrative penalties.

69.—(1) The Designated Department with the approval of its Minister, where the offender in clause 66 of this Bill admits culpability in writing and undertake as a first offender not to repeat the infringement of the provisions of this Bill, may as an

alternative to the prescribed penalty if the matter had proceeded to court for judicial determination and the offender had been found guilty, impose administrative penalties on such offender as follows

(a) in case of infringement of clause 66 (1) (a), (b), (c), (d), (e) and (f), an administrative fine not exceeding Sixty Million Naira for the infringement and one hundred million naira for a repeated infringement in respect of the same offence.

(b) in case of infringement of clause 66 (1) (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) an administrative penalty not exceeding eighty million naira for the infringement and one hundred & twenty million naira for a repeated infringement in respect of the same offence.

(c) in cases prescribed in clause 68 of the Bill, to an administrative penalty not exceeding thirty million naira for the infringement and one hundred & twenty million naira for a repeated infringement in respect of the same offence.

(2) The fines prescribed in subsection (1) shall be taken to be a civil debt and shall be paid into the consolidated fund within seven working days of their imposition and until the same are paid, the local content entity, contractor, supplier or subcontractor to which they are imposed shall cease carrying on the contracted activity.

(3) The administrative penalties shall carry interest at prevailing bank rate from the date they are imposed.

Right of Appeal.

70.—(1) Any person or entity aggrieved of the decision of any Department of Nigerian Content Development of any Ministry in relation to the implementation of the provisions of this Bill may lodge a complaint with the Nigerian Content Development Committee.

(2) The Committee shall, within thirty days from the receipt of the complaint, take a decision and immediately communicate same to the complainant and the Department against which the complaint was brought..

(3) The lodging of any complaint by the aggrieved shall operate as a stay of all threatened sanctions and action(s) by the Department or the Minister pending the determination of complaint of the person or entity.

Civil Dispute Resolution.

71.—(1) Any civil dispute arising from the terms and conditions of any agreement, memorandum of understanding, arrangement howsoever described between a foreign company or a foreigner and the Federal Government, any of the agencies of the Federal Government of Nigeria and/or any Nigerian company or citizen arising from the implementation of the provisions of this Bill shall be resolved, in the first instance, on an amicable basis and where parties cannot resolve their dispute by an amicable settlement, such dispute shall immediately be referred to the Chief Judge of the Federal High Court who shall within seven (7) days upon the receipt of the reference constitute an Arbitration Panel to arbitrate on the dispute and resolve the matters between the parties as quickly as practicable.

(2) The Arbitration Panel shall consist of not less than three (3) Judges of the Federal High Court among whom one of the Judges shall be appointed as Chairman.

(3) Where the dispute is in the nature of a bona fide investment dispute, and such dispute is not amicably settled as provided under Sub clause (1) of this Clause, it shall be resolved in accordance with the provisions of the Nigerian Investment Promotions Board Act, Cap. N117, Laws of the Federation of Nigeria, 2004.

(4) Where the dispute referred to in this Part cannot be resolved in accordance with the provisions of Sub clauses (1) and (3) of this Clause, any of the parties shall have the right to institute action for the enforcement of his/her right in a court of law with competent jurisdiction.

Regulations.

72.—(1) The Nigerian Local Content Development Committee upon consultation with relevant key industry stakeholders, government and regulatory agencies, chambers of commerce, professional associations of the sectors that this Bill covers shall by an instrument make regulations for carrying out the purposes of this Bill particularly for —

(a) establishing the minimum standards, facilities, personnel and technology for Nigerian Contents in the sectors covered by this Bill;

(b) specifying modalities involving operators as partners in training and development;

(c) setting out targets to ensure —

(i) maximum utilisation and steady growth of Nigerian companies engaged in exploration in the case of the extractive sector and in other preliminary activities or operations in the other sectors covered by this Bill;

(ii) seismic data processing in the case of the mining sector;

(iii) engineering design;

(iv) reservoir studies;

(v) gps surveys in the case of agriculture;

(vi) manufacturing and fabrication of equipment; and

(vii) other facilities as well as provisions of other support services in the Nigerian economy in the sectors covered by this Bill.

(c) setting targets for Nigerian Content on the type of joint venture or alliances to be achieved for public project(s);

(d) setting Nigerian Content targets for the growth of research and development in the sectors covered by this Bill ;

(e) require any operator or company or its professional employees engaged in the provision of engineering or other professional services in the sectors covered by this Bill to be registered with the relevant professional bodies in Nigeria;

(f) requiring any operator to invest in or set up a facility, factory, production units or other operations in Nigeria for the purposes of carrying out any production, manufacturing or providing a service otherwise imported into Nigeria;

(g) make auditing procedures to enable the Departments of Nigerian Content Development to conduct regular audits for the purposes of monitoring and enforcing compliances with the provisions of this Bill in their various ministries and agencies under their ministries; and

(h) regulating the Nigerian Content Certification.

Legislative oversight.

73. The Standing Committees in the Senate of the Federal Republic of Nigeria and the House of Representatives responsible for matters relating to Nigerian Content shall subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 as amended conduct periodic legislative oversight over the activities and operations of the Nigerian Content entities in relation to matters concerning the compliance with the provisions of this Bill.

Superiority of this Bill over other Acts.

74.—(1) Subject to the provisions of the Constitution and the Nigerian Oil and Gas Industry Content Act, 2010, this Bill shall take precedence over all existing laws relating to Nigerian Content in Nigeria and where there is a conflict between the provisions of this Bill and any other law, the provisions of this Bill shall prevail.

(2) From the commencement of this Bill, any reservation scheme in respect of which this Bill applies, issued for the promotion of Nigerian Content in public procurements that is inconsistent with the provisions of this Bill shall, to the extent of the inconsistency, be void.

Savings and Transitional.

75. Upon the commencement of this Bill, any Nigerian Local Content Entity carrying on an activity under any Nigerian Content arrangement shall continue carrying on that activity as if the same was contracted under this Bill.

Interpretation.

76. In this Bill, except the context indicates otherwise —

"Contracting Authority" means a Ministry, Department of Government or any other body established by Government and mandated to carry out a public function in a public private partnership;

"Department" means the Department of Nigerian Content Development in a Ministry set up by a Minister of the Federal Republic of Nigeria in the exercise of his powers under this Bill;

"Federal Government" means the Government of the Federal Republic of Nigeria;

"fronting" means to deceive or behave in a particular manner intended to conceal the fact that a company is not an indigenous Nigerian company;

"in-country spend" means the amount of money spent in Nigeria in relation to economic activities carried out by a person or an entity;

"joint venture" means an association where firms or persons are jointly and severally liable for the entire contract and shall designate one party to act as a leader with authority to bind the joint venture and to sign contract with the procurement entity;

"licensee" means a person granted a licence to undertake any regulated activity in any sector in the Nigerian economy except, the oil and gas sector;

"Lessee" means a person granted a lease to undertake any regulated activity in any sector in the Nigerian economy except, in the oil and gas sector;

"manufacture" means —

(a) to produce, assemble or process good or the making of any good or part of any good;

(b) the altering, ornamenting, finishing, assembling or processing in any form of any good; or

(c) the adapting for sale of any good, in which machinery operated by mechanical power is used;

"Margin of Preference" means extra mark up on price allowed a domestic contractor or supplier under the international competitive bidding;

"Minister" means a person appointed by the President and Commander in Chief of the Armed Forces of the Federal Republic of Nigeria under the Constitution of the Federal Republic of Nigeria 1999 as amended;

"Nigerian Electricity Supply Industry" means the totality of activities in the production, transportation and delivery of electrical energy to consumers and customers within Nigeria, including the generation, transmission, system operations, distribution, retail, and trading of electricity energy, as well as, the provision of support services to any of these regulated activities;

"Nigerian Company" means a legal entity:

(a) Incorporated under the Laws of the Federal Republic of Nigeria; and

(b) having its principal place of business located in Nigeria; and

(c) having at least 90% of its equity held by nationals of Nigeria;

(d) not having its assets controlled by foreign national or organization incorporated or organized outside Nigeria; and

(e) with not less than 95% of persons who will perform services under the contract whether employed directly or by a subcontractor being nationals of Nigeria;

"Nigerian Content" refers to the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human and material resources and services in the Nigerian economy;

"Nigerian Content entities" includes ministries, extra ministerial departments and agencies of the Federal Government, Federal Government Owned Companies (either fully or partially owned) Federal Institutions and Public Corporations, Private Sector Institutions, Business Enterprises and Individuals carrying out regulated business activities in all sectors of the Nigerian economy covered by this Bill.

"Operator" includes every licensee, lessee, any minerals title holder, their subsidiaries and joint venture partners and any Nigerian company, any foreign or company operating in any sector of the Nigerian economy except in the oil and gas sector;

"Plan" means Nigerian Content Development Plan required to be submitted under this Bill;

"public private partnership agreement" means an agreement entered into between the Federal Government or any of its agencies and a private sector company or companies pursuant to the provisions of the Infrastructure Concession Regulatory Commission (Establishment) Act 2005 or any enactment of like effect;

"public works" includes any construction work undertaken by a person, body or entity on behalf of the Federal Government of Nigeria or any of her agencies which is funded or financed in whole or in part with public money or with loan obtained on behalf of the Federal Government of Nigeria or any of her agencies;

"Regulated Activity" means an activity that could only be lawfully undertaken with the consent of the Federal Government of Nigeria or any of her agencies;

"SMEs" means Small and Medium Enterprises;

"sub contractor" means a third party to whom a contractor has entered into contract for the supply of goods or services;

"technology transfer" means activities and mechanisms aimed at transferring skills, knowledge, technologies and methods from foreign entity to a Nigerian company or citizen;

"value-addition" means the economic improvement of a product or service in the business activities in Nigeria.

Citation.

77. This Bill shall be cited as Nigerian Local Content Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to ensure:

*a legal framework is put in place for enforcement of Presidential Executive Orders on local content;

*the application of Local Content principles to transactions in all sectors of the Nigerian economy where regulated activities are carried out except the oil and gas sector;

*the development of the local capacities and capabilities in the value chain of the Nigerian economy through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes;

*the achievement of minimum local employment level and in-country spend for the provision of goods and services in the value chain of the Nigerian economy;

*the increment of international competitiveness of Nigerian domestic businesses;

*the achievement and maintenance of a substantial degree of control by Nigerians over development initiatives in Nigeria;

*the provision of a robust and transparent monitoring and reporting system to ensure delivery of Nigerian Content policies; and

*supervision and coordination of the implementation and monitoring of Nigerian Content development in the Nigerian economy.