PETROLEUM INDUSTRY ACT (PIA), 2021: IMPACT, CHALLENGES AND OPPORTUNITIES FOR LAWYERS

BEING A PAPER PRESENTED AT THE BREAKOUT SESSION OF THE NBA ANNUAL GENERAL CONFERENCE, HOLDING AT ENUGU ON TUESDAY, 26TH AUGUST, 2025

BY

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ABSTRACT

Given the various challenges bedeviling the Nigerian petroleum space under the Petroleum Act of 1969, as well as the numerous calls from stakeholders and the general public, there was an urgent need for the overhaul of the Nigerian Petroleum sector, giving rise to the enactment of the Petroleum Industry Act (PIA) in 2021. The passage of the Petroleum Industry Act into law by the National Assembly and its consequent signing into Law on 16th September 2021 by the former President and Commander-In-Chief of the Armed Forces of the Federal Republic of Nigeria, the now Late Muhammadu Buhari GCON, consolidated decades of fragmented legislation into a unified code with the gains of institutional restructuring, commercialization of the Nigerian National Petroleum Corporation (NNPC), transparent mechanisms for host community participation, greater incentive for oil and gas investment as well as the introduction of new fiscal terms and renegotiation of production sharing contracts (PSC) to boost investor confidence and renew Nigeria's commitment to deep water exploration. Thus, it is safe to say that the Petroleum Industry Act (PIA) 2021 remains the most comprehensive attempt at reforming the Nigerian oil and gas legal framework. However, as it is with most legislations, the PIA is not without shortfalls. This paper provides an analytical assessment of the Petroleum Industry Act (2021), its impact, emerging challenges, and recommendations for further review while exploring the various opportunities for lawyers.

1.0 INTRODUCTION: A LONG-AWAITED LEGISLATIVE REVOLUTION

1.1 The journey to the enactment of the PIA, spanned nearly two decades, with successive governments lacking the will-power to pass various alterations of the bill into law due to political, economic, and stakeholder disagreements and or sentiments. Prior to 2021, the Nigerian Petroleum Industry operated under an archaic legal regime anchored on the Petroleum Act of 1969 and a patchwork of regulations that hindered investment and aggravated community tensions. Thus, the PIA was introduced as a transformative instrument to address the systemic dysfunctions prevalent under the old regime of the Nigerian Petroleum Industry as it seeks to amongst other things, attract investment through competitive fiscal terms, improve regulatory efficiency by establishing clear institutional roles, enhance the benefits derived by host communities, improve accountability and transparency through the unbundling and commercialization of the NNPC, as well as promote gas development and energy diversification.

While the PIA is on the one hand famed for being one which attempts to radically overhaul the petroleum sector in Nigeria, it is equally reckoned with as one which carries a host of indeed welcoming innovations. Innovations which if properly and vigorously implemented will create a commercially-oriented and profit-driven national petroleum company; the codification of transparency, good governance, and accountability in the administration of the petroleum resources of Nigeria; the economic and social development of host communities; environmental remediation; and a business environment conducive for oil and gas operations to thrive in the country.

This paper therefore, seeks to undertake an analysis of these ambitions and the degree to which they are being actualized.

LEGISLATIONS REPEALED BY THE PIA.

Some of the legislations which the PIA repealed are hereunder listed as follows;

- **(a) Associated Gas Reinjection Act, 1979 CAP A25, Laws of the Federation of Nigeria, 2004, and its amendments;**
- **(b) Hydrocarbon Oil Refineries Act No. 17 of 1965, CAP H5, Laws of the Federation of Nigeria, 2004;**
- **(c) Motor Spirits (Returns) Act, CAP M20, Laws of the Federation of Nigeria, 2004;**
- **(d) Nigerian National Petroleum Corporation (Projects) Act No. 94 of 1993, CAP 124, Laws of the Federation of Nigeria, 2004;**
- **(e) Nigerian National Petroleum Corporation Act (NNPC) 1977 No. 33, CAP N123, Laws of the Federation of Nigeria, as amended;**

(f) Petroleum Products Pricing Regulatory Agency (Establishment) Act No. 8, 2003, etc.

Whilst repealing the afore-listed legislations, the PIA retained the Petroleum Act, Petroleum Profit Tax Act, the Deep Offshore and Inland Basin PSC Act, as transitional laws which are saved until termination or expiration of relevant oil prospecting licenses and leases granted thereunder[1].

THE IMPACT OF THE PIA

Institutional Realignment: Establishment of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and Nigerian Midstream and Downstream Petroleum Regulatory Authority

1.2 The Creation of the NUPRC and NMDPRA.

1.3 First amongst the sweeping changes which the PIA brings is the replacement of the Department of Petroleum Resources (DPR), with the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) herein after referred to as "the Commission" and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA), hereinafter referred to as "the Authority", these two bodies are the machinery through which the regulation of the Oil and Gas Industry will be implemented.

1.4 Hitherto, the Department of Petroleum Resources (DPR) had the statutory responsibility of ensuring compliance with petroleum laws, regulations and guidelines in the Oil and Gas Industry. The discharge of those responsibilities involved monitoring of operations at drilling sites, production wells, production platforms and flow stations, crude oil export terminals, refineries, storage depots, pump stations, retail outlets, any other locations where petroleum was either stored or sold, and all pipelines carrying crude oil, natural gas and petroleum products. The DPR's powers was all encompassing, cutting across the supervision of all Petroleum Industry operations being carried out under licenses and leases in the country; monitoring of the Petroleum Industry operations to ensure that they were in line with national goals and aspirations including those relating to Flare down and Domestic Gas Supply Obligations; ensuring that Health Safety and Environment regulations conformed with national and international best oil field practices; maintenance of records on Petroleum Industry operations,

[1] Section 317 of the Petroleum Industry Act (PIA) 2021

particularly on matters relating to petroleum reserves, production/exports, licenses and leases; advising the government and relevant government agencies on technical matters and public policies that may have impact on the administration of petroleum activities; processing industry applications for leases, licenses and permits, amongst others.

1.5 With the advent of the PIA and the consequent creation of the two regulatory agencies i.e., the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA), the erstwhile centralized functions and powers of the DPR have been split between these two bodies, now saddled with the technical and commercial regulation of petroleum operations in their respective sectors, and they have the power to acquire, hold, and dispose of property, as well as sue and be sued in their own names.

1.6 The objectives of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) include:

(i) regulating upstream technical, commercial and operational activities;
(ii) implementing government policies for upstream petroleum operations;
(iii) ensuring strict implementation of upstream environmental laws and policies.[2]

1.7 The objectives of the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA) include:

(i) regulating midstream and downstream technical and commercial activities;
(ii) promoting a competitive market for midstream and downstream operations;
(iii) ensuring strict compliance with environmental laws for midstream and downstream operations;
(iv) developing and enforcing a framework for the applicable tariffs and pricing, for natural gas and petroleum products.[3]

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[2] Section 6 of the Petroleum Industry Act (PIA) 2021
[3] Section 31 of the Petroleum Industry Act (PIA) 2021

1.8 The functions, powers and obligations of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) are provided in sections 7, 8 and 9 of the PIA, whereas, the functions of the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA) are captured in section 32 of the PIA.

1.9 The PIA now requires companies intending to engage in upstream, midstream and downstream operations to register and use a separate company for each stream.

1.10 One area of major concern is the wide range of the powers and/or functions of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) as well as the Minister of Petroleum wield.

1.11 The Commission is expected to provide a model license and model lease to include provisions allowing NNPC Limited the right to participate up to 60% in a contract.

1.12 The Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) is now responsible for the grant, renewal and modification of licenses for operations in the midstream and downstream sectors, however, for the establishment of refineries, the license shall be issued by the Minister.

1.13 Under the PIA, the Commission and Authority enjoy financial and operational autonomy, and are charged with the regulation of the upstream sector on the one hand, as well as the midstream/downstream sector, respectively of the petroleum industry. This is a clear departure from the former system which had the Department of Petroleum Resources (DPR) as the sole regulator with its attendant nepotism and opacity in its operations. The creation of the Commission and the Authority has ushered a new era of transparency and improved regulatory oversight thereby boosting investor confidence in Nigeria’s Oil and Gas sector, which has in turn, increased the efficiency within the Nigerian petroleum space.

The Establishment and Incorporation of The Nigeria Petroleum Company Limited.

1.14 This is perhaps the most celebrated reform under the PIA. Following the enactment of the PIA, the Nigerian National Petroleum Corporation (NNPC) metamorphosed into a fully commercial entity known as the Nigerian National Petroleum Company Limited (NNPC Limited)[4] , a limited liability company, registered with the Corporate Affairs Commission pursuant to the Company and Allied Matters Act (CAMA) 2020. Under the PIA, the NNPC Ltd operates without direct government subvention, has a defined corporate governance structure and a Board, publishes audited accounts and pays dividends to shareholders which are the Federal Ministry of Finance Incorporated and Federal Ministry of Petroleum Incorporated, which both hold the shares of NNPC Limited in equal proportions. The PIA mandates the NNPC to finance its activities without federal subventions, raise capital from its operations, sustain itself as a purely commercial business and compete on terms with other operators in the oil and gas industry.

1.15 The profits reported by NNPC Limited in 2023 and 2024, for the first time in decades, reflect considerable gains in the operational efficiency of the Act although there are still concerns about the independence and transparency of the NNPC Limited. In August 2024, the new NNPC Limited announced that in the year 2023 it recorded an unprecedented net profit of N3.297 trillion which represents a 28% increase in its year-on-year profit[5]. According to NNPC Limited, this represents the highest ever recorded by the NNPC in Forty –Six (46) years[6]. Beyond restructuring, the commercialization of NNPC Limited aligns with the Nigeria's petroleum governance regime, with global best practices, paving the way for potential privatization, listing on the Nigerian Stock Exchange and attracting more foreign direct investments (FDIs).

1.16 One of the most interesting outcomes of this new commercial posture is the rise in legal and professional spending. In 2022, these fees stood at ₦44.4 billion, but by 2023 they had increased to ₦182.8 billion. This surge reflects the growing complexity of NNPC Limited's commercial dealings from high value contract negotiations in compliance with evolving regulatory requirements and highlights the expanding role and earning potential for

[4] Section 53 Petroleum Industry Act (PIA), 2021

[5] Nigerian National Petroleum Company Limited (NNPCL) Report of the Directors and Consolidated and Separate Financial Statements for the Year Ended 31 December 2023

[6] Nigerian National Petroleum Company Limited (NNPCL) Annual Report and Press Release

legal practitioners in Nigeria's oil and gas industry[7]. This therefore illustrates that the PIA has brought about an increased demand for legal services and the expertise of Legal practitioners.

Fiscal and Contractual Innovations to ensure a Competitive Investment Climate

1.17 One key objective of the PIA, was to reform and strengthen Nigeria's revenue generation architecture within the petroleum industry, which is a sector that remains central to the nation's economy. Prior to the enactment of the PIA the fiscal framework governing petroleum operations was outdated, overly complex, and unattractive to potential investors. The PIA has introduced a more streamlined and transparent fiscal model that seeks to increase government revenue while ensuring the Nigerian Petroleum Industry remains competitive on a global scale. The PIA introduced basically Two (2) fiscal models comprising of:

- **Hydrocarbon Tax (HCT)** which applies only to crude oil in the upstream operations. [8]
- **Companies Income Tax (CIT)** which applies across the entire petroleum value chain. [9]

1.18 The tax regime under the PIA, has simplified tax administration and tends to eliminate duplicative levies. This has allowed for clarity and user-friendliness in Tax administration within the Oil and Gas Industry which is in itself, an incentive for investment in the petroleum industry.

1.19 The PIA, also introduced a new system of royalty payments based on production volume, terrain and global oil prices. The new initiative ensures that the government earns more during periods of high oil prices, while also easing the burden on operators when prices fall thereby helping to balance national revenue expectations with market realities. Importantly, the PIA has incentivized Oil exploration in the frontier basins and deep offshore which were hitherto unattractive to the international oil companies because of the huge capital outlay in those areas. This initiative has resulted in the commercial exploitation of petroleum, thereby opening up oil exploration in

[7] Nigeria National Petroleum Company Limited (NNPCL) Report of the Directors and Consolidated and Separate Financial Statement for the Year ended 31 December 2023

[8] Sections 259(a) (i) and 260 Petroleum Industry Act (PIA) 2021

[9] Sections 259(a)ii and 302 Petroleum Industry Act (PIA) 2021.

areas which were hitherto unattractive as a result of the huge capital outlay in those areas.[10]

INCREASED REVENUE GENERATION

1.20 Since the advent of the PIA, there has been an astronomical increase in government revenue with the Federal Government earnings from restructured royalties, taxes, and dividends from NNPC Ltd rising from N6.42 trillion in 2021 to N8.81 trillion in 2022, representing a 37.32 % increase. During this period profit-after-tax also increased from N674Billion recorded in 2021 to N2.523 Trillion.[11]

1.21 In the year ending December 2023, the NNPC Limited announced a net profit of N3.297 trillion which reflects a 28% increase from the N2.548 trillion profit recorded in 2022[12], this according to the NNPC Limited, remains the highest in the company's 46-year history[13]. Also, Preliminary reports from the 2024 Reports of the NUPRC, puts Nigeria's revenue from Oil at N12.6 Trillion[14] which also highlights the gains of the PIA in revenue generation.

EVOLUTION OF CONTRACTUAL DYNAMICS AND LICENSING FRAMEWORK

1.22 Another key impact of the PIA is the restructuring of contractual and licensing arrangements in the Nigeria's oil and gas industry. The old regime, created an atmosphere of uncertainty with respect to the fate of Production Sharing Contracts (PSC's), that were either expiring or had expired and were due to be renewed with the negotiation for their renewal been indefinite for periods stretching from three to four years without resolution. Also, these Production Sharing Contracts (PSC's) were not free from vague terms and standardization. However, under Section 311(2) of the PIA, there is a definite period of 12 months for the conclusion of such, PSC's to ensure certainty of investment and time-bound negotiation protocol. This has greatly enhanced investors confidence and increased Oil exploration in the deep basins which has a longer incubation period. The PIA has further introduced the use of Incorporated Joint Ventures (IJV's) and other contract

[10] Nigeria National Petroleum Company Limited (NNPCL) Report of the Directors and Consolidated and Separate Financial Statement for the Year ended 31 December 2023

[11] https://www.arise.tv>NNPC Announces N2.52trn Profit, N8.8trn Revenue in 2022. Accessed on 8th August 2025

[12] https://punching.com>NNPC declares record N3.3tn profit in 2023, announces N2.1tn dividend by Makua Ubanagu. Accessed on 8th August 2025

[13] Nigerian National Petroleum Company Limited (NNPCL) Press Release 19th August 2024

[14] The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) 2024 Annual Report

models that promote transparency, efficiency and risk-sharing[15]. These changes have improved investor confidence and strengthened Nigeria's position as a competitive destination for energy investment in the global Oil market. The introduction of standardized contract models such as the Production Sharing Contracts (PSC's) and Incorporated Joint Venture Agreements (IJVA's) and a more transparent contract terms and structures that provide clarity on the roles, responsibilities and entitlements of all parties has reduced the ambiguities and risks, hitherto associated with the old regime.

1.23 The Act further overhauled the licensing framework by clearly distinguishing between a Petroleum Prospecting License (PPL) previously referred to as Oil Prospecting License (OPL) [16] and a Petroleum Mining Lease (PML) previously referred to as Oil Mining Lease (OML)[17] in clarifying that while the Petroleum Prospecting License (PPL) is granted for exploration and appraisal activities, the Petroleum Mining Lease (PML) is issued for the commercial development and production of petroleum. This distinction helps to eliminate the confusion and uncertainty from the past regime and aligns Nigeria's licensing system more closely with international best practices.

STATUTORY RELATIONSHIP BETWEEN THE HOST COMMUNITIES AND THE SETTLOR.

1.24 In an effort to promote and sustain a harmonious relationship and forestall the hitherto unending conflicts between the holder of an interest in a Petroleum Prospecting License (PPL) or a Petroleum Mining Lease (PML) otherwise known as the "Settlor"[18], and the communities appurtenant to the area where the Settlor carries out its operations, otherwise known as the "Host community", the PIA in Chapter 3, created a frame-work to support the development of these Host Communities. The Act introduced the Incorporation of the Host Communities Development Trust (a body corporate which is registered by the Corporate Affairs Commission). Section 235(1) of the PIA provides that:

> **"Settlors shall incorporate host communities' development trust (in this Act referred to as "the trust" for the benefit of the host communities which the settlor is responsible."**

[15] Section 65 Petroleum Industry Act (PIA) 2021
[16] Section 72 Petroleum Industry Act (PIA) 2021
[17] Section 81 Petroleum Industry Act (PIA) 2021
[18] Section 3178 Petroleum Industry Act (PIA) 2021

1.25 Over the years leading to the enactment of the PIA, there was a growing discontent by the Host Communities which felt shortchanged rightly or wrongly, that the activities of the Settlor on their land resulted in environment pollution and degradation of their habitat without adequate compensation and or development of the affected area to mitigate the devastation therein. This in turn led to hostilities and tension between the Settlor and the Host Community which led to various Memoranda of Understanding (MOUs) between the Settlors and the Communities but did not sufficiently doused tension between them since the MOUs did not carry any coercive legal backing. The PIA in a bid to arrest the situation and enable a more peaceful co-existence between the Settlors and Host Communities, provides for the mandatory establishment of the Host Community Development Trust (HCDT).[19] Section 235(4) of the Act provides that:

> **"The settlor shall for the purposes of settling up the trust, in consultation with the host communities, appoint and authorize a board of trustees (the "Board of Trustees"), which shall apply to be registered by the Corporate Affairs Commission as a corporate body under the Companies and Allied Matters Act in the manner provided in this Chapter."**

1.26 The objectives of the Host Communities Development Trust (HCDT) are captured under Section 239 of the PIA to include the following;

> **"239 (1) The Constitution of the host communities development trust shall allow the host communities development trust to manage and supervise the annual contribution of the Settlor contemplated under this Chapter and any other sources of funding.**
>
> **(2) The objectives of the host communities development trust shall be specified in the constitution as set out in subsection (3)(a) to (e).**

[19] Section 235 Petroleum Industry Act (PIA) 2021

(3) The objectives of the host communities development trust shall include, to –

(a) finance and execute projects for the benefit and sustainable development of the host communities;
(b) undertake infrastructural development of the host communities within the scope of funds available to the Board of Trustees for such purposes;
(c) facilitate economic empowerment opportunities in the host communities;
(d) advance and propagate educational development for the benefit of members of the host communities;
(e) support healthcare development for the host communities;
(f) support local initiative within the host communities, which seek to enhance protection of the environment;
(g) support local initiative within the host communities, which seek to enhance security;
(h) invest part of available fund for and on behalf of the host communities;
(i) assist in any other developmental purpose deemed beneficial to the host communities as may be determined by the Board of Trustees.

1.27 The Settlor is to assess the needs of the community to draw up a community development plan to help the Settlor properly examine and determine the projects to be undertaken by the HCDT. It provides in section 236 for the timely incorporation of the HCDT and for an annual contribution of an amount equal to 3% of the Settlors actual annual operating expenditure of the preceding financial year to the applicable Host Communities Development Trust Fund which the Act exempts from taxation[20]. This innovation replaced the voluntary non-mandatory corporate social responsibility contribution by Settlors under the old

[20] Section 256 Petroleum Industry Act (PIA) 2021

regime with a mandatory and definite contributions. Also, failure of the Settlor to incorporate a Host Community Development Trust after been informed in writing by the Host Community is a ground for the revocation of the license or lease of the defaulting Settlor[21].

1.28 According to the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) 2024 Annual Report, a total number of Two Hundred and Seven (207) applications were made to it for the incorporation of Host Communities Development Trusts, out of which One Hundred and Fifty-Four (154) were approved by the Commission for incorporation and One Hundred and Thirty-Six (136) have so far been incorporated by the Corporate Affairs Commission (CAC). These new changes and innovations are a reflection of the PIA's impact in managing the relationship between Host Communities and Settlors which in turn has resulted to a decline in unrest and pipeline vandalism in areas where HCDTs have been established. This reflects improved community relations and local ownership of the community development efforts of the Oil companies which has in turn being a boost for Oil production and investment in the oil sector in Nigeria.

ENVIRONMENTAL MANAGEMENT

1.29 For decades, concerns about the effect of Oil and Gas Industry's exploration on the environment have generated public discourse as laws and regulations have over the years been largely ineffective in mitigating the damage on the environment. The PIA, amongst others, was enacted to create an effective mechanism for protecting the environment while optimizing the benefits of petroleum resources exploitation. The various measures put by the PIA include:

a. Mandatory submission of an environmental management plan to the NMDPRA and NUPRC, where the project requires an environmental impact assessment.[22] The Act apart from stipulating a time frame for the submission of the plan[23] stipulates that such project will only be approved if the Applicant has the capacity or has provided for the

[21] Section 238 Petroleum Industry Act (PIA) 2021
[22] Section 102(1)(b) Petroleum Industry Act (PIA), 2021
[23] Section 102(1)(a)(b) Petroleum Industry Act (PIA),2021

capacity to rehabilitate and manage negative impacts of its operations on the environment and it complies with relevant environmental laws[24]. This provision is commendable as it mandates an operator in Nigeria's Oil and Gas industry to have a proactive environmental remediation plan in the likely event that its operations adversely affect its immediate environment.

b. Section 104 of the Act makes gas flaring illegal except in emergency cases or exemption by the Commission or where it is an acceptable safety practice under established regulations. Any licensee or lessee in breach of this section is liable to a fine as prescribed by the Commission and monies received from gas flaring penalties shall be used for the purpose of environmental remediation and relief of Host Communities of the Settlors on which the penalty is levied.[25] This is a novel development in the oil and gas industry as this novel initiative makes environmental justice complete at not only prescribing punishment but creating a remedy for the victim. Furthermore, Section 105(2) of the Act authorizes the Commission to take free of charge natural gas that is destined for flaring at the flare stack. This is in contrast to the previous situation where it was only a part of a subsidiary legislation (Gas Flare (Prevention of Waste and Pollution) Regulations 2018 (Particularly Section 2(1)). The PIA's provisions empowering the Commission to take ownership of flare gas is a positive development and solidifies the government's proprietary and ownership right over flared gas.

c. The Act provides for the installation of metering equipment which must conform to the standards set by the Commission, for the measurement of gas that may be flared or vented from any facility. (section 106(1) PIA)). A breach of this provision would result in liability to pay a fine as prescribed by the Commission or Authority. This provision also helps in gathering necessary data and statistics on the amount of gas flared in Nigeria. It goes without saying that where this provision is implemented, it will reduce the rate at which gas is flared and punish in harsh terms violators of the gas flaring provisions under the PIA.

d. Section 108 of the PIA makes it mandatory for an operator in Nigeria Oil and Gas Industry to within 12 months of the effective date of the

[24] Section 102(3)(b) Petroleum Industry Act (PIA),2021
[25] Section 104 (4) Petroleum Industry Act (PIA),2021

Act, submit a formal Gas flare elimination and monetization plan which compels operators to curb wasteful and environmental damaging practices. It also monetizes the hitherto flared gas as operators get financial incentive through the Gas Infrastructure Fund to build Gas infrastructure projects thereby encouraging natural gas utilization options. This initiative supports clean energy, improving local air quality and safeguard ecosystems. The Commission's oversight functions ensures that flare reduction strategies are actionable, measurable and in sync with national environmental and energy policies. The section complements the PIA's objective of increased revenue, transparency and commitment to harmonious co-existence between Settlors and the Host Communities, environmental sustainability and the welfare of the community.[26]

e. Section 103 of the PIA provides for mandatory financial contribution for remediation of environmental damage under a compulsory environmental management plan and makes such contribution a condition precedent for the grant of a license or lease. The Act expressly provides for what determines the amount to be paid which include, the size of operations and the level of environmental risks that may exist. For accountability and transparency, the Act provides that the Environmental Remediation Fund shall be subject to Audit by the licensee and lessee in accordance with guidelines given by the Commission or Authority. Where a licensee or lessee fails to rehabilitate or manage or is unable to undertake the rehabilitation or management of any negative impact on the environment, the Commission or Authority, upon written notice to the holder, may apply the fund to rehabilitate or manage the negative environmental impact. This provision is capable of having a significant impact on the petroleum industry as the establishment of a special fund for environmental remediation adds fiscal certainty into the sustainable environment management framework in the oil and gas industry thereby making resources readily available to address environmental damages that may occasionally occur from oil and gas exploration activities.

[26] Okoro & Arinze-Umobi: The Petroleum Industry Act 2021 and Quest for Stricter Environmental Regulations in Nigeria's energy sector

STRENGTHENING DISPUTE RESOLUTION MECHANISMS

1.30 Conflicts are unavoidable in human relationships and the Nigeria Oil and Gas Industry is no exception. The PIA has established settled dispute resolutions procedures to settle potential disputes and promote a business climate conducive for petroleum operations while ensuring the peaceful co-existence between the Settlors and Host Communities.

1.31 The Nigeria Upstream Petroleum Host Communities Regulations (NUPHCR) 2022 was enacted pursuant to section 10(f), 234(2)(3) and 235(6)(a) of the Act, which provides for grievance remedial mechanism and conflict resolution procedures. Where disputing parties are unable to settle their differences within 30 days after service of the dispute notice, any of the contending parties may refer the dispute to the Alternative Dispute Resolution Center (ADRC) which is established under the National Oil and Gas Excellence Center (NOGEC) for mediation. Section 33 of the PIA gives power to the Authority to enact rules pertaining to consumer protection and dispute resolution. However, by virtue of section 216, the Authority must consult stakeholders, subject to circumstances pertaining to national interest. The Authority can mediate conflicts involving parties rights to access areas for midstream and downstream gas and petroleum operations under sections 163, 179 and 180 of the Act. The PIA gives the Commission the Authority the power to decide on the date of first sale of chargeable oil or the end of petroleum operations in cases where there is disagreement and its decision on the issue is final.[27]

Model contracts for licenses and leases must include provisions for dispute resolution, such as expert determination, mediation, arbitration or conciliation, in accordance with section 76(f) of the Act, which is a novel provision.

Where a licensee, lessee or permit holder disregards an expert determination, arbitration award or judgement resulting from the dispute resolution provisions in the license or lease, the Minister may revoke the license, lease or permit for both upstream, mid/downstream operations[28].

With regards to taxes and general disputes, the Tax Appeal Tribunal (TAT) and the Federal High Court (FHC) have jurisdiction to hear these matters. In recent times ADR mechanisms such as Mediation, Negotiation,

[27] Section 318 Petroleum Industry Act (PIA) 2021

[28] Section 120(j) Petroleum Industry Act (PIA) 2021.

Arbitration, Conciliation and Expert mechanism have been used to strategically resolve disputes arising from oil and gas operations as opposed to the traditional manner of resolving disputes through court litigation[29]. According to the Nigerian Upstream Petroleum Regulatory Commission Annual Report 2024, on Mediation between co-awardees towards resolution of disputes, its Legal Unit has facilitated the resolution of the lingering issues between Metropole Petroleum & Gas Limited and YY Connect Consulting Limited ('Awardees') which prevented the Awardees from finalizing their SPV agreements in compliance with the terms of the 2020 marginal field bid round. The Commission's Legal unit also mediated between the Co-Awardees of Iheoma Marginal Field (now "PPL" 226), to resolve the outstanding issues regarding the inability to align and close out on the Special Purpose Vehicle (SPV) Formation Agreement for PPL 226. This underscores the fact that non-adversarial processes are a toast of players in the Oil and Gas Industry and it is therefore imperative for the Bar to initiate programs to build the capacity and competence of its members in these areas.

LOCAL CONTENT

1.32 A key element of the PIA, is stakeholder involvement, particularly the development of favourable relationships between indigenous companies, international oil companies and the Nigerian government. Deep local content in Nigeria's Oil sector can be encouraged by long term growth, fewer conflicts and more regulatory compliance. One of the objectives of the PIA as stated in Section 2 thereof, is to deepen Local Content Practice within the Nigeria Oil and Gas Industry. Prior to the Nigeria Oil and Gas Industry Content Development Act (NOGIDA), majority of oil and gas operations were conducted by foreign oil companies with its attendant consequences which include high product cost, lack of skill transfer, unemployment, excessive dependence on other nations and huge capital flight. In order to improve and increase the involvement of indigenous oil companies in the sector's supply chain and create employment opportunities for the local work force, the Nigeria oil and Gas Content Development Act was enacted. The direct contribution of the extractive sector to economic growth is frequently viewed as less important than the generation of local value. The PIA creates an environment that encourages Nigeria involvement in the oil and gas sector in order to reach the local

[29] Enobong, Mbang Akpambang, Ph.D. & Omolade Adeyemi Oniyinde, Ph.D. Oil and Gas-Related Disputes Resolution:Trajectory under the Nigerian Petroleum Industry Act 2021.

content target. The PIA therefore complements the Nigeria Oil and Gas Industry Content Development Act 2010. The ratification of the Nigerian Oil and Gas Industry Content Development Act 2010, by the PIA, has created a huge impact in deepening local content in the Oil and Gas Industry. The Nigeria content position is supported by sections 109 and 110 of the PIA, which establish the domestic gas obligation, mandates gas producers to fulfil specific domestic obligations to key sectors of the Nigerian economy and imposes sanctions for non-compliance. This inclusion of the local work force in the oil and gas industry by the Act has significantly contributed to the nation's growth and development. These local content provisions are particularly significant as they require the prioritization of Nigerian labour, products and services in the oil and gas industry. This does not only boost the local economy but also strengthens the capacity of indigenous companies and work force, resulting in job creation and economic growth and development.

GAS SECTOR DEVELOPMENT

1.33 The PIA, significantly advances Nigeria's efforts to reposition natural gas as the cornerstone of its energy and economic strategy. By elevating the role of gas in the nation's energy mix, the Act lays the foundation for industrial growth, expanded electricity generation, and a gradual shift from heavy reliance on crude oil revenue.

1.34 To stimulate investment, the PIA introduces a range of fiscal incentives tailored to gas projects, such as Gas Sector Infrastructure Fund, reduced royalty rates and tax reliefs,[30] making gas development more attractive and commercially sustainable. It also supports the building of critical gas infrastructure, facilitating and encouraging public-private partnerships in gas infrastructure as well as risk-sharing investment models in business initiatives such as gas pipelines and processing facilities, to enhance domestic supply and open up export opportunities in the gas sector. The PIA provides express funding mechanism for the Gas Infrastructure Fund[31] and the purpose for the establishment of the Fund.[32]

1.35 Furthermore, the Act fosters the growth of the domestic gas market by encouraging gas to power initiatives, promoting the adoption of compressed natural gas (CNG) and liquefied petroleum gas (LPG) and

[30] Section 52 Petroleum Industry Act, 2021
[31] Section 52(7) (a-e) Petroleum Industry Act,2021
[32] Section 52 (10) (a-c) Petroleum Industry Act, 2021

improving access to cleaner energy for homes and businesses. These measures align with Nigeria's broader goals of achieving energy security, promoting environmental sustainability and leveraging its vast gas reserves for long term development.

ENHANCING INVESTMENT AND EASE OF DOING BUSINESS

1.36 One of the significant outcomes of the Petroleum Industry Act is the improvement of Nigeria's business environment, particularly in the oil and gas sector. The Act introduces a more transparent, consistent, and investor-friendly regulatory framework, which has helped to reduce uncertainties and build investor confidence[33]. By clearly defining fiscal terms, reducing bureaucratic overlaps and consolidating regulatory responsibilities under newly established bodies such as the Commission (NUPRC), the PIA makes it easier for investors to understand and engage with the regulators and the industry. This streamlined approach has already stimulated significant investment, with notable growth in deep water basin activities. Recent NUPRC reports highlight increased capital inflows into these deep-water projects, reflecting renewed investor confidence in Nigeria's upstream industry.

2 CHALLENGES ASSOCIATED WITH THE PETROLEUM INDUSTRY ACT, 2021.

2.01 As earlier stated, the PIA, was enacted to restructure and reform Nigeria's oil and Gas sector by providing a comprehensive legal, governance, regulatory, and fiscal framework. There is no gain saying the fact that the PIA has been able to restructure the petroleum sector and solve some of the problems prevalent under the old regime. However, there are still challenges in the petroleum industry and the PIA in its bid to cure the ills prevalent in the old regime, has inadvertently created new problems. The primary challenges lie not in enacting the Act, but in its effective implementation. Critical challenges associated with the PIA include gaps and omissions by the draftsman that require amendment and reform to fully align the legislation with international best practices.

2.02 The key challenges associated with the PIA can be categorized as follows:

- **Legal challenges**
- **Financial/Economic challenges**

[33] Section 2-5 Petroleum Industry Act(PIA) 2021

- **Political challenges**
- **Regulatory challenges**

2.03 <u>LEGAL CHALLENGES</u>

FLOODGATES OF DISPUTES AS A RESULT OF VAGUENESS, AMBIGUITY AND LACK OF CLARITY AND OR PRECISION IN THE DEFINITION SECTION OF THE PIA :

2.04 Certain provisions of the PIA, particularly Chapter 3 which deals with relationship between the Host Communities and Settlors, has led to a plethora of legal disputes and conflicts. The rise of these disputes stem from the introduction of stipulations that obligate Oil and Gas Operators, including the Settlors who are holders of Petroleum Mining Licenses or Petroleum Prospecting Licenses, to make an annual contribution to the applicable Host Communities Development Trust Fund.[34]

2.05 The definition of what a Host Community is under the PIA, is also a cause of concern and agitation. The definition is left to imagination, as the PIA defines a host community as,

> **"Communities situated in or appurtenant to the area of operation of a Settlor, and any other community as a Settlor may determine under Chapter Three of this Act."[35]** (Underlining for emphasis)

2.06 **Section 6 of the Nigeria Upstream Petroleum Host Communities Development Regulation 2022** defines Host Communities as; "A host community shall be as defined under **Section 318 of the Act**. In determining host communities situated in or appurtenant to shallow water and deep-water areas of operation, the following criteria shall apply—

a) a littoral community to a deep-water area of operation located along the Gulf of Guinea of the Nigel an shoreline up to about 500 metres inland, provided that such community is gazetted by the National Boundary Commission;

[34] Section 240 (2) of the Petroleum Industry Act, 2021.
[35] Section 318 of the Petroleum Industry Act, 2021.

b) littoral communities to shallow water areas of operations within Nigeria's shallow waters, identified as a host community by a settlor prior to the enactment of the Act, and any other community identified and determined by the settlor;
c) littoral communities to shallow water and deep-water areas of operations, which include any other community selected by the settlor pursuant to section 235(3) of the Act; and
d) littoral communities to deep-water area of operations shall be categorized by their respective state coastlines and shall be assigned to a settlor by the Commission for the purpose of setting up the trust and other responsibilities provided under Chapter 3 of the Act."

2.07 What constitute "**appurtenant to the area of operation of a Settlor"** is open ended and without a clear and precise definition. Furthermore, the definition of a host community under the PIA confers on the Settlor the absolute right to determine its host community. This in itself has resulted in a host of litigations particularly, where the Settlor refuses to recognize a community as a host community, thus giving rise to unnecessary disputes.

2.08 This lack of precise definition of a Host Community has also led to the proliferation of autonomous communities going into disputes with Settlors and License holders so as to be entitled to the annual three percent (3%) of the Settlors' operating expenditure of the preceding financial year. Furthermore, the PIA by virtue of the NUPRC Regulation,[36] which provides that the Settlor determines the Host Communities and the incorporation of the Trust Fund, may inadvertently undermine the objective of the PIA which is to foster peace, stability, and sustainable development in oil-producing areas.

2.09 These floodgates of disputes are as a result of the PIA failing to set out a clear definition of who a Host Community is, thereby creating legal uncertainties and institutional frictions that heighten litigation risks and

[36] Regulation 7 of the Nigeria Upstream Petroleum Host Community Development Regulation; S. 318 of the PIA 2021

unrest which the PIA initially seeks to prevent, consequently creating a fertile ground for legal disputes as parties adopt conflicting definitions.

2.10 The definition of "Frontier basin" under the PIA is vague, ambiguous and open ended. The PIA defined a frontier basin as "basins where hydrocarbons have not been carried out or previous commercial discovery of oil and gas have not been made or an area that is undeveloped and includes Anambra, Dahomey, Bida, Sokoto, Chad and Benue trough or as may be declared by the Commission through a regulation."[37] The PIA establishes that 30% of the profits in oil and gas from NNPC Limited should go to the Frontier Exploration Fund escrow account.[38] The perceived aim is to promote the exploration of the frontier basins, develop exploration strategies and portfolio management for the exploration of frontier acreages, identify opportunities and increase information about the petroleum resources in those areas and undertake studies, analyze and evaluate unassigned frontier basins in Nigeria.[39]

2.11 Though this definition, may be seen as straight forward, it is plagued with ambiguities. This is because the PIA does not provide a legal definition of what constitutes a "frontier basin" but rather delegates the interpretation to the Commission, which in turn doesn't give a legal definition of what a frontier basin entails. By implication, the Act is providing for the exploration of oil and gas assets in other regions in Nigeria, other than the Niger Delta region, where oil and gas resources are in commercial quantity. The issue with this initiative is whether this frontier exploration is for a particular region in Nigeria or it is the whole of Nigeria. This ambiguity stems from the fact that the PIA failed to clearly define what constitutes a place as a frontier basin. What qualifies an area as a frontier? Is it based on topography, technical, or otherwise?

2.12 The PIA by giving the Commission the powers to declare a place as a frontier basin without any clear criteria or procedure, could be subject to abuse and

[37] Section 318 of the PIA 2021
[38] S. 9(4) (5) of the PIA 2021; S. 3 of the Frontier Basins Exploration Administration Regulations, 2023
[39] S. 9(1) of the PIA 2021

politicization as the Commission may set out on a wide goose chase at the detriment of depleting and wasting the frontier basin exploration fund.

2.13 Generally, oil and gas wells are discovered by seismic exploration, and this involves the generation of seismic waves, which are then recorded as they travel through the Earth's subsurface. These waves provide detailed images of the subsurface structures, which can be analyzed to identify potential oil and gas reservoirs. The primary goal of seismic exploration is to reduce the risk of drilling dry wells, thereby increasing the efficiency and success rate of oil and gas exploration.[40] Consequently, these resources can be ascertained by seismic exploration, thus, if these oil and gas reservoirs are non existent in other areas of Nigeria, the PIA establishment of a frontier exploration fund to run in perpetuity can be seen as unnecessary. This is because the PIA does not provide for the next steps in the event of the discovery of these oil and gas reservoirs.

2.14 Another issue that deserves mentioning is the issue of community compensation. Just like the PIA provides for Host Community Development to compensate affected areas of oil and gas activities, the PIA is silent on the affected communities of the frontier basins exploration, who suffer environmental impacts from seismic exploration operations. This would lead to marginalization of these communities. This issue can also be seen in the light of unfair allocation. As these Host communities where these oil and gas assets are produced are allocated just 3% which is nothing compared to the 30% allocated to frontier basins, where oil and gas haven't yet been discovered not to mention, produced. This breeds a perception of imbalance, unfairness and could breed regional and ethnic tensions.

2.15. POTENTIAL LEGAL CONFLICTS

1. Section 101(3),(4) of the PIA, empowers the Commission to determine the amount of compensation payable to persons or communities affected by petroleum operations, including damage to land or disturbance of lawful occupation. This determination is to be made

[40] Seismic Exploration in the Oil and Gas Industry – Oilfield Workers

administratively by the Commission and prescribed through regulations.

2. However, Section 39(1)(b) of the Land Use Act vests exclusive original jurisdiction in the High Court to determine questions as to persons entitled to compensation payable for improvements on or lawful occupation of land. This provision effectively reserves the adjudication of compensation disputes where entitlement or quantum is contested, to the judicial arm, not an administrative regulator.
3. The resulting jurisdictional conflict, is that the PIA appears to oust or bypass the High Court's exclusive jurisdiction under the Land Use Act by vesting a quasi-judicial role in the Commission to fix compensation amounts. While the PIA is a later statute and a sector-specific law, the Land Use Act enjoys Constitutional entrenchment under Section 315(5) of the 1999 Constitution (as amended), meaning its provisions cannot be impliedly repealed without express Constitutional amendment.
4. This raises practical and constitutional questions:
   a. Which body's determination is final: the Commission under the PIA, or the High Court under the Land Use Act?
   b. Does the PIA's provision amount to an unconstitutional encroachment on the judicial powers of the High Court?
   c. Could parties dissatisfied with the Commission's decision bypass the PIA's framework entirely and go directly to court under the Land Use Act?

   These ambiguities create a risk of parallel proceedings, regulatory uncertainty, and potential nullification of the Commission's determinations in cases where courts uphold the primacy of the Land Use Act.
5. Section 101(1)(d) of the Act, purports to confer jurisdiction on the Federal High Court to determine disputes as to lawful occupation or ownership of land and the amount of compensation payable to the rightful owner or occupier, in connection with petroleum operations. This provision appears to conflict with Section 39 of the Land Use Act, Cap L5, Laws of the Federation of Nigeria 2004, Section 251 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and decided Supreme Court cases to that effect. While the PIA purports to confer on the Federal High Court the jurisdiction to determine disputes over lawful occupation or ownership of land and to fix the amount of compensation payable in connection with petroleum operations, Section 39(1) of the Land Use Act clearly vests jurisdiction over such matters in

the High Court of the State or the High Court of the Federal Capital Territory where the land is situated. Section 251 of the Constitution, which outlines the exclusive jurisdiction of the Federal High Court, does not extend to disputes on land ownership or compensation.

2.16 The Supreme Court has made it abundantly clear that a claim for compensation for land, simpliciter, is outside the scope of the Federal High Court's jurisdiction. In **NIGERIAN INSTITUTE OF MEDICAL RESEARCH v. AKIN-OLUGBADE (2025) 10 NWLR PART 1995 PAGE 183 PARTICULARLY AT PAGES 211-212, PARAGRAPHS H-A**, the Court expressly held that:

> **"The Federal High Court cannot adjudicate over a claim for compensation for land".**

Similarly, in **NKUMA v. ODILI (2006) 6 NWLR PART 977 PAGE 587 AT PAGE 602, PARAGRAPHS. D–F,** the Court emphasised that entitlement to land compensation, even when connected to oil or gas activity, is still a land matter governed by the Land Use Act and does not, without more, fall under "mines and minerals" for purposes of ousting State High Court jurisdiction.

This position was reaffirmed in **SHELL PETROLEUM DEVELOPMENT COMPANY OF NIGERIA LTD. v. ORUAMBO (2023) 1 NWLR PART 1866 PAGE 433 AT PAGE 456, PARAGRAPHS F-H**, where the Supreme Court classified a dispute over agreed compensation for land acquired for oil exploration as a simple land compensation claim within the purview of the State High Court. The Court impliedly reaffirmed that the PIA, like any other statute, cannot enlarge the constitutional jurisdiction of the Federal High Court, nor can it override Section 39 of the Land Use Act, which enjoys constitutional entrenchment under Section 315(5) of the Constitution.

2.17 It follows that, to the extent that Section 101(1)(d) of the Petroleum Industry Act seeks to vest the Federal High Court with jurisdiction to fix compensation for land, it is inconsistent with the Land Use Act and the Constitution, and is therefore void under Section 1(3) of the Constitution of the Federal Republic of Nigeria as amended. The lawful forum for such disputes remains the State High Court or the High Court of the FCT, depending on the location of the land, and any attempt to shift this jurisdiction by statute, just as is purportedly being done by the PIA in this instance, is constitutionally unsustainable.

2.18 Again, the power to determine compensation under the PIA, is vested solely on the Commission (NUPRC) which is the regulatory body in charge of the upstream sector of the Petroleum Industry. The PIA does not empower the Authority (NMDPRA) to determine any sort of compensation. Does it then mean that even where compensation ought to be paid with respect to the activity of a licensee or lessee in the midstream or downstream sector, the Commission rather than the Authority (NMDPRA) would determine the quantum of compensation to be paid? This appears to be an anomaly that ought to be reviewed and or rectified.

2.19 PUNITIVE ACTIONS AGAINST THE HOST COMMUNITIES IN THE EVENT OF VANDALISM, SABOTAGE OR CIVIL UNREST

2.20 Whilst not holding brief for the Host Communities and not in any way condoning acts of pipeline vandalism and sabotage by members of a Host Community or the Host Community itself, it is my view that section 257(2) of the PIA, presents significant legal challenges and potential disputes regarding Host Communities' liabilities for acts such as vandalism, sabotage, or civil unrest affecting petroleum facilities within a host community. The section provides that where there is an act of vandalism, damage or sabotage resulting to damage or disruption of production, the Host Community shall forfeit their entitlement to the extent of the cost of repairs within that financial year, except where the interruption is due to technical or natural causes.

2.21 The core issues with this provision arise from:

- **Lack of clear definitions:**

The PIA did not define what legally constitutes "damage," "vandalism," "sabotage," or "civil unrest." Without statutory clarity, the term "damage" is vague, and the threshold or extent of harm that triggers forfeiture remains undefined. Similarly, identifying what exactly constitutes "vandalism" or "sabotage" is left open to subjective interpretation without prescribed criteria or procedural guidance.

- **Absence of fair procedural steps:**
  The Act fails to establish mechanisms for investigation, hearing, or dispute resolution before entitlements are forfeited. There is no requirement for proof of culpability or a due process framework to determine the liability of the community or individuals responsible. This lack of procedural fairness risks punishing entire communities probably without due process, contrary to fundamental principles of natural justice equity, and fairness.

- **Displacement of security responsibility:**
  While it may be argued that the provision of Section 257(2) of the PIA is intended to curb vandalism of petroleum infrastructures, this provision indirectly makes the host communities responsible for securing the Settlor's facilities, which could give rise to self-help and jungle justice. By enforcing community forfeiture for damages, the provision tends to transfer the burden of securing oil and gas infrastructure from law enforcement agencies, who are statutorily responsible under Nigerian law, to the Host Communities, who often lack adequate resources, training, or authority. Section 20 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), vests the obligation to protect and safeguard the environment, including petroleum facilities, in the State; hence, the provision can be viewed as a statutory injustice that contradicts constitutional mandates, thus giving rise to hostilities between the Settlor and the aggrieved Host Community, that may have been denied its entitlement.

2.22 In summary, section 257(2) as currently framed suffers significant legal and procedural gaps by not defining key terms, not instituting due process protections, and inequitably displacing responsibility for asset protection on Host Communities without adequate state involvement or safeguards. This calls for legislative amendment to clarify definitions, institute an investigative and adjudicative mechanism within the regulatory framework (likely vested in the Commission), and reaffirm the primary duty of Operators and the State in securing petroleum assets and compensating affected communities fairly where it is determined that the Community was not involved in the said act of vandalism and sabotage.

2.23 <u>FINANCIAL/ECONOMIC CHALLENGES</u>

2.24 Despite the various gains of the PIA restructuring the tax regime and improving government revenue, economic and financial challenges still persist within the PIA framework.

Multiple Taxation/Financial Obligations on Investors

2.25 The major taxes under the PIA are the hydrocarbon tax and the Company income tax. However, in addition to the **Hydrocarbon Tax, and the Company income tax, an operator in the petroleum industry is also mandated to fulfil other financial obligations including payment of** annual contribution of 3% of its actual operating expenditure of the preceding financial year to the host communities development trust fund as well as other royalties.

Hydrocarbon Tax

2.26 Under the PIA, licensees are subject to Hydrocarbon tax which is a new tax regime introduced under Section 260 of the PIA. Hydrocarbon tax applies exclusively to crude oil operations in the upstream sector and it replaced the Petroleum Profit Tax (PPT) which previously applied prior to the PIA. Hydrocarbon tax is charged at the rate of 30% of the profit from crude oil for a holder of a petroleum mining lease with respect to onshore and shallow water areas and 15% of profit from crude oil for a holder of Petroleum Prospecting License for onshore and shallow water.[41]

Company Income Tax

[41] Section 267 Petroleum Industry Act (pia) 2021

2.27 Company Income Tax is a tax payable by all resident and certain non-resident companies deriving income from Nigeria. By virtue of Section 302(1) of the PIA, the Company Income Tax applies to companies, concessionaire, licensee, lessee or contractor operating in the upstream, midstream or downstream sector of the petroleum industry.

Royalties

2.28 The PIA provides for the periodic payment of royalties in kind or cash (subject to the discretion of the Commission) to the Commission (NUPRC) by licensees or lessees. These royalties payable under the PIA are to be paid with respect to crude oil and condensates and natural gas and natural gas liquids and is to be calculated based on production and pricing.[42]

2.29 The current tax regime under the PIA, though an improvement on the old regime, is burdened by overlapping taxes, a narrow tax base, complex compliance requirement and weak enforcement mechanisms. The issue of multiple taxation where hydrocarbon and company income tax are imposed alongside other profit, production, prices and expenditure based levies and royalties as well as other sectorial levies pose a huge problem for the operators in the petroleum sector, especially as the indigenous operators and start-ups are at a disadvantaged position in the already competitive petroleum industry. In the Nigeria petroleum industry, the cost of operation is in itself high and the taxes and additional financial obligations and royalties stipulated by the PIA, most of which are to be paid in USD Dollars, are not cheap. This hampers the full realization of the aims and objectives of the PIA, as it discourages investments in the petroleum industry, particularly, indigenous oil companies. This structure has raised concerns among industry stakeholders, as it effectively results in multiple and hidden taxation on petroleum profits, especially in Nigeria where the cost of production is unusually high amidst the fierce competition for energy investments globally. The multiple tax regime under the PIA, reduces investors' confidence, poses a barrier for new investors, and provides for a more complex compliance administration and regulation.

2.30 <u>REGULATORY CHALLENGES</u>

[42] Sections 9, 10, and 11 of the Petroleum Industry Act (PIA) 2021

2.31 The PIA is also with respect riddled with regulatory challenges. Certain provisions of the PIA have been deemed contentious, while others have been deemed potentially problematic, requiring further review in a bid to promote international best practices within the Nigeria petroleum industry. This has resulted to regulatory challenges which in turn hampers the effective implementation of the Act. The regulatory challenges associated with the PIA are herein analyzed.

Enormous and unfettered Powers of the Minister in granting and revoking licenses under the Petroleum Industry Act

2.32 The PIA established various regulatory bodies with specific mandates to regulate different aspects of the oil and gas industry. By virtue of Section 71(1) of the Petroleum Industry Act, the Nigerian Upstream Petroleum Regulatory Commission is solely responsible for the grant of petroleum exploration licenses. Under the PIA, the grant of Petroleum Prospecting License (PPL) and Petroleum Mining Lease (PML) is made by the Minister upon recommendation by the Commission. [43] Similarly, **Section 72(5)" provides that "the minister may grant a petroleum prospecting license to a qualified applicant recommended by the commission and shall not grant such license to any other person where the minister does not grant the license, the minister shall inform the commission in writing for the rationale of the decision."**

2.33 The Act provides for the procedures to be followed for the grant of the licenses and leases. Also, the commission through the **Petroleum Licensing Round Regulations**, provides for a robust and thorough process an Applicant is subjected to before been recommended to the Minister to be granted a license or lease.

2.34 What remains of great concern is the fact that after going through the very robust procedure of bidding by the Commission, the winner of the bid is then recommended to the Minister for the grant of the PPL or PML, with the Minister reserving the discretion to either grant or refuse the recommendation of the commission. This is indeed a case of an individual

[43] Section 73 Petroleum Industry Act (PIA) 2021

political appointee (the Minister) been more powerful than an institution created by law (the Commission). This is prone to abuse of powers and creates room for political interference in the licensing process where merit could be sacrificed on the altar of political sentiments, interest or affiliation. The PIA did not provide the grounds upon which the Minister may refuse to grant a license or lease after due recommendation by the Commission. There is nothing regulating and or guiding the exercise of the Minister's discretion.

2.35 This is also the case in the revocation process as the Commission cannot by itself revoke the license of an operator; instead, it may only recommend revocation to the Minister, who then "may" choose to act on that recommendation. The word "may" gives the Minister a discretionary power meaning that even if an operator has violated key provisions of the Act or breached environmental and operational standards, the Minister is not obligated to act. This could create bias, favoritism and unfair practices which could in turn lead to loss of investor's confidence and certainty in the petroleum sector. The licensing and revocation regime under the PIA undermines the independence and authority of the Commission. By making granting or revocation of a license or lease a political decision, the Act creates a level of uncertainty and tension.

2.36 The licensing regime under the PIA, opens the door to inconsistency and abuse of power. For example, two different companies might commit similar breaches one may have its license revoked because the Minister agrees with the Commission's recommendation, while the other may be spared simply because the Minister decides not to act due to his political sentiment, interest and/or affiliation, thus creating an atmosphere of uncertainty, unfairness, favoritism, bribery, corruption, and lack of public trust in the system.

2.37 Furthermore, the discretionary powers of the Minister as provided for in the PIA, can result in unnecessary hurdle in the enforcement of the Act. Revoking a license is often necessary when a company fails to pay required fees, abandons its operations, or puts workers at risk. Therefore, relying on the uncertainty surrounding the Minister's action/inaction, can be counterproductive as it could lead to failure at the enforcement of the provisions of the PIA.

Bureaucratic bottleneck:

2.38 One of the major challenges facing the implementation of the Petroleum Industry Act 2021 is the bureaucratic and cumbersome nature of the licensing process. While the PIA was enacted to bring clarity, transparency, and investor confidence to Nigeria's oil and gas sector, the process of obtaining necessary licenses for operation such as Petroleum Exploration Licenses, Petroleum Prospecting Licenses, and Petroleum Mining Leases, remains unnecessarily cumbersome.

2.39 One of the major problems is that the process of getting approvals and licenses under the PIA is **cumbersome.** Companies operating in the Upstream referred to in the Act as "Settlors," are required to apply for various permits before they can begin exploration, drilling, or production. These include licenses for operations, environmental approvals, safety certifications, and more. Each of these steps often involves multiple government departments and long waiting periods. In some cases, companies have waited months or even years to get the necessary approvals. This discourages investment and slows down economic activity in the oil and gas sector.

2.40 Also, the Commission is empowered to unilaterally change the licensing round guidelines notwithstanding how far the bidding process might have gone or how long the process had taken, provided the change is at least 30 days before the close of the bidding process. This is made worse by **Regulation 15 of the Petroleum Licensing Round Regulations,** which states:

> "**The Commission may amend the licensing round guidelines at any time not later than 30 days before the due date of submission of bid, and such amendment shall be updated on the website of the Commission.**"

2.41 This means that even after going through the long process, the rules can still change close to the submission deadline. Such changes force companies to adjust their plans, add extra costs, and create uncertainty thereby, further complicating an already cumbersome process.

Regulatory Overlap between NUPRC and NMDPRA in Integrated Operations

2.42 One of the major challenges facing the implementation of the PIA, is the overlap existing between the Commission (NUPRC) and the Authority (NMDPRA) with respect to the uncertainty surrounding when there is an overlap of the upstream on the one hand and the midstream/downstream on the other hand over an integrated operation involving both the upstream as well as the midstream/downstream sectors.

2.43 The earlier stated the **PIA** established the **Commission** for the regulation of upstream petroleum activities and the **Authority** for midstream/downstream regulation. Under **Section 318 PIA**, integrated upstream and midstream operations are deemed upstream for regulatory purposes, giving the Commission primary oversight. However, the Authority's statutory powers over midstream/downstream activities which includes licensing, storage, transportation, processing and marketing creates jurisdictional and regulatory overlap where an operator has interest in both streams. This situation presented itself in the case of **Mobil Producing Nigeria Limited vs Nigerian Midstream/Downstream Petroleum Regulatory Authority (NMDPRA)** in Suit No: **FHC/ABJ/CS/844/2023** where the bone of contention was regarding an overlap in an alleged integrated operation of the Plaintiff. It is however worrisome to note that the **Presidential Directive issued in June 2023** declaring that all integrated operations falls within the purview of the Commission, thus influencing the withdrawal of the suit by the Plaintiff on the day of judgement.

2.44 Other areas of overlap include;

- **Facility Classification:** Disputes arise on what qualifies as "integrated." Although the Commission has issued regulatory guidelines interpretations still differ.

- **Licensing:** Risk of duplicate licensing for the same facility, with potentially conflicting conditions.
- **Technical & Environmental Standards:** Both regulators issue safety/environmental requirements, leading to duplication.
- **Commercial Rules:** Tariffs, allocations and pricing can be subject to both agencies.
- **Enforcement:** Overlapping inspections and penalties create compliance uncertainty**.**

2.45 Whereas S.318 favours the Commission for integrated facilities, we proposed purposive interpretation of the PIA to ensure harmonization, in order to avoid conflicts and ambiguities.

2.46 The President under the powers of general administration as conferred by Section 3(4) of the PIA released the **Presidential Directive** which has clarified the Commission's lead role for integrated operations. However, while this is the fallout of political interference in the operations of the Act, statutory ambiguities remain with its associated risk uncertainty in project planning and investment, increased compliance costs and potential for conflicting regulatory directives. While the PIA leans towards the Commission for integrated operations, overlap with the Authority remains a live issue. Interim administrative measures such as the Presidential directive helps, but lasting solution demands statutory clarity and or regulatory amendment.

OPPORTUNITIES FOR NIGERIAN LAWYERS UNDER THE PETROLEUM INDUSTRY ACT 2021

3.01 The PIA has to a large extent overhauled the legal framework of the Petroleum Industry, by creating new regulators, restructuring the NNPC, codifying community and environmental obligations, and revamping the fiscal regime. For Nigerian lawyers and oil and gas professionals, the PIA presents a wide range of new legal and advisory opportunities. Practitioners will be needed to help clients navigate licensing and regulatory compliance under the new agencies (NUPRC and NMDPRA), draft contracts and agreements consistent with the Act's model provisions, structure corporate entities to fit the new regime, resolve disputes through the Act's ADR mechanisms, handle host community trust frameworks, advise on environmental obligations, and advise on the reformed taxation and fiscal terms. This paper further reviews these areas while highlighting key provisions of the PIA and areas of opportunity and interest for Lawyers.

REGULATORY COMPLIANCE AND INSTITUTIONAL CHANGES UNDER THE PIA

3.02 The PIA establishes a comprehensive regulatory architecture for Nigeria's petroleum sector, ushering in significant institutional and operational shifts. Two new regulatory agencies to wit- the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA)[44], now oversee the upstream and midstream/downstream sectors respectively, with full corporate status and far-reaching powers.

3.03 For lawyers, this evolving regulatory environment continues to generate robust demand for advisory and compliance services across the petroleum value chain. Although the legal groundwork for transforming the Nigerian National Petroleum Corporation (NNPC) into a limited liability company being NNPC Limited has been completed, ongoing legal support is essential to navigate the post-restructuring landscape and ensure continuous compliance. Key compliance tasks involving legal practitioners include:

a. **Licensing and Permits**: Advising on all licences and leases under the new PIA regime (e.g. Petroleum Exploration Licences, Prospecting Licences, Mining Leases) and their conditions. A company must ensure that licence applications and renewals meet the PIA's requirements (including the mandatory model contracts).

b. **Regulatory Filings**: Guiding clients through statutory filings, annual reporting, and mandatory registrations (for example, ensuring licences are registered under the relevant titles registry).

c. **Standards and Local Regulations**: Assisting in compliance with health, safety, and technical standards enforced by

[44] Section 4 & 29 Petroleum Industry Act 2021

NUPRC/NMDPRA. This includes environmental regulations as well as local content requirements.

d. **Stakeholder Engagement**: Helping clients liaise with government bodies like the Ministry of Petroleum Resources, the National Oil Spill Detection & Response Agency (NOSDRA), and the Host Community Forum, as new interfaces under the PIA regime.

CONTRACT DRAFTING AND LICENSING REGIMES UNDER THE PIA

3.04 Under the PIA's new licensing system, lawyers play a crucial role in drafting and negotiating petroleum agreements. The Act retains Production Sharing Contracts (PSCs), Profit Sharing Contracts (PrSCs), and Risk Service Contracts (RSCs) for the upstream sector, but replaces old license nomenclature: for example, an "Oil Prospecting License" is now a Petroleum Prospecting License (PPL), and "Oil Mining Leases" become Petroleum Mining Leases (PMLs).[45] The Act provides that licenses and leases must attach a model contract prepared by the Commission, which stipulates the required fiscal and commercial terms. Lawyers involved therefore have a duty to ensure all upstream contracts incorporate the model provisions (covering signature bonuses, royalties, tax rates, etc.) and contain PIA-mandated clauses. For example, every license or lease must now include a dispute-resolution clause (providing for arbitration, mediation or other ADR).[46] Key contractual tasks involving lawyers include:

a. **Drafting New Licenses:** Preparing exploration and production licenses (PEL, PPL, PML) that conform to the PIA's format and duration rules. For instance, onshore PPLs are valid for 3+3 years, while deepwater PPLs are valid 5+5 years.[47] Lawyers will craft these license documents, incorporate model fiscal schedules, and ensure force-majeure and remediation terms meet the new legal standards.

b. **Converting and Renegotiating Contracts:** Many existing oil mining leases will be converted to Petroleum Mining Lease under the PIA[48]. Lawyers will handle voluntary conversions, renegotiation of

[45] Section 70(1) Petroleum Industry Act 2021
[46] Section 76(f)Petroleum Industry Act 2021
[47] Section 77(1 & 2) Petroleum Industry Act 2021
[48] Petroleum Industry Act 2021: Section 92

investment terms, and ensure compliance with the Act's limit on cost recovery. They will also assist frontier operators in complying with conversion deadlines.

c. **Model Contracts and Fiscal Clauses:** Advising on the PIA's detailed fiscal regime. For example, the Act introduces a sliding scale of profit-sharing and limits on cost recovery.[49] Lawyers must ensure client contracts reflect these new ratios.

d. **Midstream/Downstream Agreements:** Drafting gas processing, transportation, distribution, and refining licenses under the NMDPRA's jurisdiction. The Act enumerates dozens of specific licenses types (e.g. gas processing, pipelines, refineries). Lawyers will negotiate those facility-level contracts, ensure tariff and pricing regulations are addressed, and advise on cross-stream projects.

3.05 In each case, the lawyer's task is to align private contracts with the PIA's mandatory provisions and with regulations to be issued by NUPRC/NMDPRA, including the Model Contract rules. For example, every licence requires a Health, Safety and Environment plan under section 102 of the Act, and a decommissioning plan; lawyers will help prepare these contracts. They will also advise companies on compliance with any template lease clauses prescribed by the Minister or Commission.

4 DISPUTE RESOLUTION UNDER THE PIA: GROWING DEMAND FOR LEGAL EXPERTISE.

4.01 The PIA emphasizes the use of alternative dispute resolution (ADR) mechanisms in resolving industry disputes. The Act empowers the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) to establish an Upstream Petroleum Dispute Resolution Centre.[50] This Centre (formerly the Oil and Gas ADR Centre) is positioned to mediate disputes relating to licences, community trust funds, contractor disagreements, and host community issues. Lawyers now have increasing opportunities to act as mediators, arbitrators, or counsel in disputes involving:

[49] Petroleum Industry Act 2021: Section 266
[50] Petroleum Industry Act 2021: Section 7(a)

a. Trigger dates for development milestones
b. Cost recovery mechanisms
c. Environmental liabilities
d. Equity interest adjustments
e. Disputes between host communities and settlors

4.02 The Nigerian Upstream Petroleum Host Communities Development Regulations 2022 further consolidates the dispute resolution regime. Section 1(c) outlines the regulation's objective to provide grievance resolution mechanisms. Section 39 provides that disputes between host communities or between host communities and settlors must first go through a structured internal mediation process involving the Board of Trustees and settlor representatives. If unresolved, the dispute may be escalated to the Nigerian Oil and Gas Excellence Centre for mediation, and eventually to arbitration under the Arbitration and Conciliation Act. This structured and mandatory Alternative Dispute Resolution (ADR) pathway ensures that lawyers have multiple entry points to provide services, ranging from advisory on regulatory compliance, representation in mediation sessions, to advocacy and case preparation in arbitration. Lawyers with expertise in ADR, statutory interpretation, and stakeholder engagement will be in high demand, particularly in the upstream oil and gas context where community relations are critical to operational stability.

4.03 Importantly, the PIA and its subsidiary regulations complement the entrenched arbitration framework in Nigerian jurisprudence, which recognizes arbitration as a valid and enforceable method of resolving commercial disputes. By embedding ADR mechanisms in the petroleum sector regulations, the PIA aligns with the Arbitration and Media Act (2023), further solidifying Nigeria’s reputation as an arbitration-friendly jurisdiction. This synergy ensures that petroleum-sector disputes benefit from globally recognized standards of impartiality, enforceability, and procedural efficiency in line with global best practice.

HOST COMMUNITY DEVELOPMENT FRAMEWORK UNDER THE PIA

4.04 One major innovation of the PIA is its Host Community Development Trusts (HCDTs) and funding regime. Chapter 3 of the Act requires each "settlor" (typically the oil company/operator) to incorporate a Host Communities Development Trust for the benefit of the host communities where the settlor carries on operations. Lawyers will assist in establishing these trusts as corporate entities under the Companies and Allied Matters Act (CAC incorporation), drafting the trust constitutions, and defining the Board of Trustees. For example, the Act mandates the Settlor (in consultation with the communities) to appoint a Board of Trustees, and that the Board's corporate name must include "Host Communities' Development Trust". Lawyers will guide clients on these corporate formalities, and on discharging fiduciary duties to the communities. Examples of Host Community Development Trusts already incorporated includes:

1. Warri Kingdom Coastal Host Communities Development Trust
2. Warnog Host Community Development Trust
3. Uzef Host Community Development Trust
4. Utrew Host Community Development Trust
5. Upata Host Communities Development Trust
6. Umuseti/Igbuku Host Community Development Trust
7. Umusadege/Umusam/Ogbeani-Hcdt
8. Umusadege/Umusam/Ogbeani-Hcdt
9. Umuedeokwara Odagwa Host Community Development Trust
10. Ughoton, Gelegele, Ikpako and Oduna Ward Host Community Trust
11. Tubu Field Oml 52 Nnpc-Amni Host Communities Development Trust
12. Iwereland Host Communities Development Trust
13. Inda Field Communities Host Communities Developement Trust
14. Incorporated Trustees of Uquo Field Host Community Development Trust
15. Incorporated Trustees of Obagi Oilfields Host Communities Development Trust
16. Incorporated Trustees of Nopl Host Communities Development Trust
17. Incorporated Trustees of Nnpc-Tepng Olo Host Community Development Trust
18. Incorporated Trustees of Murali Host Communities Development Trust
19. Incorporated Trustees of Halkin-Atala Azagbene-Ezetu Host Communities Development Trust
20. Incorporated Trustees of Effiat/Mbo Communities Development Trust
21. Incorporated Trustees of Bopane Oilfields Host Communities Development Trust

22. Incorporated Trustees of Abana Host Communities' Development Trust[51]; amongst Others.

4.05 Funding obligations under the PIA are also significant. The Act requires each settlor to contribute 3% of its actual prior-year operating expenditure in the field to the relevant trust fund.[52] Lawyers will advise companies and the Host Communities on calculating and transferring these payments. They will also help prepare and implement the mandatory Host Community Development Plan, as section 241 requires that trust funds be used exclusively for the trust's plan. Drafting the community development plan (involving infrastructure projects, health, education, etc.) will involve lawyers in areas of public procurement and non-profit structuring.

4.06 The PIA gives the Commission and the Authority oversight powers over the trust funds (to "guide and safeguard utilization"), so legal disputes or compliance reviews may arise. In summary, the PIA transforms community relations into a structured legal framework, therefore, lawyers will be needed to set up and manage the trusts, draft constitutions for the trust, incorporate the trust and community agreements, and ensure that the statutory 3% funding and planning requirements are fulfilled.

HARNESSING OPPORTUNITIES IN THE OIL AND GAS SECTOR THROUGH THE PIA

5.01 Nigeria's oil and gas sector is a dominant economic force. In recent years oil production averaged ~1.5 million barrels per day[53], contributing roughly 6–7% of Nigeria's GDP[54]. Crude oil and natural gas exports (especially LNG) generate the vast majority of foreign exchange and federal revenue, historically around

[51] Nigerian Upstream Petroleum Regulatory Commission, Host Community Development Trusts Portal, available at: https://hostcomply.nuprc.gov.ng/hc-trusts (Accessed 1 August 2025)

[52] Petroleum Industry Act 2021: Section 240

[53] Nigerian Upstream Petroleum Regulatory Commission (NUPRC), Crude Oil and Condensate Production Report – December 2023, available at: https://www.nuprc.gov.ng (accessed August 1, 2025).

[54] National Bureau of Statistics, Nigerian Gross Domestic Product Report (Q4 and Full Year 2023), p. 6, available at: https://www.nigerianstat.gov.ng (accessed August 1, 2025)

80–95% of government export earnings[55]. For example, by late 2023, petroleum products accounted for about 89% of Nigeria's export[56]. Despite global energy shifts, experts note that fossil fuels will remain central to Nigeria's economy for decades, as domestic demand and population growth keep energy needs high. In short, oil and gas will stay paramount in Nigeria's economic mix (and government budgets) for the foreseeable future, ensuring sustained legal work in this regulated industry.

5.02 This outsized economic role translates into massive demand for legal services. The oil and gas industry's complexity, from licensing to environmental issues, means it employs large numbers of lawyers.

5.03 Future Outlook

5.04 Even as global energy transitions gain momentum, Nigeria's reliance on hydrocarbons is expected to persist for many years. Analysts note that completely phasing out oil and gas now would be "mere fantasy" given Nigeria's energy needs and economic structure. In practice, Nigeria has set a 2060 net-zero target, yet oil and gas will remain in the country's energy mix long-term. Growing domestic demand (driven by population and industrial growth) and continued export commitments imply that production and revenues are unlikely to drop sharply in the near term. More so, the demand for hydrocarbons is projected to grow globally and especially in Africa; Nigeria's share of exports has climbed from ~3% in 1960 to nearly 90% by 2023.[57]

5.05 Oil and gas will remain a dominant sector in Nigeria for many decades, underpinning energy security and fiscal stability. For lawyers, especially in Nigeria, this means a stable stream of opportunities and income from licensing, contracts negotiation and drafting, incorporation of new entities and trusts, dispute resolution and regulatory compliance.

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[55] Central Bank of Nigeria, Statistical Bulletin – External Sector Statistics 2023, available at: https://www.cbn.gov.ng (Accessed August 1, 2025)

[56] National Bureau of Statistics, Foreign Trade in Goods Statistics – Q4 2023, Table 5, available at: https://www.nigerianstat.gov.ng (Accessed August 1, 2025).

[57] CBN, Statistical Bulletin – Historical Economic Data 1960–2023, available at: https://www.cbn.gov.ng/ (Accessed 1 August 2025)

Rise of Indigenous Oil and Gas Companies

5.06 In recent years, several major oil and gas assets have divested their interests from international oil companies to indigenous oil companies, further increasing local industry leadership. Notable examples include:

a. **Shell's Onshore Divestment:** In 2025 Shell completed the sale of its onshore/Shallow Water business (SPDC joint-venture interests) to Renaissance, a consortium of four mainly Nigerian energy firms (plus one international partner).[58] SPDC operations were even rebranded as Renaissance Africa Energy Company. This marked the exit of a century-long foreign presence in the Niger Delta's onshore fields.

b. **Total Energies Sale:** In 2024 Total Energies sold its 10% stake in the SPDC joint venture to Chappal Energies (a Nigerian-led investment group) for $860 million.[59] Chappal now hold interests in 15 onshore licences, while Total retains only offshore assets.

c. **Eni S.P.A's Major Sale to Oando PLC (2024):** In 2024, Eni S.P.A., through its subsidiary Eni International B.V., divested its entire shareholding in Nigerian Agip Oil Company Ltd (NAOC) to Oando PLC, an indigenous Nigerian energy group.[60] NAOC held interests in multiple onshore oil mining leases (OMLs), the Okpai 1 and 2 power plants, and participated in the NAOC JV alongside NNPC and Oando. This acquisition significantly expanded Oando's footprint in Nigeria's upstream and power sectors and aligned with the Federal Government's push for increased indigenous participation.

d. **Equinor's Major Sale to Chappal Energies (2023):**
In late 2023, Equinor ASA, the Norwegian state-owned energy firm, announced the sale of its 100% stake in Equinor Nigeria Energy Company (ENEC) to Chappal Energies, a Nigerian-led oil and gas investment firm.[61] ENEC held a 53.85% working interest in OML 128, which includes the

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[58] Shell Petroleum Development Company, Announcement on Divestment of Onshore Assets in Nigeria, 2025. See: https://www.shell.com/media/news-and-media-releases (Accessed August 1, 2025)

[59] TotalEnergies SE, Press Release: Sale of 10% SPDC Stake to Chappal Energies, 2024. Available at: https://www.totalenergies.com/news (Accessed August 1, 2025).

[60] S&P Global, "Oando to Acquire Eni's Nigerian Agip Oil Company," September 2023, available at: https://www.spglobal.com (Accessed August 1, 2025).

[61] Reuters, "Equinor Sells Nigerian Deepwater Asset to Chappal," November 2023, available at: https://www.reuters.com/business/energy (Accessed August 1, 2025).

prolific Agbami deepwater field, operated by Chevron. The deal reflects Equinor's global divestment strategy and highlights growing indigenous control of strategic offshore assets.

5.07 These shifts are subtle but significant as they create new Nigerian-led oil companies. For legal professionals, it means more cross-border deals and regulatory processes conducted by local entities. Lawyers now handle large-scale transactions (e.g. negotiating Renaissance's takeover of Shell assets), as well as the restructuring of Joint Venture Agreements and compliance with newly drawn permits. As indigenous firms ascend, legal counsel is needed at every step, from contract negotiations to post-acquisition integration. For example, Shell's divestiture to Renaissance involved negotiating government approvals and updating contracts, a process that engaged multiple energy law teams. Lawyers familiar with PIA, joint-venture law and local content regulations are consequently indispensable.

Nigerian Oil and Gas Local Content Act (2010) And The PIA

5.08 To boost indigenous participation, Nigeria's Nigerian Oil and Gas Industry Content Development Act 2010 (NOGICDA), often called the Local Content Act, imposes strict local-content requirements on petroleum operations. The Act's key provisions are:

a. Nigerian Ownership: A "Nigerian Company" means a company formed and registered in Nigeria in accordance with the provision of Companies and Allied Matters Act with not less than 51 % equity shares by Nigerians.[62] All petroleum licenses and joint ventures must meet this threshold.

b. Priority for Local Firms: Nigerian operators and service companies are to be given first consideration in award of oil/gas blocks, contracts and projects. In practice, this means indigenous firms must be invited into joint ventures or contracted before foreign firms.

[62] Section 106 Nigerian Oil and Gas Industry Content Development Act 2010

c. Nigerian Content Plans: Any company bidding on a license or project must submit a detailed Nigerian Content Plan to the Nigerian Content Development and Monitoring Board (NCDMB) demonstrating how it will meet local-content targets. Plans cover use of local labor, materials and expertise at each stage.

d. Local Employment and Procurement: The Act sets minimum thresholds for employing Nigerian workers and using Nigerian-made equipment/materials. For example, it mandates a rising percentage of Nigerian personnel and value-addition in projects.

5.09 The provisions of the Local Content Act (2010) compliments the PIA and makes it easier to harness the benefits and opportunities of the PIA, particularly as it relates to lawyers. Nigerian companies negotiate and execute contracts and they rely on legal counsel to structure joint ventures, prepare content plans, and meet reporting obligations under the law. Foreign companies, in turn, must adapt agreements and operations to these local content requirements, again, engaging Nigerian lawyers. Simply put, the Local Content Act elevates indigenous participation in petroleum activities and creates a steady demand of legal expertise on regulatory and compliance matters in the energy sector.

Overall Implication for Legal Professionals

5.10 Given the robust and juicy opportunities within the Nigerian petroleum space since the advent of the PIA, the petroleum industry presents very wide opportunities for lawyers in various areas for specialization. These legal opportunities include:

a. **Regulatory and Compliance Work:** The complex framework (NOGICDA, the 2021 Petroleum Industry Act, environmental laws, etc.) requires constant legal oversight. Lawyers draft Nigerian Content Plans, help companies obtain licenses from the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Midstream/Downstream Authority, and advise on compliance with local-content provisions.

b. **Transaction and Mergers & Acquisitions Advisory:** As foreign stakes transfer to locals, every asset sale or joint-venture restructuring demands legal expertise. Lawyers negotiate share purchase agreements, joint-venture amendments, farm-in/farm-out deals, and handle due diligence. The Total–Chappal and Shell–Renaissance deals among others are examples of multi-billion-dollar transactions requiring extensive legal work.

c. **Corporate and Commercial Law:** Indigenous energy companies need corporate structuring (to satisfy the 51% Nigerian-ownership rule), financing agreements, and local financing arrangements. This creates demand for corporate transactional lawyers.

d. **Dispute Resolution:** With oil-sector disputes (contract breaches, community issues, etc.) common, litigation and arbitration counsel are also in demand. Local companies often hire lawyers to enforce local-content rights or resolve JV disputes.

6 RECOMMENDATION:

6.01 Having analyzed the impact of the PIA, it's attendant challenges as well as the opportunities for lawyers, it is only ideal that this paper proffers recommendation that would position the Nigerian Petroleum industry as a global force to be reckoned.

LEGAL RECOMMENDATIONS:

6.02 It is strongly recommended that the PIA and its regulations thereof should incorporate a precise and unambiguous definition of the term "Host Community." The current statutory lacuna on this matter engenders vagueness and legal uncertainty, which has consequently facilitated the emergence of numerous self-declared autonomous communities asserting entitlement to the three percent (3%) contribution designated for the Host Communities Development Trust Fund. This proliferation of claims not only dilutes the intended purpose of the Fund but also precipitates extensive litigation, thereby burdening the judiciary and undermining the prompt resolution of disputes.

6.03 To this end, the Commission should expressly delineate the criteria constituting a Host Community, notably by establishing the geographic boundaries of such communities in accordance with global best practices in consonance with the relevant agencies. This statutory clarity would ensure that only legitimately affected communities receive the earmarked contributions, fostering equitable resource distribution. Moreover, the clear legal demarcation of Host Communities would promote enhanced peace and stability within oil-producing regions by mitigating communal conflicts that often arise from competing claims. It would also advance sustainable development by channeling resources directly to the genuinely impacted communities, reinforcing socio-economic growth and environmental stewardship. This legal reform will significantly diminish the incidence of litigation, facilitate transparent administration of the Development Trust Fund, and promote harmonious coexistence and sustainable development in host regions.

6.04 The definition and classification of frontier basins should be concretely established by statute, grounded in objective criteria such as exploration history, geological data, and existing infrastructure availability. Reliance on regulatory discretion without clear, and precise standards undermines consistency, transparency, and impartiality in governance, thereby fostering uncertainty and potential allegations of arbitrariness or bias. It is imperative that the PIA be amended to incorporate a precise legal definition of "frontier basin," explicitly enumerating the criteria and parameters that qualify a basin under this category. Such codification will effectively circumscribe the discretionary authority presently vested in the Commission, thereby ensuring uniform application and legal certainty.

6.05 In furtherance of accountability and fiduciary integrity, the Act should mandate enhanced transparency and stringent oversight mechanisms concerning the Frontier Exploration Fund. This should include requirements for periodic internal and external audits, with reports submitted on either a quarterly or annual basis, detailing the allocation, utilization, and effectiveness of disbursed funds.

6.06 Looking ahead, the frontier basin exploration mandate should be broadened to incorporate investments in scientific research and technological innovation, fostering the development and integration of alternative energy sources. This expansion aligns with global energy transition imperatives and the pressing need to reduce carbon emissions. The legal framework should thus encourage and support initiatives in nuclear, solar, wind, and thermal energy technologies within the frontier basins. Embedding such provisions into the PIA would reinforce the nation's commitment to sustainable development principles and facilitate a lawful transition toward cleaner, low-carbon energy alternatives in response to evolving international environmental standards and the global campaign against fossil fuel dependency.

6.07 The current ambiguity surrounding the responsibilities for protecting oil and gas infrastructure within Host Communities is inequitable and places an unjust burden on these communities. It is hereby recommended that the relevant agency under the PIA, should explicitly assign the primary duty of safeguarding oil and gas assets to the respective operators and the relevant security agencies. Such an allocation of responsibility shall relieve Host Communities from the obligation to protect facilities that belong to the operators. Operators must be mandated to implement robust security measures, including but not limited to, continuous surveillance, coordination with relevant government security agencies, and deployment of advanced sensor and monitoring technologies to prevent and mitigate risks of vandalism, sabotage, or other forms of interference. Furthermore, there should be procedural fairness by ensuring that Host Communities are not subjected to punitive measures without due process. In instances of damage or disruption, there should be an immediate reporting of the incident to the Commission and the Commission must conduct a thorough and impartial investigation to establish the facts and identify culpability. Sanctions or penalties shall be directed solely against individual perpetrators proven responsible following such investigation, rather than the entire Host Community or through forfeiture of the community's statutory benefits. Appointment of a credible NGO to witness the JIV process should also be considered to give all the parties a fair investigation, increase transparency, public trust and acceptability of the JIV process. A total forfeiture of community allocations should only be permissible where the Commission, after exhaustive inquiry, conclusively determines that the Host Community collectively engaged in conspiracy, materially aided or abetted the unlawful act, or willfully obstructed the investigation or enforcement of law. To this effect, the Commission should define with legal precision the parameters and thresholds for terms such as "extent of damage," "vandalism," "sabotage," and "civil unrest" to eliminate uncertainty and enable consistent enforcement. This would ensure the protection of Operators' assets while upholding the rights and interests of Host Communities, promoting justice, transparency, and sustainable coexistence between all stakeholders in the industry.

FINANCIAL AND ECONOMIC RECOMMENDATIONS

6.08 In order to encourage investment in the petroleum industry and create a smooth atmosphere in the sector, there is the need to eradicate multiple taxation and, in its place, harmonize and simplify the taxes. Also, there is a need to tighten up leakages in the tax regime. Enforcement and compliance should also be strengthened.

6.09 Royalties, levies and contributions should be downwardly reviewed for ease of doing business as the overheard costs by the operator/settlor is quite huge and overbearing.

6.10 The PIA should be amended to specify what should qualify as "Royalty in Kind" and fix the nature of royalty (whether cash or kind) and to take away the discretionary powers of the Commission to determine whether to request royalty in cash or in kind so as to ensure transparency, fairness, and uniformity.

6.11 There is also the need to subject the Deep Frontier Exploration Fund to annual legislative appropriation and public oversight.

REGULATORY RECOMMENDATIONS

6.12 To ensure that power is not centralized and abused, an amendment of the PIA should be proposed to remove or limit the discretionary power of the minister in license grants and revocations. There should be conditions and guidelines which the Minister must follow, where the Minister wishes to deny the grant or revocation of a license or lease contrary to the recommendation of the Commission. The power to grant or revoke licenses should not be exercised arbitrarily. This is imperative to eliminate the risk of politicization of licensing processes and strengthening our institutions. Also, there should be a clear procedure that requires the Minister to act within a specific time frame where the Commission recommends the revocation of a license or lease. This would improve accountability and transparency in the oil and gas sector.

6.13 With respect to regulatory overlap, it is recommended that there is established a Joint Classification Protocols leading to the formulation of unified criteria for determining "integrated" status. Also, there should be Inter-Agency MOU/Agreements with clear regulatory roles. There should be Legislative/Regulatory amendment to properly and expressly delineate responsibilities. Interim administrative measures such as the Presidential Directives may help, but lasting solution demands that statutory clarity or regulatory amendment.

6.14 In order to improve investor confidence, the licensing process should be streamlined. There is also a need to create a platform for licensing applications, which would enhance transparency, allow intending operators to track the approval process and reduce physical bottlenecks**.**

7 CONCLUSION

7.1 The Petroleum Industry Act has gainfully impacted and enriched both the Nigerian petroleum Industry and our legal jurisprudence. The gains of the PIA as highlighted by this paper cannot be overemphasized. However, there still exist challenges associated with the PIA that militates against the smooth operation within the Nigerian oil and gas sector, as highlighted by this paper.

7.2 For every challenge prevalent in the Nigerian petroleum sector under the extant PIA regime, there exist diverse opportunities for lawyers as highlighted in this paper. There is no gain saying the fact that the Nigerian oil and gas industry is undergoing a structural transformation that places Nigerian lawyers at the heart of industry operations. From compliance and advisory roles to dispute resolution and transaction support, legal professionals are not just facilitators but essential stakeholders. As local content laws strengthen indigenous participation and the PIA creates new regulatory institutions and obligations, lawyers with industry knowledge and cross-disciplinary expertise will find the oil and gas sector a rewarding and enduring domain of practice. Strategic positioning, continuous learning, and sector-specific skills will be the keys to unlocking the vast opportunities ahead. Indeed, there is a very bright light at the end of the PIA tunnel, therefore, let us **"Stand Out, and Stand Tall**".

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