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LOCAL CONTENT ACT IMPLEMENTATION AND ITS IMPACT ON NIGERIA ECONOMY: AN APPRAISAL

Okoro Victoria[1], Ndukwe, Oko[2]
[1]*Department of Accounting, Godfrey Okoye University, Ugwuomu-Nike Enugu State*
[2]*Department of Business Management, Godfrey Okoye University, Ugwuomu-Nike Enugu State*
Correspondence: Ndukwe, Oko jamisco2@yahoo.com

ABSTRACT

This article is on Local Content Act Implementation and its Impact on Nigeria Economy: An Appraisal. The goal was to assess the local Content Act implementation in Nigeria in order to ascertain its impact on the Nigeria economy. The paper followed a qualitative research design to gain insight into the nature and implementation of local content law in Nigeria. Descriptive and observation methods were used to critically examine local content and its implementation in Nigeria. The article is theoretical in nature and basically draws its arguments from content analysis of secondary data. Observations from the study revealed that; high cost of funds is a factor that jeopardizes indigenous service companies' ability to compete effectively with most of their foreign counterparts who are well endowed with capital; despite the extant local content Act, there is little involvement of local firms in the oil and other industries and this is often attributed to lack of facility to compete and the failure to meet industry requirements, and there is high level of non-compliance to the Local Content regulations by some multinationals. It is therefore the position of this paper that Local Content Act plays a vital role in the advancement of the Nigerian financial system especially in the Oil and Gas Industry as it gives first consideration to Nigerian independent dealers, thus enabling Nigerian Companies to contribute immensely towards the expansion of the Nigerian financial system. It is therefore suggested that there is need for the legislature to expand the local content law to cover more sectors of the Nigerian economy so as to improve the capacity of Nigerian businesses and promote the employment of Nigerian workforce.

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1. INTRODUCTION

Resource-rich regions usually expect and strive for local economies to benefit from oil, gas and mineral projects. Unfortunately, that is not always the case. It is a fact that some of the regions seem not to know how to take advantage of extractive activities to create sustainable economic development, be it creating jobs and developing local businesses or building skills and improving technologies. ''Local content policies are policies imposed by governments that require firms to use domestically-manufactured goods or domestically-supplied services in order to operate in an economy'' (Fred & Evans, 2018). They are policies usually designed by policymakers to pursue targets such as; industrial development, job creation, value addition, linkage creation and better value chain incorporation. These measures help the government to achieve a variety of policy objectives that target employment, industrial, and technological development goals. In developing countries of which Nigeria is one, the governments have enshrined local content law to encourage home-grown jobs and industry. ''Since the commencements of implementation of the Local content law in Nigeria, there are evidences that it has been used to transform the country's economy, particularly in the areas of local firms, increased participation, infrastructure development, job creation'' (Tordo et al., 2013; Ariweriokuma, 2009; AfDB, 2007; Sala-i-Martin and Subramanian, 2003). The purpose of Nigerian Oil & Gas Industry Content Development (NOGICD) Act was enacted in Nigeria to promote increased Nigerian participation in the oil industry. Although some scholars are of the view that the Local Content requirements impact negatively on economic development and trade, available evidence indicate that they continue to play a significant role in policy today.

However, while local content requirements may help governments achieve certain short-term objectives, research have shown that they undermine long-term competitiveness. Some research works carried out by the Organization for

European Cooperation and Development (OECD) provides evidence of the damaging effects that Local Content Requirements (LCR) can have on the imposing country's own financial system. There are also indications that local content requirements in reality, shrinks the growth of job and opportunities to achieve economies of scale thereby undermining the original goals for which the local content law was imposed. Some countries that impose the requirements have also been found to lose global competitiveness. Evidence of this can be seen from the reduction in exports in sectors that are not the direct targets of the requirements of Local content. Equally worthy of note is that more domestic resources are used by sectors that benefit from the local content requirements, while other sectors are forced to trim down production or augment imports, giving rise to a concentration of more domestic financially viable activity. This process eventually undermines the expansion and improvement opportunities that accrue from a wide-ranging, dynamic financial system. Various studies have by and large accomplished that while local content requirement laws may achieve definite temporary goals, they weaken industrialized competitiveness and general employment over the long-run. It is on the bases of this argument that this study sets to critically analyze the local content Act of Nigeria so as to find out the impact it has had on Nigerian financial system.

2. METHODOLOGY

The paper adopted a qualitative research design to gain insight into the nature and performance of local content law in Nigerian. We used descriptive and observation methods to critically examine local content Act and its performance in Nigeria. The paper is theoretical in nature and basically draws its arguments from content analysis of secondary data including existing legal frameworks.

3. CONCEPTUAL CLARIFICATION

Essentially, the concept of local content is about providing direct and indirect opportunities for service and procurement to citizens at the same time and fostering the progress of local skills, technology transfer, and utilization of local manpower and local manufacturing in capital projects. The purpose of the Local content law in Nigeria is essentially to ensure the application of indigenous people (Nigerians) to execute certain assignments where they have the requisite skill and competence (The Nigerian Oil and Gas Industry Content Development Act, 2010). The leading standpoint on the regulatory role of local content law is that it serves as an instrument by which the gains of Nigeria's endowed resources on economic development could be increased and also for trickling the material goods generated to Nigerian citizens. Some see local content law as a way of promoting self-sufficiency under the motto, 'We should grow what we eat and eat what we grow.'

4. THEORETICAL REVIEW

4.1 The Need for Local Content Law in Nigeria

Historically, the local content policy action is said to have started in 1971 through the establishment of the Nigerian National Oil Corporation, (NOC). The purpose of the law is essentially to ensure the use of indigenous people (Nigerians) to execute certain assignments where they have the requisite skill and competence (The Nigerian Oil and Gas Industry Content Development Act, 2010). The policy is intended to build the capability of native firms and to provide more opportunities for partaking in trade and commerce. Therefore, it is expected that in order for most investments to be retained within local businesses, it is necessary to ensure active involvement of local firms. The adoption of Local Content law is therefore seen as a strategy to add to the participation of indigenous firms to create more employment opportunities for the domestic labor force (Abdulkabir, Shaufique, Azmawani, and Siong, 2012).

4.2 Areas Covered in the Nigeria Local Content Act

Fred & Evans (2018) have enumerated the local content provisions in some sectors of Nigeria to include;

(a) Information and Communications Technology: In 2013, guidelines on Nigerian content development in information and communication technology was released by the National Information Technology Development Agency (**NITDA**). Analysis of the guidelines shows that Information and Communication Technologies (ICT) companies in Nigeria are to retain 50% (fifty percent) local content. This they are to do directly or by outsourcing to home businesses to persuade Nigerian representation and involvement in the information and communication sector.

(b) Oil and gas: The aim of the law establishing the Nigerian Oil and Gas Industry Content Development (NOGICDA) is to create a structure for expansion of Nigerian content with regards to all operations and transactions which take place in Nigeria's Oil and Gas Sector. By way of definition in the Act, a Nigerian Company is taken to mean a Company registered in Nigeria in accord with the provisions of the Companies and Allied Matters Act (CAMA). Furthermore it is expected that such registration ought to involve not less than 51% (fifty-one percent) equity shares of Nigerian ownership. To this end, the Act gives mandates to dealers in the oil and gas sector to consider Nigerian content as vital component in their project development and management viewpoint. Furthermore, the Act provides that subject to completion of the conditions that may be specified, Nigerian oil and gas operators and native service providers shall get first consideration in grant of oil blocks, licenses and works in the sector. Government's objectives on the local content law in this case include; the extension of the upstream and downstream sectors of the oil and gas industry, the diversification of the sources of business enterprise into the sector such that some of the funds would begin to come from local sources, the encouragement of indigenous involvement and the encouragement of technology transfer. One can however agree with Oguagha (2017) who opines that ''Government's objectives for the local content law are quite noble but have remained unrealized''.

(c) Architecture: Only Nigerian citizens that will be registered to carry out structural design in Nigeria. Also, an overseas architect who does not qualify for listing in Nigeria may be registered by the Council if he is employed in Nigeria as an alien technical assistance or alien technical aid program or under a contract with the Federal Government or Government of any State of the Federal republic of Nigeria. Nevertheless, a foreign architect who satisfies the Architect Registration Council of Nigeria that there exist a mutual arrangement of registration of architect between his country and Nigeria may be registered by the Architect Registration Council of Nigeria. This is the requirement of the Architect Registration council.

(d) Banks: The Nigeria content law provides that no alien bank can operate a branch in Nigeria without earlier approval of the Central Bank of Nigeria. Additionally, no person can carry on any banking business in Nigeria except it is duly integrated in Nigeria and holds a legally binding banking licence. no alien bank can operate a branch in Nigeria without earlier approval of the Central Bank of Nigeria. Nevertheless, Central Bank of Nigeria (CBN) may award license to Nigerian and overseas banks to undertake off-shore banking business from Nigeria. Nevertheless, Central Bank of Nigeria (CBN) may award license to Nigerian and overseas banks to undertake off-shore banking business from Nigeria.

(e) Aviation: The local content Act provides that the Nigeria Civil Aviation Authority shall not award an aviation permit, certificate or other approval to a anyone who is not a national of Nigeria or a company not registered in Nigeria.

(f) Shipping: The law restricts the use of overseas-owned or manned vessels for coastal deal in Nigeria but only allows vessels entirely owned and operated by Nigerians, built and registered in Nigeria that can engage in domestic coastal carriage of consignment and passenger within the coastal territorial national waters or any point with the restricted economic zone of Nigeria. To this end, if a vessel is not owned by a Nigerian citizen, it shall not be allowed to carry any material at all or search any material within Nigerian waters. However, a foreign vessel may provide assistance to persons, vessels or airplane in Nigerian waters when found to be at risk or distress.

(g) Broadcasting: The mandate is that the Nigeria Broadcasting Commission can only award a certificate when it is contented that the company applying is one registered in Nigeria with whose majority shares are owned by Nigerians. Such applicant is also expected to also convince the commission that it is not applying on behalf of any foreign interest.

(h) Engineering: To fully do engineering business in Nigeria, the law provides that a company must have Nigerian directors who are registered with the Council for the Regulation of Engineering who should hold at least 53% (fifty-three percent) of the shares in the company.

The law further provides that a non-Nigerian who satisfies the requirements of Council for Regulation of Engineering in Nigeria that he has been so employed for a specific period in a capacity as an engineer and will be in Nigeria provisionally for the purpose of the employment or that he has qualification outside Nigeria which is acceptable to the Council may be registered to practice engineering in Nigeria. It is also to be noted that a company engaged in engineering services is mandated to be registered with the Council for Regulation of Engineering in Nigeria.

(i) Private security: The local content law does not allow a foreigner to be an equity interest holder, or be a member of the board of a Nigerian private security guard company in Nigeria.

(j) Advertising: Only a national agency with less than 74.9% of the equity carry out the promotion of products or services in the Nigeria financial market.

(k) Legal Practitioner: A person can only be entitled to practice as a barrister or solicitor in Nigeria if his name is on the roll of the Supreme Court of Nigeria. Nevertheless, the Chief Justice of the Federation may however grant any legal practitioner who is permitted to practice in a legal system similar to Nigeria, a certificate to practice in Nigeria. Again, if it is expedient for a person to practice as a barrister for the purpose of specific proceedings, the Chief Justice may grant the person the permit to practice as a barrister in relation to the exact set proceedings.

(l) Pharmacists: A person who is not a citizen of Nigeria may be registered as a Pharmacist if his country gives reciprocal registration facilities to Nigerian citizens as well. However, a person can only be registered to practice as a Pharmacist in Nigeria if he is a Nigerian citizen.

4.3 Regulatory Framework and Impact of Local Content Act Implementation in Nigeria

In Nigeria, there is established the Nigerian Content Development and Monitoring Board (NCDMB). The Nigerian Oil and Gas Industry Content Development (NOGICD) Act was established in 2010. According to the Act establishing the Board, it is vested with the mandate to make procedures that will guide, monitor, direct and apply the contents of the law assented in April 22, 2010. According to the Nigerian Oil and Gas Industry Content Development Act (2010) the major functions of the Board include to: develop and run the Nigerian Content Development Fund; review, assess and approve Nigerian Content plans developed by operators; engage in targeted capacity building interventions that would intensify native capabilities- Human Capital Development, Infrastructure & Facilities, Manufactured Materials and Local Supplier Development; supervise Nigerian Content Compliance by operators and service providers; award Certificate of Authorization for projects that comply with Nigerian Content provisions; put guiding principles and lowest content levels for project related activities across the oil and gas value chain; to conduct studies, research, investigation, workshops and trainings aimed at advancing the development of Nigeria; set up, preserve and operate the Joint Qualification System (NOGICJQS) in concurrence with industry stakeholders.

An evaluation of the above indicates that the effect of the Local Content Act on the Nigerian Oil and Gas Industry has been tremendous. For one, there have been creations of employment opportunities for Nigerians who have interest in the oil industry Reuters (2010). In the words of Wabote (2019) ‘‘Before the enactment of the NOGICD Act in 2010, out of the $20billion industry spend, less than 3 per cent was retained in Nigeria. Nigeria has been able to claw back about $5 billion in-country out of the $20 billion’’. Wabote (2019) further posits that “today, 95 per cent of the oil and gas service companies, be it onshore or swamp drilling, well intervention and simulation activities, are by Nigerians”. Previously, these were wholly set aside for the multi-nationals such as Halliburton, Schlumberger, etc. Further investigation also shows that Nigerians have since taken more than those everyday jobs in the swamp and land areas where drilling operations are carried out (Wabote, 2019). Also, the subsidiary oil fields are operated by Nigerians, adding up molecules to the unfinished oil barrels in the petroleum subdivision. In terms of expatriate quota, (Wabote, 2019) adds that it has gone down drastically making it possible for other African countries to be coming to learn how Nigeria has done, from service provision to upstream activities to the downstream. It is also worthy of note that Nigeria has continuously provided leadership and guidance to other African nations that want to understudy Nigerian local content implementation. There have also been tremendous achievements in the aspect of reducing the number of experts coming into Nigeria’s oil and gas sector as expatriates. From when the Nigerian local content Act came into being in 2010 till date, it is on record that Nigeria has reduced the expatriates’ population in the business to about eighty per cent (Wabote, 2019). For instance Shell, in the 1990s it was observed that all Nigerians were in mid-level management because there were lots of expatriates everywhere. It is estimated that today, about ninety five per cent of staff of Shell are said to be Nigerians. Further example shows that in Bonny, almost about ninety per cent of the staff in Bonny Nigeria Liquefied Natural Gas (NLNG) as at 2019 was also found to be Nigerians, including the Managing Director, also of Shell Petroleum Development Corporation (SPDC) (Wabote, 2019). Local Content Act compelled IOCs to utilize local resources in their operations, giving rise to the domestication of oil and gas activities (Oguagha, 2017). This in turn has reduced the unemployment rate within the country. The Local Content Act specifies that for every operation, an operator, in this circumstance foreign expatriate, may uphold at most five percent (5%) of management positions as a way of protecting the interest of investors. Section 31 of the Local Content Act clearly states that “a mandatory succession plan desires to be positioned in which Nigerians can standby an incumbent expatriate for a period of four (4) years”. This allows the expatriate propagate significant technical know-how to the Nigerian whilst also adding up to the development of the Nigerian employee. With the establishment of a mandatory succession plan, there is a certain reassurance of longevity of Nigerian participation and interest within the industry. Section 30 of the Local Content Act provides that “training shall be provided to Nigerians who require adequate education to function within the Oil and Gas industry” This effort creates an opportunity for unbroken learning development opportunity and has therefore contributed to the growth of many employees.

In the area of professional services, professionals are not left out from the gains of the Local Content Act. Joint Venture Agreements (JVAs) are usually entered into by parties within the oil and gas industry. Under Sections 49, 51 and 52 of the Local Content Act, insurance brokers, lawyers and financial advisors can be enlisted by contractors and operators within the industry for the provision of professional services for any of the operations the contractors and operators wish to execute. Joint Venture Agreements (JVAs) are usually entered into by parties within the oil and gas industry.

Equally worthy of note is that with the introduction of the Local Content Act, there has been a high level of investment in the Oil and Gas industry as investments have been received from sound global companies thereby providing a platform for intercontinental involvement as well (Oguagha, 2017). The execution of the Act has also been found to facilitate higher value-added processing and manufacturing activities in Nigeria, there by stimulating economic growth; promoting the development of local industries, creating economic linkages, building local capacity, capability and technology; developing workforce skills, boosting employment, and minimizing capital flight (McCulloch, Balchin, Mendez-Parra, and Onyeka, 2017).

Thus, observers opine that “implementation of the Act has ensured that substantial proportion of materials, engineering parts and human capital utilized in Nigeria Oil and Gas are domiciled in Nigeria”. It has encouraged the use of Nigeria's human and material resources for the advancement of the oil industry. The act provides that the directors of these companies are to get equipment produced locally in Nigeria (Section 3, 13, 10 of The Nigerian Oil and Gas Industry Content Development Act, 2010). This has contributed to the promotion of industrialization and eventual increase in the GDP of the country and particularly improved the economy (Offiong, 2012). In addition, in the evaluation of a bid, the Act gives a 10% premium in favour of Nigerian companies (Section 15-16 of the Nigerian Oil and Gas Industry Content

Development Act, 2010). What's more, companies desirous to invest in the oil and gas sector are mandated to employ 51% Nigerians and even more for junior and intermediate cadres (Section 35 of The Nigerian Oil and Gas Industry Content Development Act, 2010). Implementation of this has ultimately led to encouragement of local know-how and lessening the extent of crime.

The Act has also encouraged technology transfer and partnership between Nigerians and foreign contractors, thereby greatly promoting diplomatic relations between Nigeria and other countries (Section 43 of the NCDA 2010). It stops Oil and Gas from being an 'enclave' economy and creates linkage to the wider economy. It is expected that an operator should support the transfer technology initiative by encouraging and facilitating the formation of joint undertakings, partnering and development of licensing agreements between Nigerian and foreign contractors. Local content has immense potential to transform the Nigerian financial system. By creating jobs and substituting the import of goods and services with in-country manufacturing, Nigerian content now allows the country to avoid the so-called resource curse and transition to advanced capitalist development (Ovadia, 2012).

5. THEORETICAL FRAMEWORK

Dependency theory was used as the theoretical frame of this study. According to Osvaldo (1969) dependency is used to explain the economic development of a state in terms of the external influences which may be political, economic, and cultural on national development policies. Dependency theory is an historical condition which shapes a certain set of structure of the world economy such that it favors some countries to the detriment of others especially the third world countries, and limits the development possibilities of the subsidiary economies to a condition in which the economy of a certain group of countries is restrained by the development and expansion of another financial system, to which their own is subjected (Theotonio, 1971). Indeed, their studies suggested that "economic activity in the richer countries (developed world) often led to serious economic problems in the poorer countries". The solution to this in the words of Vincent **(**2008**)** is that poorer countries should embark on programs of import substitution so that they need not purchase the manufactured products from the richer countries. Even though the poorer countries would still sell their primary products on the world market, their foreign exchange reserves would not be used to purchase manufactured products from abroad. These countries are not "behind" or "catching up" to the richer countries of the world. They are not poor because they lagged behind the scientific transformations or the enlightenment values of the European states. They are poor because they were forcefully incorporated into the European economic system only as producers of raw materials or to serve as repositories of low-priced labor, and were denied the opportunity to sell their God given possessions in any way that competed with leading states Vincent (2008).

The theory therefore opines that substitute use of resources is preferable to the resource usage patterns imposed by developed and dominant economies. Proponents of dependency theory rely upon a belief that there exist clear "state" economic interests which ought to be articulated for each country. Dependent states, therefore, should opt for policies of self-reliance. In other words, greater integration into the global financial system is not necessarily a good choice for poor countries; rather a policy of self-reliance should be viewed as opting for a strategy of restricted exchanges with the world financial system. Poor countries should only support exchanges on terms that promise to improve the social and financial welfare of the larger citizenry in the state. Dependency theory is adopted for this study because the theory advocates a voluntary relationship with other countries. Local Content Act adopted by the Nigeria Government is voluntary measure to getting economic freedom and advancement from the advanced industrial economies and their dominant multinational corporations having their firms in different parts of the country.

6. EMPIRICAL REVIEW

Oguagha (2017) carried out a critical evaluation of the effectiveness of local content policy (LCP) and transparency practices in LCP implementation in the Nigerian oil and gas business. The study critically examined how effective the Local Content Policy and the transparency practices associated with its implementation have fared. A conceptual framework based on accountability was developed and used in the design of the research instrument. Methodologically, the article was qualitative and data was gathered through in-depth semi-structured interviews with respondents drawn from twenty-three indigenous oil and gas companies, international oil and gas companies, non-governmental organizations, and regulatory bodies. Observations from the study demonstrated that there are different significant views on the definition and objective of Local Content Policy by stakeholders. These diverse opinions determine the way in which the Local Content Policy is perceived and implemented in the oil and gas industry. It was further revealed from the study that the Local Content law has been enforced despite the absence of full local capacity and capability for its accomplishment. The findings therefore, highlight a number of challenges associated with Local Content Act implementation including; deficient money and manpower, shortage of infrastructure; mistrust; and the poor coordination between the regulatory agencies in the industry. Therefore, the article argues that "significant improvements are required in transparency practices in Local Content Act implementation by strengthening the Local Content Act monitoring and enforcement process. Some further recommendations arising from the research include the need for investment in infrastructure that will facilitate indigenous companies' participation in the industry; a concerted effort to be made to promote partnership and collaboration between indigenous companies and IOCs, encouraging investment in world-class infrastructure that can compete with international standards". In conclusion, two new models were established namely; Local Content Act stakeholder perception model and Local Content Act implementation model.

Abdulkabir, Shaufique, Azmawan, and Siong (2016) studied the Role of Local content Policy in Local Value Creation in Nigeria's Oil Industry: A structural Equation Modeling (SEM) Approach. To address the issue of how adopting local content policy profits the economic expansion of emergent oil-rich countries in order to determine the level to which Local Content Act can achieve this goal in some of the oil rich third world countries was the objective of the paper. To address this gap, the study examined the effect of Local Content Law in influencing local value formation with particular reference to indigenous oil firms' involvement, backward linkages and job creation. To analyze the data obtained from a survey of 209 local oil and gas firms in the Niger Delta, Structural Equation Modeling (SEM) technique was applied. Findings from the study confirm that Local Content Act implementation has had a positive and significant effect on local value formation. However, the paper concluded that as against the anticipated objective, local value created in the Nigerian oil industry as a consequence of Local Content Law is lower. By way of recommendation, the study was of the view that in order to ensure the efficacy of local content law towards increasing economic progress, the execution of the Act needs to be monitored strictly.

Ayonmike and Okeke (2015) investigated the Nigerian Local Content Act and its Implication on Technical and Vocational Education and Training (TVET) and The Nation's Economy. Using secondary data, the paper examined the Nigerian local content Act, Technical and Vocational Education Training (TVET) and the implication of Local Content Act on TVET and the Nigerian economy. The paper observed that in Nigeria, Technical and Vocational Education and Training (TVET) has received a lot of value from Nigerian local Content Act. The position of the paper is that for Nigeria to achieve the intended goals and objectives of the Local Content Act, the government, stakeholders, and the board in charge of implementation and monitoring of the Local Content Act must first of all revitalize Technical and Vocational Education and Training (TVET) institutions. There should also be instituted training and retraining of Technical and Vocational Education professionals, that will help produce the skilled work force needed to implement the Nigerian Local Content Act.

7. OBSERVATIONS

1) Contrary to expectations of the Local Content Act, not all companies covered under the Act have embraced its provisions. Thus, implementation of the Act is still at its lowest ebb.

2) Despite the extant Local Content Act, there is low participation of local firms in the oil and other industries and this is often attributed to absence of capability to compete and the inability to meet industry requirements.

3) There is high level of non-compliance to the Local Content Act by some multinationals S observations shows that some multinationals continue to violate provisions of the Nigerian Content Law through the use of expatriates who perform job functions that Nigerian citizens do have the capability to execute.

8. CONCLUDING REMARKS

The purpose of the Local Content Act in Nigeria is essentially to ensure the use of indigenous people (Nigerians) to execute certain assignments where they have the requisite skill and competence. Local Content Act when in full implementation will play vital role in the expansion of the Nigerian economy as it is anticipated to give first consideration to Nigerian autonomous operators. This will create a platform for Nigerian Companies to contribute immensely towards the growth of the Nigerian economy. In view of the above, the Local Content Act needs to be fully implemented by the Nigerian government. It is therefore high time the Nigerian parliament expanded the local content law to cover more sectors of the economy so as to improve the competence of Nigerian businesses and save from harm the employment of Nigerian workforce. Thus the design and implementation of local content should be based on a cost-benefit analysis and should consider the costs for consumers and downstream industries.

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