# THE PETROLEUM INDUSTRY ACT 2021: IMPLICATIONS IN ENVIRONMENTAL REGULATIONS AND PETROLEUM OPERATION ACTIVITIES IN NIGERIA

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***Abstract***

*The Petroleum Industry in Nigeria remains pivotal and critical as a major source of national revenue since the discovery of oil in commercial quantity in 1956. Given the severity of the impact of oil industry operations and activities on the environment, human health, livelihood of people in the host communities and sustainable development over the years in Nigeria, the Petroleum Industry Act 2021 (PIA) is expected to effectively regulate the operations of petroleum companies and other entities in the Nigerian oil and gas industry in line with global best practices. This paper reviews the PIA and analyses its objectives, and benefits of its implementation and enforcement. The paper recommends that host community development framework as envisage by the PIA should be seen as complimentary to government obligations and other public development agencies in the Niger Delta region, including Niger Delta Development Commission (NDDC) and the respective States' Oil Producing Areas Development Commissions. Also, the paper recommends that there should be cooperation between both regulatory agencies to avert unnecessary duplications of duties, accreditations for facilities/ assets, equipment, consultants, contractors, and other support service providers. In addition, agencies like Nigerian Content Development and Monitoring Board (NCDMB) should focus on building the capacities of local consultants, project executors and other critical stakeholders in the oil and gas sector, to enhance transparent, accountable, and effective management and leadership for sustainable development and full compliance with the PIA.*

**Keywords:** Operators, regulators, environmental component, petroleum operations and activities, Petroleum Industry Act.

## 1. Introduction

The Petroleum Industry in Nigeria evolved over six decades ago as commercial oil production began in 1956 at Otuabagi village in Oloibiri clan at Ogbia Local Government Area of present day Bayelsa State in the Niger Delta region.[1] According to Authority,[2] before the discovery of crude oil, agriculture was the dominant occupation of the people of Oloibiri and other parts of Nigeria's Niger Delta region. However, little attention was paid to effectively regulating the environmental component of the petroleum industry. During the colonial era, petroleum issues and activities were placed under the purview of the Ministry of Lagos which was established for the purpose of keeping records of oil exploration activities, importation, distribution of petroleum products and overseeing of compliance with basic safety requirements in the oil industry. However, after Nigeria gained independence in 1960, the Ministry of Mines and Power was created by the Federal Government, and a Department of Petroleum in the ministry was to supervise petroleum exploration activities.[3]

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[1] Enogholase, G. (2000). Oloibiri: When the Dancing Stops, National Interest Newspaper, Lagos, Nigeria, Vol. 1 No. 10, October 22, 2000, P. 13.

[2] Authority, B. (2020). Social and Environmental drivers of Climate Change Vulnerability in the Niger Delta region, Nigeria. European Journal of Environment and Earth Sciences. Available at: www.ej geo.org/index.php/ejgeo/article/view/69

[3] Eweje, G. (2006). Environmental Costs and Responsibilities Resulting from Oil Exploitation in Developing Countries: The Case of the Niger Delta of Nigeria. Journal of Business Ethics, 69 (1). 27-56.

In 1971 the Nigerian National Oil Corporation (NNOC) was established by the Federal Government; to enable government effectively participates in and play supervisory role in the industry. Also, the Ministry of Petroleum Resources (MPR) was merged with the NNOC to form the Nigerian National Petroleum Corporation (NNPC) in 1977 by a Federal Degree[4], and thus the nucleus of the former Petroleum Inspectorate transformed into the Department of Petroleum Resources (DPR). The DPR on behalf of the Ministry of Petroleum Resources was mandated to supervise and regulate the Nigerian petroleum industry and equally support increase in oil production and revenues generations to federal government.[5] In 1963, the Mineral Oil (Safety) Regulations (MOSR), modelled on American and British standards, were adopted to regulate safety and occupational health in the industry. The MOSR was reviewed and amended in 1977 and made more robust with a wider coverage on aspect of safety and occupational health.[6]

The Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) were first formulated and issued by DPR in 1991 and reviewed in 2002, 2016 and 2018. The EGASPIN provide framework for environmental legislation, prescribed requirements for permits, standard and guidelines for compliance for the petroleum industry.

Specifically, of interest is the requirement that: ‘‘Licensees/operators are required to institute planned and integrated environmental management practices aimed at ensuring that unforeseen, identified and unidentified environmental issues are contained and brought to an acceptable minimum.”[7] [6] Nonetheless, Damilola and Zibima[8] points out that some major challenges to the effectiveness of EGASPIN include its legal status, none implementation, conflicting roles between DPR and National Oil Detection and Response Agency (NOSDRA), high target values, lack of provision for stakeholders input, discrepancies in issuing of certification and site verification by independent stakeholders, and conflict of interest in DPR which is charged with maximizing oil production to generate revenues and at the same time enforce environmental standard against operators. Consequently, there is need to carry out thorough review and amendments of the EGASPIN and equally develop a more comprehensive, consistent, and coherent environmental laws that addressed these gaps, establish auditors for regulators, and strengthen stringent environmental regulations in the Nigerian oil and gas sector.

The scenario in environmental protection, health and safety issues, host community concerns and sundry issues are set to change significantly, with the recently enacted Petroleum Industry Act (PIA) despite mixed reactions amongst stakeholders. Understandably so, because the Petroleum Industry Bill until its recent enactment has been the most debated and delayed bill as the process lasted about sixteen years on the floor of the National Assembly, where it underwent several redrafting, intense discussions at several public hearing sessions, directed towards capturing and incorporating inputs and interest of the diverse stakeholders. Though the delays in passing the PIA attracted criticism from different stakeholders, this was necessary given the comprehensive targets of the bill, and its overreach effects on host communities, oil operators and regulators. Arguably, the PIA has set the stage for the proper regulation of environmental aspects of petroleum operations and activities in all ramifications, inclusive of social and economic aspect.

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[4] Decree 33 of 1977

[5] Department of Petroleum Resources, (2021), Available at: https://www.dpr.gov.ng/history-of-dpr (Accessed Novembe 1, 3 2021).

[6] Department of Petroleum Resources, (2019). Available at: https://www.dpr.gov.ng/history-of-dpr (Accessed October 9, 2021).

[7] Part VIII-H of the 2002 edition of the DPR’s Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN), prescribed the requirements and contents for the preparation and establishment of Environmental Management System (EMS).

[8] Damilola S. O. I. & Zibima, T. (2018). Review of the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN).

Remarkably, the PIA has its first objective as: *creation of efficient and effective governing institutions, with clear and separate roles for the petroleum industry*.[9] To fulfil this object, those who crafted the law, in their wisdom, made provisions for the establishment of two distinctive regulatory bodies; the Upstream Commission as well as the Midstream and Downstream Authority with separate roles, clear responsibilities and powers. The PIA empowers the Minister of Petroleum to *give general policy directives to the Commission on matters concerning the upstream petroleum operations and to the Authority on matters relating to midstream and downstream petroleum as well as matters related to corporations among the two entities in line with the provisions of the Act.*[10]

Also, the PIA contains adequate provisions for Environmental Management Plan as well as decommission and abandonment plan, processes and mandatory fund required defraying cost of reinstating the environment and execution of other decommissioning and abandonment activities. These innovative provisions are key to enforcing cradle to grave environmental compliance whilst also making provisions for funding requirement for environmental quality and condition restoration. Strategically, the socioeconomic aspect of the environment is no longer considered as a mere Corporate Social Responsibility (CRS), left to the discretion of operating companies in the industry. To this effect, there are specific provisions in the PIA that provides for incorporation of host communities development trusts with a requirement that each settlor shall contribute 3% from its annual operation expenditures to host communities through a Host Community Development Trust.[11]

## 2. Regulating the Environmental Components of NNPC's Operations and Activities

The NNPC was established in 1977 to give enablement to the Federal Government of Nigeria participation in the petroleum industry and to supervise petroleum operations and activities. The NNPC is thus involved in exploration, production, transportation, processing of crude oil, refining, and marketing of petroleum through its subsidiaries.[12] These subsidiaries includes the National Petroleum Investment Management Services (NAPIMS), Pipeline Products and Marketing Company (PPMC), Nigerian Petroleum Development Company (NPDC), Integrated Data Services Limited (IDSL), Nigerian Gas Company (NGC), Duke Oil Services Limited (DOSL), The Nigerian Petrochemical Companies in Kaduna (KRPC) and Warri Refining and Petrochemical Company (WRPC) and two petroleum refineries in Port Harcourt (PHRC I & II). Technically, the DPR, cannot be categorized as a subsidiary of the NNPC but administratively it is difficult to separate the DPR from the NNPC and thus making it almost impossible for the DPR to regulate the NNPC and its subsidiaries that are actively involved in diverse sphere of petroleum operations and activities.

Adeoye[13] argues that the relationships between NNPC with its subsidiaries and DPR cannot be separated because these entities are not at arms-length, indeed, the relationship between NNPC & DPR may be characterized as one which suggests regulatory capture. Structurally, NNPC and its supposed regulator, share facilities and the employees of both institutions are often sent on secondment from one to the other. NNPC has also directly funded the operations of DPR, including the payment of staff salaries and the funding of DPR's monitoring functions. The closeness between the entities compromises the ability of DPR to effectively and independently monitor or regulate

[9] Petroleum Industry Act 2021, Chapter II, Section 233(1-12)
[10] Petroleum Industry Act, 2021. Chapter III, Section 234-235.
[11] Petroleum Industry Act, 2021. Chapter III, Section 240-247.
[12] Elenwo, E. I. and Akankali, J. A. (2014). Environmental Policies and Strategies in Nigeria Oil and Gas Industry: Gains, Challenges and Prospects. Natural Resources, 5, 884-896.
[13] Adoye, A. (2008). Acritical Analysis of Institutional Reforms in Nigeria's Oil and Gas Industry.

NNPC activities. The PIA has brought an end to this strange and unwholesome relationship by clearly separating the NNPC from the two regulatory Bodies of the Upstream Commission and the Midstream and Downstream Authority. The Commission like its counterpart in the Midstream and Downstream Authority, is adequately provided for by the Act, specifically to have six Executive commissioners, including an *Executive Commissioner for Health, Safety, Environment and Community*, (socioeconomic is embedded in Community). This makes for a wholistic coverage of all aspects of the environment. Furthermore, the PIA has unbundled and restructured NNPC into a limited liability company, to make for effective separation from political negative influences, efficiency, functionality, profitability, and competitiveness. The PIA provides that

> *"NNPC Limited and any of its subsidiaries shall conduct their affairs on commercial basis in a profitable and efficient manner without recourse to government funding and their memorandum and articles of associations shall state these restrictions, and NNPC Limited shall operate as a Companies and Allied Matters Act entity, declare dividends to its shareholders and retain 20% of profits as earnings to grow its business."*[14]

This legislative provision and similar ones in the Act, seek to effectively cured the malady of the NNPC's privileged relationship with other government agencies on the one hand and the aberration that used to exist between NNPC and the defunct Regulator (DPR) on the other hand, thereby exposing the NNPC and its subsidiaries to total regulations, like any other business entity in the petroleum industry. Under the PIA, both the Commission and the Authority are well positioned, structured, and empowered to regulate the NNPC and its subsidiaries, without any restriction.

The Authority which is the regulatory agency for the midstream and downstream subsector of the industry has a lot of work to do especially in the area of regulating the environmental components of hydrocarbon processing operations and activities. Hydrocarbon processing operations and activities are inherently, heavy polluters.[15] For instance, the Kaduna Refining and Petrochemical Company, Warri Refining and Petrochemical Company and the two Refining and Petrochemical Companies in Port Harcourt including the Idarama Eleme Petrochemicals Limited in Port Harcourt need to be supported to achieve a reasonable level compliance, environment wise. To make for smooth transition, the major refineries, and petrochemical companies, require some urgent resourcing and restructuring, to strengthen the capacity of their respective Environment, Safety, Health, and Community departments, so as to build their capacity to attain compliance within a reasonable period of time because they are not likely to get waiver for noncompliance. In fact, the stringent penalties for nonconformance or noncompliance to environmental standards and guidelines, is likely to whip operators in the subsector into line, inclusive of the yet to be commissioned Dangote Petroleum Refinery and emerging numerous modular refineries.

### 3. Abrogation of Undue Interference, Unsolicited Interventions and Encroachment into Petroleum Regulation operations and Activities

The PIA specifically prohibits any form of undue interference and unsolicited intervention from other government ministries, departments, and agencies (MDAs). The Act grants full autonomy and power to the Upstream Regulatory Commission as well as the Midstream and Downstream Regulatory Authority, the Act made both regulatory bodies, the principal regulatory agencies of the Petroleum Industry; at the upstream subsector and midstream and downstream subsector,

[14] Petroleum Industry Act 2021, Part V Section 53(7)

[15] Aniefiok, E. I., Udo, J. I. Margaret, U. I. and Sunday, W. P. (2013). Petroleum Exploration and Production: Past and Present Environmental Issues in the Nigeria's Niger Delta." American Journal of Environmental Protection 1, no. 4(2013): 78-90.

respectively. The Act is unequivocally clear by stating that: ''*Any Government ministry, department or agency exercising any power or function or taking any action, which may have direct effects and impact on the midstream or downstream petroleum operations shall consult with the Authority prior to*

*(a) Issuing any regulation, guideline, enforcement order or directive,*
*(b) Exercising any such power or function; or*
*(c) Taking any such action.*

*(2) The Authority shall review the recommendations of the Government ministry, department or agency and communicate decision accordingly and the decision shall be complied with by the relevant Government ministry, department, or agency.''*[16]

In the same vein, the above provision is also applicable to the Commission as contained in Part III, Section 25 (1-2) of the PIA. These provisions, further strengthen other complimentary provisions in the Act, with the aim of preventing unnecessary overlapping of functions, encroachment into the roles and activities of both the Commission and Authority whilst also granting the powers to be informed and *vet* regulations and enforcement orders and actions of other Government ministry, department and agency that may have reason(s), to conduct any activity or operation that may affect the industry or operators and any entity in the industry. In other words, no government's ministry, department, or agency can make or issue enforcement notice or take any action that directly impact or affect any operation or activity in the petroleum industry without the approval of the Upstream Regulatory Commission or the Midstream and Downstream Regulatory Authority.

In light of this, The Ministry of Environment and its agencies, such as the NOSDRA can no longer establish or determine cause of oil spill incident nor quantify volume spilled nor conduct damage assessment or any other activity without the vetting and approval of either the Commission or the Authority, as the case may be, neither can the Ministry of Environment or NESREA issue and enforce noncompliance notice nor enforce environmental compliance notice or order without the vetting and concurrence by the Commission or the Authority, as the case maybe. Consequently, there is need to incorporate or draft core and experienced personnel from the reductant agencies on secondment to both the Commission and the Authority so as to strengthen the manpower of these regulatory agencies. The bases of working *with* and *from within* is not only fundamentally necessary but both cost effective and technically effective, because the personnel from the defunct Department of Petroleum Resources (DPR), Petroleum Equalization Fund (PEF) and the Petroleum Product Pricing Regulatory Agency (PPRA) are grossly insufficient to effectively and efficiently manned and deliver the mandate given to both the Upstream Regulatory Commission and the Midstream and Downstream Regulatory Authority as envisaged by the Petroleum Industry Act. Consequently, it is reasonable and logical to either absolve the needed personnel from other agencies, who are familiar and abreast with the regulatory activities and schedules or deploy such personnel through secondment so as to ensure smooth transition and effective establishment of both the Commission and the Authority.

## 4. Principal Legal Framework on Environmental Protection and Management

The PIA makes provisions for validating or revalidating Environmental Management Plan (EMP) which is an integral or product of Environmental Impact Assessment (EIA).[17] A licensee or lessee who engages in upstream and midstream petroleum operations shall within- one year of the effective date, or six months after the grant of the applicable license or lease, submit for approval an environmental management plan in respect of projects which require environmental impact

[16] Petroleum Industry Act 2021, Chapter 2, Part I Section 102(1)

[17] Petroleum Industry Act 2021, Chapter 2, Part I Section 103(1-2).

assessment to the Commission or Authority, as the case may be. Condition for granting approval to environmental management plan is clearly stated in the preceding provisions. It therefore holds, that operators are by law expected to comply to the requirements and guidelines for preparation of environmental impact assessment as well as obtaining approval for the environmental management plan.

Beyond making environmental management plan a legal requirement, the PIA explicitly makes financial contribution compulsory for the purposes of availability and adequacy of resources for environmental protection and management. It provides that

> ''*As a condition for the grant of a license or lease and prior to the approval of the environmental management plan by the Commission or Authority, a licensee or lease shall pay a prescribed financial contribution to an environmental remediation fund established by the Commission or Authority, as the case may be, for the rehabilitation or management of negative environmental impacts with respect to the license or lease*."[18]

The Act further provides for *duty of care and environmental stewardship;* under section 103(5): operators are required to conduct environmental liability annually; this will enable the Commission or the Authority to determine the adequacy of the financial contributions for the purposes of remediation of environmental damage(s).

The Act prohibits routine flare of natural gas and gives legal backing to prevention of waste and pollution regulations and equally provides procedures for measuring quantity and quality and penalty for nonconformance and violations are also clearly spelt out.[19] Interestingly, the Commission and Authority are correspondingly empowered to grant approval to decommissioning, abandonment and disposal plan. [18] The power to vet, review, amend and grant approval to decommission and abandonment plan and enforcement of the requirements for the funding of decommission and abandonment plan, rest with both the Commission and Authority, as the case maybe. Consequently, the issues of cradle to grave regulation of environmental management of the lifecycle of petroleum assets, facilities or operation sites or locations are well covered by the Act.

Moreover, the PIA squarely resolves issues of inherent waste and liability. These provisions also seem to have taken cognizance of the lessons and pitfalls from the Ogoni degradation and pollution incident, which the nation is still struggling to deal with it in terms of mobilization of resources to execute the approved remediation programme that was conducted and recommended by the United Nations Environmental Programme.[20]

However, it is important to note that petroleum operating companies rely mainly on Oil and Gas Service Providers (OGSP) to deliver their legal obligations in terms of environmental compliance, but these environmental consultants, contractors and logistic support services firms do not restrict their services to a subsector. Likewise, the permit used by the defunct DPR to environmental consultants and service providers are not limited to any subsector of the petroleum industry. Consequently, there is need for a lot of cooperation between the Commission and the Authority so as to avert multiplicity of accreditation and permitting of environmental consultants, service provider firms and facilities. It will be illogical and counterproductive to expect consultants,

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[18] Petroleum Industry Act 2021, Part I Section 105 & 106

[19] 18. Petroleum Industry Act 2021, Chapter 2, Part IV Section 128 -168

[20] UNEP (2011). Environmental Assessment of Ogoni land. Available at: <https://wedocs.unep.org/bitstream/handle/20.500.11822/25282/ogoniland_chapter1_UNEP_OEA.pdf?sequence=1&isAllowed=y>accessed 21 November 2018 (Accessed 11th November 2021.

contractors, equipment, and facilities to be subjected to double accreditation processes and permit certification. The way forward is to design the permitting system in line with best global practices so as to enable consultants, contractor, logistic and support services providers to operate and render services with the petroleum industry, without restrictions to any subsector. Such permit weather issued by Commission or Authority should be issued on behalf of the Federal Ministry of Petroleum resources. This will enable accredited laboratory, consultant, contractors, marine and logistic equipment to render effective and efficient services across the petroleum industry, without restrictions.

**5. Framework for Host Community Development.**

It should be well noted that the built-environment or what could be referred to as man-made environment and the people inhabiting the areas are integral part of the environment. Unfortunately, this critical aspect of the environment did not receive the deserved attention until the agitation and restiveness in the region reached a crisis level in 1990s.[21] The crisis in the region was mainly aggravated by lack of development, negligence, youth unemployment and environmental degradation.[22] The crisis eventually culminated to the stoppage of petroleum production in Ogoni land in 1993. The incessant youth restiveness and violence in the region did not assuage, in spite of the stoppage of petroleum production activities in Ogoni land in 1993. The situation was further escalated with the hanging of Ken Saro-Wiwa and eight other Ogonis on November 10, 1995.[23] According to Nnimmo Bassey the Founder and Executive Director of HOMEF, the crisis was avoidable and needless. He further asserts that it costs the multinational oil company operating in Ogoni the sum of $15.5 million US Dollars in an out-of-court settlement to the families of Ken Saro-Wiwa and 8 others that were hanged.

The Niger Delta Development Commission (NDDC) was established in 2000 by an act of parliament, as an interventionist agency, principally to develop oil producing communities in the Niger Delta region. The NDDC replaced the failed and defunct Oil Mineral Producing Areas Development Commission (OMPADEC) which was established by degree Number 23 of July 1992.[24] The Federal Government of Nigeria in December 2000 initiated a master planning process for the physical and social development of the Niger delta region. The master plan was expected to guide and achieve speedy transformation of the Niger Delta into a region of equity, prosperity, and tranquillity. Consequently, GTZ, a German based firm was commissioned to prepare a regional master plan, tailored after the modern cities of Alaska and Alberta. The Master Plan was conceptualized to cover nine states within the Niger-Delta area, namely; Abia, Akwa- Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers. The Master Plan provides a general profile of the people, land, and resources of the Niger Delta Region of Nigeria. It should also be noted that the Master Plan in terms of scope and schedule has a 15-year period of implementation based on three 5-year phases. The plan covers virtually every critical sector, including health, education, transportation, agriculture etc.

Its goals embrace economic growth and infrastructural development with the primary aim of reducing poverty, promote industrialization and social economic transformation of the host communities and the area in general. It was reported that about $50 billion would be required for the implementation of the Regional Development Master Plan.

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[21] Omoweh, D. A. (1995). Shell environmental pollution, culture, and health in Nigeria. The sad plight of Ughelli oil communities. African Spectrum, 30(2), P.115.

[22] Jike, V. T. (2004). Environmental degradation, social disequilibrium, and the dilemma of sustainable development in the Niger Delta of Nigeria. Journal of Black Studies, 34(5). PP. 686-701.

[23] Human Rights Watch (1999). The price of oil: Corporate responsibility and human rights violations in Nigeria's oil producing communities, New York. Available at: www.hrw.org/Nigeria (Accessed November 2nd, 2021).

[24] Niger Delta Development Commission (NDDC). Report 2001

Report has it that the process for the master planning, which began in 2001, was incomplete until 2006 when it was eventually adopted for execution. The Foundation Phase (2006-2010) and the Expansion Phase (2011-2015) should have been completed by the close of 2015, while the Consolidation Phase which spanned 2016-2020 with focus on provision of enabling environment for security and promotion of public law and order would have been completed. Other areas of focus are diversification and growth of the regional economy, improvements and maintenance of infrastructure, human resources, an efficient and effective institutional structure, and good and transparent governance. Twenty years after the establishment of the NDDC, the region has not fared better. Living conditions remain abysmally poor. Youth unemployment and poor living standards, collapsed infrastructures and amenities, hostilities, violence, and environmental degradations have continued unabated.[25]

Some of the reasons adduced for the failure of NDDC is the over politicization of the interventionist agency, poor project selection execution and corruption in contract award processes.[26] More so, the Master Plan which was conceptualized to be reviewed and updated every four years did not get any review because no formal review was conducted since it was completed for implementation in 2006, thereby rendering the plan obsolete and unimplementable. The people also expressed dismay that the document could not be followed through and executed because it was more or less an imposition which the people could not owned.

Another hindrance in the adoption of the Regional Master Plan is the provisions of the 1999 Constitution that made urban and regional planning residual to the States together with the Supreme Court ruling of 1991.[27] The judgment was very profound with far reaching implications on the fact that the Federal Government and by implications its agents and agencies has no development control powers. That is to say, power to grant development permits rest on the states and local government councils. By implications, the National Assembly cannot legislate on development control matter nor adopt development control regulations or initiate physical plan policies. This implies that the House of Assemblies of the respective states are the proper institutions to enact legislation relating to physical planning matters and adopt regulations and implementable plans for the guidance of physical development of their respective justifications. It is pertinent to note that, if the respective state people and governments in the Niger-Delta were duly consulted and properly engaged, they would readily promote and support the implementation of a Development Plan.

Interestingly, the PIA provides for Host Community Development in such a way and manner that host communities are recognized as stakeholders and priority is given to promotion of sustainable development, provision of social economic benefits from petroleum operations and enhancement of peaceful and harmonious coexistence between operators and host communities. Unlike the NDDC that has become highly politicized by political actors, the framework for the host community's development in the PIA is to a very great extent devoid of political interference.[28] The clamour in recent times by the governors in the region to be include in the process of appointment and setting up of the host community trust fund must be rejected and jettison because any leverage given to politicians to get involved in any capacity or means, will create room for undue political interference. Rather, those to be considered as stakeholders in terms preparation of development plans, independent verification and monitoring of adopted development plans and projects should be Non-Governmental Organizations (NGOs) and Community Based Organizations (CBOs) with proven track records and

[25] Steve, A. (2003). Inequities in Nigeria politics: The Niger Delta resource control, underdevelopment, and youth restiveness, Yenogoa. Treasure books, PP, 39-43.

[26] Campbell, G. (2010). No amount of crying extinguishes a single flare in the Niger Delta. Journal of Urhobo Historical Society, 12 (2), pp. 34-35.

[27] Attorney General of Lagos State vs The Federal Government of Nigeria and Others. SC.353/2001

[28] Presentation Ceremony of the Draft Copy of Niger Delta Development Master Plan to Stakeholders, PTI Effurun 2005

credibility. The autonomy and funding of the host community trust fund was deliberate and intentional. ''*Each settlor, where applicable through the operator, shall make an annual contribution of to the applicable host communities development trust fund of an amount equal to 3% of the actual operating expenditure of the preceding financial year in the upstream petroleum operations affecting the host communities for which the applicable host community development Trust fund was established. These aside freewill donations, gifts or honoraria provided to such host communities development trust for the attainment of its objectives.''*[29]

However, if lessons from the failures and drawbacks of NDDC is anything to go by, then it is necessary for the Nigerian Upstream Regulatory Commission and the Nigerian Midstream and Downstream Regulatory Authority to make regulations to guide the development of the host communities, in line with the powers conferred on them in section 234 (2) in the PIA act. The regulations should cover preparation for development plans in terms of inputs to project initiations, conceptualization on viability, sustainability, and productivity basis, as well as providing regulations that guide project selection, designs, execution, monitoring, ownership, and management so as to avert subjective and politicization. Priority must be given to in-depth consultations, community profiling and ownership by end user beneficiaries. It is also important to provide regulations for involvement of local consultants and professionals in accordance with the Nigerian Content Development and Monitoring Board (NCDMB) Act. The NCDMB should support in host communities by building their capacity with a view of enhance competency, transparency, and accountability in participation in the development of their respective communities.

It is important that fiscal planning, whether short, medium, or long term on adopted and implementable economic development are not derailed, abandoned, or sabotaged. Development plans must be given legal backing and embedded with Key Performance Indicators (KPIs) to facilitate periodic reviews and adjustments at every tenure of a board, so as to assess performance and update Development Plans in alignment with current realities.

## 6. Conclusion

By way of summary, the PIA has significantly strengthened and broadens regulations on aspects of environmental protection components in petroleum operations activities. Existing environmental guidelines, standards and procedures are still relevant and have to be adopted to facilitate compliance enforcement, pending on their update and revisions. It is also important to note that personnel from the defunct DPR, PEF and PPPRA are not enough to effectively handle and deliver the mandates given to the Nigerian Upstream Regulation Commission and the Nigerian Downstream and Midstream Regulation Authority. The need to deploy personnel on secondment from the NOSDRA and probably NESREA or from other related agencies cannot be over emphasized. Also, there is the need for cooperation between both regulatory agencies. The cooperation will avert unnecessary duplications, multiple accreditations for consultants, support service providers, contractors, logistic assets, and facilities.

The establishment of Board of Trustees and Funds for the host communities does not in any way relieve the NNDC from its mandate and duties of developing the Niger Delta. In fact, the host community development framework as envisage by the PIA is complimentary to government obligations and responsibilities to the region. A lesson from the NNDC also draws attention to the need for both the Commission and Authority to formulate regulations that will guide physical and social development. The need for implementable development master plan is also critical to ensure that fiscal plans are based on adopted master plan, so as to give focus to sustainable development.

[29] Petroleum Industry Act 2021, Chapter 4 Part II Section 235-253.

Additionally, agencies like NCDMB also have roles to play by building the capacities of local consultants, project executors and other critical stakeholders in the oil and gas sector, so as to enhance transparent and accountable leadership for sustainable implementation of the PIA.