

**THE INCLUSION OF LOCAL CONTENT REQUIREMENTS IN PROCUREMENT
REQUIREMENTS OF UGANDA'S OIL AND GAS CONTRACTS.**

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**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL
FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE
DEGREE OF MASTERS OF LAWS IN OIL AND GAS AT THE INSTITUTE OF
PETROLEUM STUDIES KAMPALA IN AFFLIATION TO UCU.**

DECEMBER 2021.

DECLARATION

I Nyangoma Patricia hereby declare to the best of my knowledge that this dissertation is a true product of my own work.

This work has never been submitted to any other institution of higher learning for any award.

Signature

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Date:.....

APPROVAL

This is to certify that, this dissertation entitled ‘an analysis of the efficiency of the local content regime in enhancing the living standards of Ugandans in the oil and gas sector. A case study of procurement requirement policy,’ has been done under my supervision and is now ready for submission.

Signature

Mr. Ivan Mugabi

Date.....

DEDICATION

This dissertation is dedicated to my family who have put in too much to see me at a higher road.

ACKNOWLEDGEMENT

I thank the Almighty God, the source of knowledge and wisdom for having seen me through my studies, having been able to fund my education and enabling me to undertake my research successfully.

I extend my deep appreciation to my supervisor **Ivan Mugabi**, for his full support, guidance and advice provided during the study that made it possible for me to successfully complete this report.

May Almighty Lord bless you abundantly.

TABLE OF CONTENTS

Contents	Pg
DECLARATION.....	ii
APPROVAL	iii
DEDICATION.....	iv
ACKNOWLEDGEMENT.....	v
TABLE OF CONTENTS	vi
LIST OF TABLES	x
LIST OF FIGURES	xi
ABSTRACT.....	xii
CHAPTER ONE	1
GENERAL INTRODUCTION.....	1
1.1 Introduction.....	1
1.2 Historical Background.	2
1.3 Justifications opposed to the Use of Local Content Policies.	9
1.4 Theoretical Perspective.....	13
1.5 Conceptual Perspective.....	16
1.5.1 Procurement involvement.....	17
1.5.2 Local Content and Procurement from Ugandan Suppliers	18
1.5.3 Legitimate and strategic matters in Uganda.....	18
1.5.4 What amounts to a Local Business Entity of Local Supplier?.....	18
1.5.5 The frameworks to be utilized so as to establish a Local Company/Business Entity?	20
1.5.6 Definition of “Ugandan Company” by different enactments in Uganda.....	21
1.5.7 The connection between the Local Supplier and Other International Businesses Operating in the Country.	23
1.5.8 Availability of business opportunities	24
1.5.9 Capacity development.....	25
1.6 Environment conduciveness	26
1.6.1 Market Power.....	27
1.6.2 Adverse social impacts of local procurement	30
1.6.3 Contextual perspective.....	31
1.7 Conclusion of the Perspectives	33
1.8 Statement of the Problem.....	33

1.9 General Objectives.....	35
1.9.1 Specific objectives of the study	35
1.10 Research Questions.....	35
1.11 Scope of the Study	36
1.11.1 Geographical scope.....	36
1.11.2 Time Scope	37
1.12 Justification of the Study	37
1.13 Purpose of the Study	37
1.14 Significance Of The Study.....	37
1.14.1 To the policy makers.....	37
1.14.2 To the Researcher	38
1.14.3 To the Students	38
1.14.4 Chapter Synopsis	38
CHAPTER TWO:.....	40
LITERATURE REVIEW	40
2.1 Introduction.....	40
2.2 The definition of “local”	41
2.3 Capacity Development.....	45
2.4 Partnerships.....	46
2.5 Research and Development.....	47
2.6 Promotion of business competitiveness and local firms’ participation in the procurement process for oil and gas sector	48
2.6.1. Promotion of Registration and Licensing	48
2.6.2 Promotion of Compliance	50
2.6.3 Business Development.....	50
2.6.4 Finance Access.....	52
2.7 Use of locally produced goods and local firms’ participation in the procurement process for oil and gas sector	53
2.7.1 Procurement Procedures	54
2.7.2 Operational base.....	55
2.7.3 Standardization	57
2.7.4 Exclusive Local Tendering	58
2.8 Capacity development and Competitive level of local companies compared to the foreign companies.	60
2.9 Averting corruption in Uganda’s oil industry.....	65

2.9.1 Anti-corruption policy in Uganda.....	65
2.9.2 Uganda’s oil legislation and attempts to stop the leaks.....	66
2.9.3 Transparency in oil sector.....	67
2.9.4 Accountability in the oil sector.....	67
2.9.4 Challenges in implementing local content strategy.....	68
2.10. Summary of Literature Review.....	70
CHAPTER THREE:.....	71
METHODOLOGY.....	71
3.0 Introduction.....	71
3.1 Research Design.....	71
3.2 Study Population.....	72
3.3 Sample size and procedure.....	72
3.4 Sampling Techniques and Procedures.....	74
3.4.1 Simple Random Sampling.....	74
3.5 Data Collection Method.....	74
3.6 Data Collection Instrument.....	75
3.7 Validity and Reliability of the Instruments.....	75
3.8 Ethical Considerations.....	75
3.9 Data Analysis.....	76
CHAPTER FOUR:.....	77
DATA PRESENTATION AND DISCUSSION OF RESEARCH FINDINGS.....	77
4.0 Introduction.....	77
4.1 Standardised Questions.....	77
4.2 Response Rate.....	78
4.3 Nationality of the owner(s) of the SMEs.....	78
4.4 Is the Company/Enterprise listed?.....	80
4.5 Operational Base.....	88
4.6 Standardization.....	89
4.7 Exclusive Local Tendering.....	90
4.8 Promotion of business competitiveness and the local firm’s participation in procurement process in the O&G sector of Uganda.....	92
4.9 Nigeria’s of local content interventions in the oil industry.....	95

CHAPTER FIVE	97
5.1 Conclusion	97
5.1.1 Use of locally produced goods and the local firm’s participation in procurement process in the O&G sector of Uganda	97
5.1.2 Promotion of business competitiveness and the local firm’s participation in procurement process in the O&G sector of Uganda	97
5.2 Recommendations of the study	97
5.3 Use of locally produced goods and the local firm’s participation in procurement process in the O&G sector of Uganda	98
5.4 Promotion of business competitiveness and the local firm’s participation in procurement process in the O&G sector of Uganda	99
5.5. Contributions of the study.....	100
5.6. Areas for further research	100
REFERENCES.....	101

LIST OF TABLES

Table 1: Showing Nationality of the Owner(s) of the SMEs.....	78
Table 2: Showing whether the sampled SMEs are listed.....	80
Table 3: Showing results of observed score items on use of local goods and services in the Oil and Gas.....	82
Table 4: Showing results of observed score items on promotion of business competitiveness strategy.....	93

LIST OF FIGURES

Figure 1: Contextual Frame work	28
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ABSTRACT

Most oil rich countries are usually known for their expanded economic development.

There is a growing interest globally in enhancing the opportunities for locally based businesses to participate in the supply chains of major resource projects. Several companies, especially in the oil and gas sectors, have adopted policies and standards aimed explicitly increasing ‘local procurement.’¹ This was majorly because most of these countries want to avoid the resource curse.

The benefits of supply chain participation have become particularly apparent in Indigenous communities. There are now a number of agreements between companies and indigenous groups that are aimed at enabling greater indigenous economic participation. Such agreements also include commitments to support the development of Indigenous-owned enterprises.

Encouragement of linkage evolution is crucial to increase the contribution of the petroleum sector to the macro economy. Linkage growth can speed up technology relocation transfer and profit-making branch outs.

But even these considerations will have only slightest degree of positive effects if the possibility for elite capture and corruption is not dealt with through the injection of transparency and accountability considerations taken into the native contentment design and execution.²

In Uganda, mystery exists as interventions put in place to boost capacity of local firms to supply local content are not yielding.

Existing research pointing to local content indicates that there is opportunity for SMEs to supply requirements for the petroleum industry in Uganda. Research reveals the presence of suboptimal exploitation of such opportunities by local SMEs.

Therefore , this dissertation explored the capacity of Uganda’s local firms and the regulatory environment to ascertain the critical factors affecting Local content development with regard to their exploitation of business opportunities in the Oil and Gas Industry.

¹ Ana Maria Esteves and Mary-Anne Barclay, “Enhancing the benefits of local content: integrating social and economic impact assessment into procurement strategies” Impact assessment and Project Appraisal, 2011

² Chilenye Nwapi†, A survey of the literature on local content policies in the oil and gas industry in East Africa

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction.

Uganda is among the several states that have uncovered oil. This brought about the supply of possibilities to international oil companies to lead oil exploration and production activities. It has further brought the international oil Companies to obtain interests in the fields with explored economic potential.

Uganda like many other oil and gas producing countries is set to make profits of the non- native expenditure. This has subsequently started of local content needs. These needs are directed at the growth and utilization of Uganda's suppliers and workforce. These applications and the history used completely mirrors the circumstances in which the success of local content schemes on the economic development can be valued.³ Local Content Requirements are utilized by governments, especially in oil and gas rich countries to generate broader benefits for the local economy, beyond the fiscal benefits⁴. These economic benefits may include employment of nationals, procurement of goods and services from companies' resident in host country, partnerships with local entities, and the improvement of the skills and capacity of local businesses.⁵

³ Michael Zisuh Ngoasong, A narrative enquiry, How international oil and gas companies respond to local content policies in petroleum-producing developing countries,

⁴ Ramdoo, unpacking local content requirements in the extractive sector, what implications for the global trade and investment Frameworks,2015

⁵ M. Hvidit, Economic and institutional reforms in the Arab Gulf Countries' Middle East Journal(2011) at 85-102

The combination of local content needs in deliberation for supply and procurement stays completely useful for Uganda's oil and gas sector given the global fall in petroleum prices.

Such deliberations could suffuse and impact the expansion of domestic economies while generating present day professions in manufacturing. This is meant to benefit Uganda.⁶ Thus the local content needs, need the International Oil Companies to give priority to nationals, domestic companies and their locally produced materials in the procurement of goods and services which are used for procurement of goods and services.⁷

However, Local Content Requirements can lead to misalignments between government's priorities on one hand and investors. That is especially the case in relation to developing countries like Uganda because of the prevailing unclear and unspecific legal frameworks embedded in the local Content Requirement thus leading to major legal risks to the investor.⁸

1.2 Historical Background.

In broad terms, Local Content Policies are government interventions that look to increase, in the long term, the share of employment or of sales to a sector that are locally supplied at each stage of the value chain. The objective is to "raise growth and improve the competitiveness of the overall economy while maintaining a rising trend in living standards."⁹

When it comes to local content, Norway is one of the leading nations in terms of policy. For Russia the experience of such counties like Norway or Brazil is of great importance because of high share

⁶ Petroleum (Exploration, Development and Production) (National Content) Regulations, 2016

⁷ P Heum , R Kasande, O.F Ekeem and A Nyombi, policy and regulatory framework to enhance local content ; Yardsticks and best practices, SNF working paper No.02/11,2011

⁸ D Olawuyi, legal Strategies and tools for mitigating legal risks associated with oil and gas investment in Africa

⁹ Alberto Melo and Andres Rodríguez-Clare, productive Development Policies and Supporting Institutions in Latin America and Caribbean , Inter –American Development Bank Research Department Competitive Studies Series Working Paper C-106, February 2006.

of the state in the oil and gas companies. Norway had been fully exploiting the opportunities arising from the North Sea oil and gas resources to develop local capabilities. These capabilities developed as a result of collaboration and coordination, orchestrated and supported by the national and local governments¹⁰. The Norwegian government has introduced legislation necessitating oil and gas companies contribute to economic development. Foreign operators entering Norwegian industry in the late 1970s were strongly encouraged to form research and development, partnerships and joint development programs with local companies and research institution. The operators' commitment and strategies for technology transfers were made a crucial factor in the licensing processes¹¹. The development of supply chain strategy and the Norwegian petroleum industry structure has been developed for about 30 years. When "Statoil" launched the "Snøhvit" project it had to develop a special strategy. According to it each principal contractor had to prepare a project plan, taking into account the potential use of local suppliers, and local small and medium sized companies in the north of Norway, which were given the role of sub-contractors for specific types of services and production.

Norwegian local content strategy has been held up as an example of good practice for other countries. Brazil, for example, represents the same concept but uses different operating model.¹²

Since the discovery of oil in Uganda, some affluent Ugandans "scrambled to buy land" around the exploration area¹³ and that exploration pursuits brought about twist in the customary legal

¹⁰ Hatakenaka, S., Westenes, P., Gjelsvik M., Lester, R. K. (2006) the regional dynamics of innovation: A comparative case study of oil and gas industry development in Stavanger and Aberdeen. Industrial Performance Center, Massachusetts Institute of Technology. Working Paper Series.

¹¹ . Nordås, H. K., Vatne, E., Heum, P. (2003) the upstream petroleum industry and local industrial development: a comparative study. SNF Report No. 08/03

¹² Olsen, W. H. (2013) Brazil's local content policy, strategy and ambitions. INTSOK.

¹³ See "Uganda Announces Oil Discovery", IOL News, 9 October 2006,online:<http://www.iol.co.za/news/africa/ugandaannounces-oil-discovery-1.296822#.VXSgtM9VhBc>, last visited on the 20th August, 2021

regime in which land is held in the oil region, dispute, relocate and considerable resettlement in the area.¹⁴ This has forced some opposition politicians in Uganda to alert Ugandans that the oil detection could become “a curse” contrary to the favour “if it leads to more conflict in the country.”¹⁵ The Economist therefore advised in opposition to the endangerment of “Dutch Disease” in Uganda.

Uganda developed legal and policy frame works so as to manage the exploitation of oil and gas that has been discovered.¹⁶ In 2008, there was Uganda National Oil and gas policy,¹⁷ then followed the National Local content Policy in 2009.¹⁸ This led to the formulation of the Petroleum (Exploration, Development and Production) Act,¹⁹ the Petroleum (Refining, Conversion, Transmission and Midstream storage) both Upstream and the Upstream Act and the National Local Content regulations of 2016 and the National Local Content Act.

Local Content Policies are guaranteed to authorize states to increase the benefits of foreign direct investment through the encouragement of native involvement in Foreign Direct Investment and the utilization of native basic material from which product is made by investors.²⁰

Uganda’s issue is raising the likely advantages from the oil assets to keep away the lack of capital route that was the course of several oil manufacturing states in Africa, such as Angola, Nigeria and Sudan. The common agreement of the absence of particular skill is a vital barrier to Africa’s

¹⁴ Uganda Land Alliance, “Land Grabbing and Its Effects on the Communities in the Oil-rich Albertine Region of Uganda: The Case of Hoima, Buliisa and Amuru”, September 2011, 24–26, online: <http://landgovernance.org/system/files/ULA%20land%20Grabbing%20Study%202nd%20October%202011.pdf>. visited on the 20th August 2021

¹⁵ Uganda Announces Oil Discovery, n4

¹⁶ Auty, Richard & Jose Luis Evia , A Growth Collapse with point Resources, Bolivia. In Resource Abundandance and Economic Development, edited by Richard M Auty, Oxford University press 2001.

¹⁷ Uganda National Oil and Gas Policy of 2008/18

¹⁸ Uganda National Local Content Policy of 2009

¹⁹ Act No.4 of 2013 (Parliament of Uganda),

²⁰ Silvano Tordo et al, Local Content Policies in the Oil and Gas Sector, World Bank Study (Washington, DC: World Bank, 2013) at 120.

awareness of the assets wealth likelihood. The World Bank, “notable expertise shortages subsist both in terms of numbers and quality,” particularly within the area of science, technology, engineering and mathematics.²¹

An example of the implements presently embraced by most oil and gas resource-rich countries is to assign the expertise issue and to increase the connection between the oil and gas sector.²²

The Nigerian Oil and Gas Industry Content Development (Local Content Act) 2010 was enacted to encourage the native involvement in the Nigeria's oil and gas industry for the intent of bettering the economic and social welfare of those occupied in functioning of the oil and gas industry. The statute avails for the development of Nigerian content in the Nigerian oil and gas industry, Nigerian content plan, monitoring, coordination, supervision, and enforcement of the Nigerian content.

The Act provided for the need of any company or organization that purposes to function in the Oil and Gas Industry in **Section 2** of the Local Content Act, which states that *"all regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry shall consider Nigerian content as an important element of their overall project development and management philosophy for project execution"*.

The Act defines Nigerian content in **Section 106** as *"the quantum of composite value added to or created in Nigeria through the utilization of Nigerian resources and services in the petroleum*

²¹ World Bank, “Human Capital for the Oil, Gas and Minerals Industries”, Science, Technology, and Skills for Africa’s Development, March 2014, 1, online: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305151740/Rendred/PDF?857140BR10WB0H00Box382147B00PUBLIC0.pdf accessed on 22nd August 2021.

²² Gene M Grossman, “The Theory of Domestic Content Protection and Content Preference” (1981) 96:4 Quarterly Journal of Economics 583.

industry resulting in the development of indigenous capability without compromising quality, health, safety, and environmental standards".

The sole purpose of the Local Content was to increase Nigerian participation in the oil and gas industry by prescribing minimum thresholds for the use of local services and materials for the promotion of technology and skill to the Nigerian labour in the oil and gas industry.

The Local Content Act is a vital instrument that empowers Nigerian Companies to contribute tremendously towards the development of the Nigerian economy by encouraging value addition, job opportunities, and furthermore the award of different oil contracts and undertakings. In fulfilling this objective, **Section 4** of the Local Content Act established **The Nigerian Content Development and Monitoring Board** (hereinafter referred to as '**the Board**' or '**NCDMB**'), which is vested with the responsibility *"to make a procedure that will guide, monitor compliance by operators, coordinate and implement the provisions of the Act within the industry. The Local Content Board is empowered to execute its duties under the Act to ensure that all provisions contained in the Act are complied with.*

For the purpose of the Local Content Act, Nigerian Company was defined in Section 106 of the Act as *"a company formed and registered in Nigeria in accordance with the provisions of the Companies and Allied Matters Act with not less than 51% equity shares by Nigerians"*

The general obligations applicable to operators, participants, and activities taking place in the oil and gas industry are contained in Sections 3, 7, and 11 of the Local Content Act. While the Local Content policy objectives imposed on transaction and projects are set out in Section 3 of the Local Content Act which provides that;-

"(1) Nigerian independent operators will be given first consideration in the award of oil blocks, oil field license, oil lifting license and all project for which contract are to be awarded in the Nigerian oil and gas industry".

(2) There shall be exclusive consideration to Nigerian indigenous service companies that demonstrate ownership of equipment, Nigerian personnel, and capacity to execute such work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the Schedule to this Act.

(3) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for the award of licenses, permits, and any other interest in bidding for Oil exploration, production, transportation, and development, or any other operations in Nigerian Oil and Gas industry.

For the purpose of clarity, operators in the oil and gas industry in respect of this Act are defined as the *"Nigeria National Petroleum Company (NNPC), its subsidiaries and joint venture partners and any Nigerian, foreign or international oil and Gas Company operating in the Nigerian oil and gas industry under any petroleum arrangement"*.

The above definition accommodates any international or Nigerian company that is operating in the oil and gas industry in Nigeria.

All of the above requirements and conditions for operating in the Nigerian oil & gas industry as stipulated and contained in the Act have created several benefits and advantages for indigenous or local companies operating in the industry.

Furthermore, the operators are required to deliver a Nigerian Content Plan to the Board as provided in **Section 7**, which demonstrates compliance with the Nigerian Content requirement when bidding for not only licenses, permits, or blocks but for any project or activity ranging from the Front End Engineering Design (FEED) and detailed engineering services; Fabrication and Construction; Materials and Procurement; Well and Drilling Services/ Petroleum Technology; Exploration, Subsurface, Petroleum Engineering, Seismic among others in the oil and gas industry. However, the Board reserves the right to review and assess the content plan and if satisfied that the plan complies with the provisions of the Act, it will issue a **Certificate of Authorization** to the operator to proceed with the plan as provided in Section 8 of the Act.

In addition to this requirement, the operators are expected to submit in the content plan showing how the consideration is to be applied to goods, employment, service or training, research and development plans, technical plans, legal plans, and financial services plans.

The Local Content Act also in **Section 41(2)** states that "International or multinational companies working through their Nigerian subsidiaries shall demonstrate that a minimum of 50% of the equipment deployed for execution of work is owned by the Nigerian subsidiaries".

The above section of the Act implies that every International and multinational company in Nigeria must show that 50% of the equipment intended to be used to operate or for a project in Nigeria is owned by their Nigerian subsidiaries who will apparently execute the project.

Several international and multinational companies have started to comply with the provisions of the Act, while the Board has continued to play a significant role in ensuring strict compliance with the Local Content Act by all companies participating in the oil & gas sector.

The Local Content Act is one of the most successful economic policies of the Federal Government in recent times. It is important to note that the Local Content Act does not try or intend to bar foreigners from taking an interest in the Nigerian oil and gas industry, but subject to the fulfilment of conditions specified by the Act. Nigerian operators and Nigerian service companies are considered first in the award of oil blocks, license and works in the oil and gas sector before foreigners. The Act welcomes foreigners to be operators, shareholders, investors, and partners in the industry, as long as they conform to the provisions of the Act.

1.3 Justifications opposed to the Use of Local Content Policies.

One of the most often quoted justifications against the utilization of Local Content Policies is their ability to conflict with international trade policies pertinent to members of the World Trade Organization. Specific reference is made of the agreement on Trade-Related Investment Measures, the General Agreement on Tariff and Trade, and the Agreement on Subsidies and Countervailing Measures , that all inscribe the “national treatment” concept, that compels member states to manage each other as they would their own nationals. However, there are some restricted special cases for slightest developed and developing states in the implementation of this rule. With regard to the Agreement on Subsidies and Countervailing Measures for example, domestic subsidies violate World Trade Organization rules only when they adversely affect the domestic commerce of another World Trade Organization member state.²³ A small number of local subsidies encounter this threshold, found in part, on the difficulty, for the dissatisfied party, of presenting proof of “adverse effects” together with the certainty that the meaning of subsidy under the rules is

²³ Cathleen Cimino, Gary Clyde Hufbauer & Jeffrey J Schott, “A Proposed Code to Discipline Local Content Requirements”, Peterson Institute for International Economics Policy Brief No PB14–6, February 2014, p. 1, online: <http://www.iie.com/publications/pb/pb14-6.pdf>. accessed 22nd December 2021

restricted²⁴ This has forced a few intellectuals to propose that states should rather of utilizing conventional Local Content Policies activities, make use of subsidies to assist their local firms “on a time-limited basis.”²⁵ Rodrik has contended that although Local Content Policies broke the international trade and investment concepts, they are an important part of the “policy space” that evolving nations have to be permitted to follow their economic development goals.²⁶ This perspectives resounded by a different critic who accounts that “fair trade” in the sense of a “level playing field” does not automatically mean using the similar set of trade rules and conditions to all country, but also means acknowledging that some states are so under privileged that they require “reasonable accommodation” under the international trade system.²⁷ A comparison to this is the assumption of distinctive income tax rates according to the amounts of an individual’s income in most developed states, which is not automatically deemed as “unfair” because it is justified by the principle of “reasonable accommodation” for the poor instead of being faulted as “unjustifiable discrimination” against the rich.²⁸ Fortunately for developing countries, however, the World Trade Organization rules impeding the application Local Content Policies are rarely enforced.²⁹ In addition, Local Content Policies are said to be a poor mechanism for dealing with the poor subsidy of the extractive sector to local economic development, for it brings malformation, failure to achieve maximum productivity and corruption.³⁰ A critic noted, however, that these discussions

²⁴ Chilenye Nwapi, “Defining the ‘Local’ in Local Content Requirements in the Oil and Gas and Mining Sectors in Developing Countries” (2015) 8:1 Law & Development Review 194–195.

²⁵ Cimino, Hufbauer & Schott , n23

²⁶ Dani Rodrik, *One Economics, Many Recipes: Globalization, Institutions and Economic Growth* (Princeton, NJ: Princeton University Press, 2007)

²⁷ YS Lee, *Reclaiming Development in the World Trade System*, 2nd ed (forthcoming) (Cambride: Cambridge University Press, 2016) at 462–463

²⁸ YS Lee, n 27

²⁹ Cimino, Hufbauer & Schott, n23

³⁰ Stanislaw Lec, “The Petroleum Sector Value Chain” in Silvana Tordo, Brandon S Tracy & Noora Arfa (eds.), “National Oil Companies and Value Chain”, World Bank Working Paper No 218, 2011, pp. 8–9, available at: <http://siteresources.worldbank.org/INTOGMC/Resources/9780821388310.pdf>. accessed on 21st October 2021

are generalizations.³¹ Corruption, can be dealt with through the combination of transparency considerations into the framework and the circumventing fixing corruption-inducing unrealistic targets for companies. Different discussions exist. For example, it is assumed that urging quantitative conditions on companies in respect of employing of natives when the current native labour does not have the skills to sustain the intended duty would not only put-off investment,³² but also could put unwarranted pressure on companies. As one industry's outlook puts it, the question is in all likelihood not just one of numbers of Nigerian employees or even of the proportion of Nigerians in senior technical or managerial positions. The actual source for the debate in respect of hiring of Nigerians is probably the reality that as more Nigerians are hired and advance to senior positions, they automatically look for more possibilities for promotions and thus the persuasion to avail even more possibilities for Nigerians persists to grow.³³ The problem of unrealistic expectations can, however, be addressed by a clear definition of what constitutes local content, and, even more importantly, by a country's recognition and acknowledgment of its skills level and a compartmentalized and incremental approach to local content target setting, rather than stipulating stringent targets that are more likely to create corruption instead of helping to grow the economy. That is to say, jobs with excessive native expertise provision can be given greater tasks than jobs with bottommost native expertise provision. And as more native expertise are trained, the quality of native content needed can be raised slowly and in an equivalent manner. This would nevertheless need all elements, job expertise observation of the state and the important departments to control where native expertise are accessible and where they are inaccessible. It may be

³¹ Stanislaw Lec, "The Petroleum Sector Value Chain" in Silvana Tordo, Brandon S Tracy & Noora Arfa, n pgs 9-10

³² J Emeka Nwaokoro, "Signed, Sealed but Will it Deliver? Nigeria's Local Content Bill and Cross-Sectoral Growth" (2011) 4:1 Journal of World Energy Law and Business 56.

³³ Ike Oguine, "Nigerian Content in the Nigerian Petroleum Industry: Legal and Policy Issues" (2011) 29 J Energy & Nat Resources L 409.

presumed that where required expertise are natively provided it would be non-obligatory to embrace Local Content Policies because firms would find it in their intrigue to reemploy natives as a saving formula. Events have indicated however, that this is not always the case, in particular with Chinese companies, which opt to avail their own employees and persist on being permitted to do so in their investment negotiations in Africa. There is a powerful justification for evolving East African oil and gas producing states to take on the Local Content Policies. The budding creation of the oil and gas industry in the region refers that these states would not have the technical and even managerial skills to encounter the request of the industry. Mozambique, for example, is marked categorised with an absence of profit making branch out, frail establishment magnitude, excessive funding costs, a badly qualified workforce and deficient infrastructure growth.³⁴ Native expertise inadequacies in Mozambique is reported as “disabled, caused by “weak levels of education, deficient entry to education and poor quality connections between existing curricula and market demands.”³⁵ A current World Bank report notes that as the oil and gas industry is very new in Uganda, expertise needed by the industry is “very inadequate.”³⁶ This, is also the instance in Madagascar and, although it is to a smaller level, in Kenya and Tanzania because of their slightly more evolved economies. Reports have indicated that training and education are important for economic growth.³⁷ Although this scheme was not made in the circumstances of a native

³⁴ African Development Bank Group, “Republic of Mozambique: Country Strategy Paper 2011–2015”, August 2011, pp. iv and 9, online: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Mozambique%20-%202011-15%20CSP.pdf>. accessed on 21st December 2021

³⁵ Aditi Lalbahadur, “A Regional Approach to National Development Priorities in Mozambique?” 8 April 2013, <http://www.thetradebeat.com/opinion-analysis/a-regional-approach-to-national-development-priorities-in-mozambique>. Accessed 22nd December 2021

³⁶ World Bank, “Leveraging Oil and Gas Industry for the Development of a Competitive Private Sector in Uganda”, Report No: ACS12528, 25 May 2015, 8, online: http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2015/04/20/000442464_20150420122912/Rendered/PDF/ACS125280REVIS0itive0Private0Sector.pdf.accesses on 22nd December, 2021

³⁷ Chilanye Nwapi & YS Lee, “Trade and Development in Africa” in YS Lee, *Reclaiming Development in the World Trade System*, 2nd ed (forthcoming) (Cambridge: Cambridge University Press, 2016) at 390, footnote 1797

content strategy, it clearly shows the need of training in economic development. Local Content Policies seem to be a powerful instrument for training local professionals. The issue, however, is how to plan the Local Content Policies to best mirror the economic growth questions of the embracing state.

1.4 Theoretical Perspective

Theoretical perspectives for local procurement strategies during the development of procurement strategies involves³⁸ :-

(1) Understanding the business case and the level of priority the business should give to local procurement when compared to price, time, quality and schedule;

(2) Identifying the future demand for goods and services, and the capacity of local suppliers to meet this demand (while also considering the demand of other companies competing in the same supplier markets);

and (3) selecting appropriate procurement strategies, including the packaging of work, selection process, extent of client control and contract terms.

These activities are guided by the relational theory by Freeman and Philips.

Relational theory is further divide into four sub groups. These are business and society stakeholder approach, corporate citizenship and social contract.

³⁸ Warner, M 2011. Local Content Solutions: Participation of Domestic Industry in Procurement for Oil, Gas and Mining Projects. Sheffield: Greenleaf Publishing.

Business and society in local content refers to the interaction between the two entities. Local content purposes to develop the economic values in the society³⁹ and the other is the social responsibility of the business man on the entire social system.

Stakeholder approach is purposed to improve the management of the firm. It deal with both the integrative and ethical theories. The former encourages the integration of social demands and the later focuses on the right thing to achieve a good society.

Lastly the social contract theory deals with the aspect of justifying morality of the economic activities so as to have theoretical basis for analysing social relations between the corporation and society. This is focused on the bettering the welfare of Ugandans in the oil and gas sector.

Several oil rich countries have adopted policies aimed at obtaining the greatest benefit for their economies from the extraction of oil and gas.⁴⁰Such policies produced themes such as the local content sector which is mandated to generate further benefits to the economy beyond the direct contribution of its value added, through its links to other sectors.⁴¹This theory purposed to prevent the resource curse which is a common element in most developing countries.⁴²

Local content policies and associated strategies for local firm participation in the procurement process for Oil and Gas sector are rooted in the Bossuyt⁴³ affirmative action theory which asserts that to gain effective quality, there is need for a coherent packet of measures of a temporary

³⁹ Michael & Hanes. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper presented at 46. Armonde1 Denmark Selkabstatskundskab, Okt, 23-24, Vejle, Denmark, Pg. 3

⁴⁰ Maria & Martin, Local Content Policies and Corruption in the Oil and Gas Sector ,U\$ Ant –corruption resource center, September 2014 pg. 6

⁴¹ Michael & Hansen, n 24

⁴² Anderson & Brown AJ. The politics of Oil in East Africa 5:2, journal of East African Studies 395.8

⁴³ Bossuyt, M. (2002). *Prevention of Discrimination – The Concept and Practice of Affirmative Action*. Commission on Human Rights, United Nations p.3.

character aimed specifically at correcting the position of members of a target group with a special treatment.

Affirmative action measures that want to achieve substantive equality are measures of affirmative preference. Bossuyt said that these measures give preference to the person coming from a designated group when two people, who are equally qualified, apply for a job or promotion. A more radical measure can be the prohibition for people coming from non-designated groups to apply for certain opportunities or applying lower standards to them. Bossuyt further said that there is a lot of resistance against these kinds of measures because the entitlement of benefits is purely based on group membership.

Kazzazi et al⁴⁴ noted that in local business development, affirmative action policies consider mainly the factor of national origin to make sure that underrepresented business groups will benefit in areas such as education, business or employment and technology transfer to add value in national development.

Wells et al⁴⁵ said that there are countries that use other terms for these policies that may be related to employment equity, positive action, preferential policies or reservations but they all fall within the scope of affirmative action.

⁴⁴ Kazzazi, A., & Nouri, B. (2012). A Conceptual Model for Local Content Development in the Petroleum Industry. *Management Science Letters* 2165-2174.

⁴⁵ Wells, J., & Hawkins, J. (2015). Increasing local content in infrastructure projects. *Management, Procurement and Law* 163 65–70.

The affirmative action theory guided this study as it suggests the need for positive discriminatory local content strategies in developing local firms' opportunities for participation in Oil and gas sector procurement process.

1.5 Conceptual Perspective

A conceptual Perspective aids to put forward and assess stated connections with the perspective of building on the comprehension of the state of affairs.⁴⁶

My conceptual perspective is premised on the comprehension of how procurement in the oil and gas sector is influenced by the local content policies.

Local content policies will be the independent variable while the procurement involvement in the oil and gas sector will produce the dependent variables. These dependable variables show the connection that exists in the middle of the Local Supplier and the International Businesses Operating in the Country.

These types of connections comprise of business opportunities, environment conduciveness, technical skill, financial funds accessibility and non-financial incentives greatly influence the social welfare of the society. This is because these components are seen as operators of entrepreneurship transforming business formation and participation.⁴⁷

⁴⁶ Sekaran , U. &R Business Research Methods 2003.

⁴⁷ Ihua. U.B. (2010). Local content policy and SME sector Promotion: The Nigeria oil industry experiences. *International Journal of Business and Management*, 5(5), 3-13.

1.5.1 Procurement involvement

As stated by Odiambo et al, public procurement is the buying of commodities and undertaking of construction works and services if such purchases are influenced by the resource from state budgets, local authority budgets, state foundations fund, domestic loans or foreign loans guaranteed by the state, foreign aid together with income from the economic activity of the state.⁴⁸

From the explanation it is apparent that public procurement is apprehensive of acquisition of public goods, works and services.

Involvement in procurement of oil and gas consequently is connected with the degree to which local firms take a part of the goods, works and services procured in the oil and gas sector in terms of actual agreements and commitment benefits kept by the local firms.

Involvement in the action of obtaining or procuring in the Oil and Gas sector is a strenuous idea to explain.

However, Adewuyi et al ⁴⁹ asserts that local oil firms' involvement is controlled by five measures that comprise of business opportunities, environment conduciveness, technical skill, financial funds accessibility and non-financial incentives.

⁴⁸ Odiambo, W., & Kamau, P. (2003). Public Procurement: Lessons from Kenya, Tanzania and Uganda. *OECD Working Paper NO.208*. OECD Development Centre

⁴⁹ Adewuyi, A. O., & Oyejide, T. A. (2012). Determinants of backward linkages of oil and gas industry in the Nigerian economy. *Resource. Policy*, 37(4), 452–460.

1.5.2 Local Content and Procurement from Ugandan Suppliers

One of the ways put forward under Uganda's oil and gas legal frame is the action of obtaining goods and services from Ugandan providers. The Ugandan providers refers to Ugandan indignant (or residents), together with as corporate institutions.

What precisely qualifies a Ugandan local provider is still preferably hard. The upstream and downstream laws give distinct explanations, although the query of how native should the indigenous entity is yet to be responded to. In Uganda's case, the issues hereunder have to be responded to:-

1.5.3 Legitimate and strategic matters in Uganda

- a. What should comprise of a "local" business organization or a local supplier?
- b. What criterion should be employed to establish a local company/business entity?
- c. What should be the connection between the local supplier and other international businesses operating in the country?
- d. What amount of authority should inhabitants have over the non-local providers caring out business in Uganda (for example is recruiting indignants or having indignants as shareholders adequate to qualify someone)? Attempts to answer to the above questions in Uganda's oil and gas legal frameworks. However, several gaps exist.

1.5.4 What amounts to a Local Business Entity of Local Supplier?

The upstream and midstream laws do not provide an answer as to that who a local supplier is in Uganda.

The Petroleum (Exploration, Development and Production) Act⁵⁰ provides that;-

(1)The licensee, its contractors and subcontractors shall grant liking to goods which are manufactured or utilized in Uganda and services that are provided by Ugandan citizens and companies.

(2) Where the goods and services needed by the contactor or licensee are not obtainable in Uganda, they shall be availed by a company which has a joint venture arrangement with a Ugandan company as long as the Ugandan company has a share capital of at least forty eight percent in the joint venture.

However the enactment does not explain what a “Ugandan” company is, thus allowing a gap for exploitation. The firm explanation of the term “Company” utilized in the section as an alternative of “business entity,” restricts the use of this section solely to companies ignoring other recognized trading institutions like partnerships, cooperative societies, and sole proprietorships among others. The Midstream Act, ⁵¹tries to address this gap, (though not conclusively) by providing that the licensee, its contractors and subcontractors shall give preference to inhabitants of Uganda and registered entities possessed by Ugandans in the provision of goods and services.

Prominence is set on “registered entities” against “companies”. This connotes other commercial institutions are thought about carefully under the midstream law against the upstream law that limits itself to companies. Never the less, the utilization of the term “registered entities” does not resolve the issues there are circumstances where foreigners register corporate institutions in a country and this does not make such institutions indigenous institutions.

⁵⁰ Petroleum (Exploration , Development and Production) Act, 2013, sect 125

⁵¹ Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, sect 53(1)

The Companies Act ⁵²authorises every institution registered outside Uganda with work in Uganda to register with the Registrar of Companies as a pre-requisite of working in Uganda. Primarily the companies Act on this facet attempts to unrelated “incorporation” from “registration”. The former is a procedure of setting up a company and while the latter is simply an administrative requirement. However utilizing the location of incorporation as a factor which decisively affects a Ugandan company without real limitations would also eliminate natives by accepting foreigners to register/ incorporate entities in Uganda that would be eligible as Ugandan companies. It is also not explicit how the enactments will deal with a company registered outside Uganda by Ugandan citizens.

1.5.5 The frameworks to be utilized so as to establish a Local Company/Business Entity?

The discussion in Uganda for the suppliers in the oil and gas sector and local content has occurred mainly on local companies and the issue of how ‘native’ an indigenous company should be. Several analysts on oil and gas producing sectors would have big attentiveness in having inclination being offered to companies run or owned by individuals coming from sectors rich in oil and gas. Other analysts credit that oil and gas being a resource for the country, any inhabitant should take part. The upstream law arrange for affirmative action in training, employment and transfer of technology for Ugandan inhabitants to benefit Uganda’s communities. However, there is no affirmative action when it comes to supply of services.⁵³ The causes for not availing affirmative action for host communities when it comes to service provision is majorly because there may be no native businesses competent to take part positively in the oil and gas sector and yet these could be provided at the national level.

⁵² The Companies Act No. 1 of 2012, sec 252

⁵³ S. 126(s), n5

1.5.6 Definition of “Ugandan Company” by different enactments in Uganda

Uganda’s Companies Act⁵⁴ does not elucidate a Ugandan company. It only gives the explanation of a company as an institution established and registered under this law.

The Companies Act ⁵⁵ it explains a foreign company as a commercial business registered outside Uganda which carries out a business in Uganda.

The centre of interest here is on place of registration. This may not serve for all settings that may require to be addressed under local content, for example a company registered by Ugandans outside Uganda will be contemplated as a foreign company and a company incorporated in Uganda by non-Ugandans will be considered a Ugandan commercial business.

The Uganda Investment Code Act⁵⁶ on the other hand defines a foreign investor as:

- (a) a person who is not a citizen of Uganda;
- (b) a company, which more than 50 percent of the shares are held by a person who is not a citizen of Uganda;
- (c) a partnership in which the majority of partners are not citizens of Uganda.

The Investment Code Act further provides that the explanation of a foreign company shall not comprise of a commercial business that is officially listed under the Companies Act in which state is a majority shareholder directly or indirectly or a corporate body established in Uganda by law, a cooperative society and an international development agency.

⁵⁴ The Companies Act, n6

⁵⁵ The Companies Act, n6, sect 251

⁵⁶ Uganda Investment Code Act, Cap 92 S. 9, Laws of Uganda

Related explanations are provided by the Land Act in ascertaining a non-citizen for reasons of possessing land in Uganda.

It provides that; a non-citizen means:

- (a) An individual that who is not a native of Uganda as explained by the Constitution and the Uganda Citizenship Act;
- (b) A business entity where the governing interest lies with noncitizens;
- (c) for the entities without shares and the entity's process of resolving issues remains with noncitizens;
- (d) a company in which the shares are held in trust for noncitizens;
- (e) a company incorporated in Uganda whose articles of association do not contain a provision restricting transfer or issue of shares to noncitizen.⁵⁷

The Land Act describes “controlling interest” in a company to include:

(a) in the case of companies with shares, the majority shares are held by persons who are not citizens;

and

(b) in the case of companies without shares, a company in which decisions are arrived at by the majority who are not citizens.

⁵⁷ S. 40 of the Land Act, Cap 224 Laws of Uganda

It is obvious that in land matters, the legal frame work deals with at the interests and advantages in explaining a Ugandan or foreign company. Far from the other laws, , the Land Act has a more firm explanation of a foreign company as it restricts a Ugandan company to an institution whose greater number of resolutions are made by Ugandans or where the company particular restricts its proprietorship to Ugandans in the Articles and Memorandum of Association.

Regarding the above enactments, someone can conclude that the various enactments in Uganda have availed for distinct explanations of Ugandan or foreign companies premised on the targets that such enactments plan to achieve. For example the purpose of the Investment Code is to avail positive circumstances for foreign investors investing in Uganda, such plans may be very distinct from the plans set in a law providing for local content where the plan would be making certain more Ugandans get involved in the sector irrespective of the fact that the investment and capital might be by a foreign company.

This study equally conceptualized procurement participation to include the five indicators of accessibility to business opportunities, environment conduciveness, financial incentives; market power; contract and bidding process.

1.5.7 The connection between the Local Supplier and Other International Businesses Operating in the Country.

This connection comes from the capacity and skill of local companies to work in the industry.

Normally, much as the National oil and gas policy acknowledges the role of national companies /businesses and the obligation to evolve their capacity to participate in the sector, there are great gaps in the execution the scheme.

The Upstream and Midstream laws provisions generate crucial challenges on how Ugandans can take part.

1.5.8 Availability of business opportunities

Uganda's laws make it an obligation for foreign companies to execute into joint ventures with Ugandan businesses to be able to provide goods and services for the sector.⁵⁸

Joint Ventures globally have demonstrated to be among the desirable modes through which international companies can develop their area of impact through operating with native entities.

Joint ventures are also significant when it comes to technology transfer and skills development for countries that may not have the technology.

However, the businesses in countries where joint ventures are to be evolve require to have a definite quantity of understanding, skill and capital to be able to run them. Uganda's businesses are beginning to participate in the oil and gas sector and this may hamper their capacity to successfully utilize the Joint ventures. This is because the technical skills are not adequately obtained and this leads to a business environment that is not strong. This does not benefit the local firms.

When it comes to products or services that cannot be easily procured on the Ugandan market or supplied by Ugandan businesses, the two laws allow joint ventures as a way of functioning between the Ugandan businesses and the foreign suppliers. However, the drafting in the two laws makes it easy to abuse the provisions and to leave out Ugandan companies. For example S. 53(3) of the midstream law provides that the licensee, and the contractors and subcontractors of the licensees

⁵⁸ Petroleum (Exploration, Development and Production) Act, 2013 , S. 125(2)

shall give priority to the purchase of local products and services from Ugandans wherever they are competitive in terms of quality and timely availability.

The just mentioned provision obligates the oil company to procure from Ugandans only if they are aggressive in terms of quality and timely supply.⁵⁹

1.5.9 Capacity development

The Petroleum (Exploration and Development) Act, 2013 (upstream law) and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act (Midstream law) provide for training and employment of Ugandans.

The capacity of many Ugandan businesses requires to be evolved since they have not been participating in the sector. The two enactments make it a demand for companies to avail an intention for training and employment of Ugandans in the sector during their request for licences.

In most cases, it is assumed that the scheme to teach Ugandans is one of the requirements for which a licence can be granted. However there is no comprehensible plan to make sure that the companies are followed-up to make certain that they train Ugandans as proposed in their applications.

The Upstream and Midstream enactments also need the international oil companies to submit to the Petroleum Authority a comprehensive scheme for recruitment and training of Ugandans every year for approval. What is not clear from the law is how the approved plans for training Ugandans

⁵⁹ Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, S. 53(3)

is followed through and whether there are any forms of punishment for companies that fail to meet their obligations under the approved plan or the plan submitted during the application for a licence.

This means that, Ugandan businesses are unlikely to compete better than the foreign companies nor can they have the services readily available. This is likely to leave out many Ugandan businesses in the sector.

1.6 Environment conduciveness

The two enactments allow joint venture agreements for Ugandans to take part in the sector. However, the classification of joint ventures is not clear. For example, the Upstream Act provides that: Where the goods and services needed by the contactor or licensee are not accessible in Uganda, these goods and services will be supplied by a corporate entity that has executed into a joint venture with a Ugandan company as long as that the Ugandan company has a share capital of at least forty eight percent in the joint venture.⁶⁰

Whereas as the Upstream Act instructs Ugandan and foreign businesses supplying goods and services in the oil and gas industry to have an approved joint venture company in which Ugandan companies own a 48% stake, the midstream law is silent on this. Instead It allows the goods and services that are not available in Uganda, shall, where practicable, be supplied by a company which has entered into a joint venture with a Ugandan company.⁶¹ From the above, it is not clear what amount of stake Ugandan businesses should own in the new joint venture to supply goods or services for the midstream sector in oil and gas. Whereas the need to have Ugandan businesses

⁶⁰ Petroleum (Exploration, Development and Production) Act, 2013,n, 43

⁶¹ Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, S. 53(4)

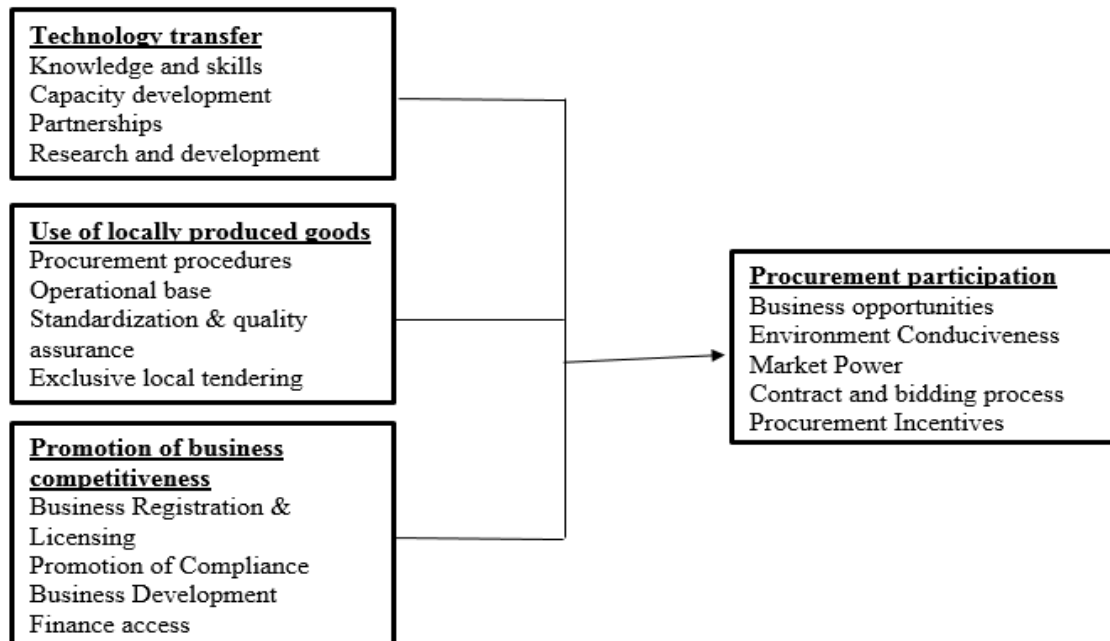
owning 48% of share capital is beneficial for the country, the challenge will be in the capital and other technical requirements to enter into such Joint venture.

1.6.1 Market Power

Some characteristics of the oil and gas sector need substantial capital and many Ugandan businesses may not be able to provide such capital. Besides, there is a need for technology which may not be effortlessly availed by Ugandan companies. This usually brings outcomes of challenges in utilizing the Joint Venture. Research has found that partners contributing less to the Joint Ventures are less committed to the success of the project since their role is limited.⁶² This might generate various “lazy” Ugandan businesses entering the industry through Joint Ventures and legal protection. The other aspect is the fact that possession of stake in a Joint Venture company should be similar to what the other party is contributing. The question here will be whether Ugandan companies are able to provide 48% capital or skill or technology to the specific Joint Venture companies they enter into. Government and private players in Uganda require to build capacity and capital to be have the power to successfully play a role in the industry. Currently the legal protection for Ugandan companies may not be sufficient to bring outcomes in the oil and gas industry. The alternative is there is a requirement to have specific services and goods ring-fenced to be provided only by Ugandan business entities and those which cannot be supplied, can be left for foreign companies subject to periodic reviews. This will ensure smooth transition from foreign owned businesses to fully Ugandan controlled businesses after the transfer of technological and capital.

⁶² Beamish P. multinational joint ventures in developing countries. London Routledge (1988)

Figure 1: Conceptual Perspective



There is an evolving consciousness among International Oil Companies that procurement from indigenous SMEs can bring effective social and economic advantages to society. Further, creating business for suppliers, local procurement can stimulate economic activity and attract further investment, both through suppliers encouraging other suppliers for inputs and through the multiplier effects of employees of local businesses spending some of their wages in their communities. Other benefits include improving the quality of life for employees and business owners and operators, dissemination of new technologies and innovation to other market participants, and attraction of investment in social infrastructure.⁶³

Another important development in the area of local procurement has been the emergence of partnerships between governments, support institutions and development agencies to establish

⁶³ SEAF, Small Enterprise Assistance Funds 2007. From Poverty to Prosperity: Understanding the Impact of Investing in Small and Medium Enterprises. Washington, DC: SEAF

supplier linkage programs. SME linkage programs have been especially successful in enabling SMEs to access financing and skills development programs, particularly those that avail technical advice and assistance for the growth of business control expertise.⁶⁴

Linkage programs also focus heavily on institutional strengthening activities to encourage an enabling environment for SME development. One particular area of success has been in assisting women to establish their own small businesses by providing them with access to legal, business and financial systems, thereby reducing the gender gap that prevents many women from participating in economic life⁶⁵.

Previous research⁶⁶ shows that corporate points of view with regard native procurement are without any interruptions, developing. For example, for companies with leading practices, the corporate drivers for local procurement have shifted over time. In several circumstances, the beginning motivation was a requirement to act in accordance with formalized commitments, to a host state, an investment partner, or a local community. Compliance was considered obligation so as to assure opportunities to resources. Gradually, however, these companies had become more and more driven by the need to set up and enable lasting partnerships with native suppliers for mutual benefit. Resource companies are now engaging in a range of local procurement interventions that are designed to increase local business access to contract opportunities.

⁶⁴ Deloitte, Deloitte Touche Tohmatsu Emerging Markets Ltd 2004. Partnerships for Small Enterprise Development. New York: UNDP; and Vienna: UNIDO

⁶⁵ ODI, Overseas Development Institute 2005. Levers & Pulleys: Extractive Industries and Local Economic Development: Incentivizing Innovation by Lead Contractors through Contract Tendering. Briefing Note 3, London: ODI.

⁶⁶ Esteves, A M, D Brereton, D Samson and M A Barclay 2010. Procuring from SMEs in Local Communities: A Good Practice Guide for the Australian Mining, Oil and Gas Sectors. Brisbane: Centre for Social Responsibility in Mining, Sustainable Minerals Institute, University of Queensland.

These strategies include assigning higher preference weightings to local businesses in competitive bidding processes; sole sourcing arrangements with local suppliers; price matching, that is allowing local suppliers to match the price of other suppliers; breaking large contracts into smaller ones (unbundling) to create opportunities for smaller local suppliers; requiring non-local suppliers to sub-contract locally or to enter joint ventures with local suppliers; providing technical and management training and mentoring; and linking local businesses to other service providers and agencies that promote technological innovation and provide access to finance.

1.6.2 Adverse social impacts of local procurement

Local procurement plans can also bring about unfavourable social effects. Establishing unsuitable key execution measures and targets for indigenous expenditure can persuade awkward ways in which the people conduct themselves. Instances of such awkward behaviours are as follows;-

‘Fronting,’ this is where companies are set up with the stipulated indigenous possession or inscription, but the decision-making and advantages are carried out by other people, who are not the aimed beneficiaries of the local procurement policy.

Secondly, due to the raised remuneration paid by the large resources companies, the natives are usually attracted from other businesses in town. Subsequently this leads to losses as the local communities tend to find their already earlier services sector becoming smaller even further. This may bring about a major loss in human capital, as experienced retailers, administrators, nurses and teachers leave their professions to work in the resources sector.

Community discontent that can arise from seeing only in skilled works being given to the native people. Community perceptions that specific groups have been preferred in the distribution of business opportunities can negatively affect social cohesion, and can bring about disputes within

groups over the distribution of profits and employment opportunities. Even for those SMEs that are part of the resource sector supply chain there can be negative impacts, especially if the resource company is their sole, or major, client. These companies can be left vulnerable to the business cycles of the larger company and there may be little in the way of opportunities for diversification.

1.6.3 Contextual perspective

In Uganda, the efforts to develop local content in the Oil and gas sector was initiated in a 2011 study into national content in the oil gas sector to establish how Uganda may benefit from the participation of Ugandans and Ugandan firms in the petroleum activities. The study made key observations to include regulations, capacity building and employment of Ugandans, use of locally produced goods and services, knowledge and technology transfer as being critical for the achievement of the national content ambitions in the petroleum industry.⁶⁷

To this effect a national Content Policy was formulated to enhance the opportunities, address challenges and constraints, describe the necessary institutional framework to coordinate the development, implementation and monitoring of National Content, and provide the necessary monitoring and evaluation framework.⁶⁸

Objective three of the local content policy focuses on developing the competitiveness of Ugandan enterprises as suppliers and joint venture partners. The objective is to be achieved through encouraging businesses to formalization, compliance with their statutory obligations; facilitating business development programmes, establishment of joint industry collaboration

⁶⁷ Ministry of Energy and Mineral Resources- MEMD (2011)

⁶⁸ National Local Content policy for the petroleum subsector in Uganda 2017

forums, improved SMEs financial access; and facilitating clustering of petroleum related companies in order to enhance technology transfer and research & development.⁶⁹

Objective four of the national local content policy envisages increasing the use of locally produced or available goods and services by the oil and gas industry. Actions to necessary to realize this objective include; - procurement and contracting procedures and practices to benefit Ugandan enterprises; establishing operational bases in Uganda; development and adoption of standards and quality assurance systems for locally available/produced suppliers; and exclusively tender locally available goods and services.

Objective five of the local content policy of Uganda envisages promotion of Research & Development and Technology Transfer. This will be achieved through preparation and implementation of plans for the transfer of technology and knowhow to Ugandan institutions; enhance capacity of existing institutions in the country to carry out research and development; encourage cooperation and collaboration. Identifying and prioritizing areas for Research & Development and technology transfer.

However, the effectiveness on the local content strategies in promoting local firm participation in Oil & Gas sector procurement in Uganda is questionable given the low level of local firm's participation in the Oil & Gas sector.

⁶⁹ Ibid

1.7 Conclusion of the Perspectives

Having discussed the three perspectives above, the dissertation relied on the theoretical perspective. From this perspective, the capacity and the expertise of local companies to work in the oil and gas sector can be discussed.

This ably dealt with the question as to what constitutes a “local” business entity or local supplier and subsequently an analysis on the relationship between the Local Supplier and Other International Businesses Operating in the Country. The affirmative action theory that guided this study suggests the need for positive local content strategies in developing local firms’ opportunities for participation in Oil and gas sector procurement process.

1.8 Statement of the Problem

The significance and advantage of local content growth are identified worldwide as a means of raising the inhabitant and indigenous firms’ involvement in the procurement of goods and services in the oil and gas sector. This has led to the growing employment chances, local private sector development technology transfer and local capacity development.⁷⁰

In spite of the encouragement of technology transfers, business competitive promotion and promotion of use of local goods and services as policies communicated in Uganda’s local content policy, the involvement of local firms in the procurement of goods and services in the oil and gas sector in Uganda has stayed stunted in the middle of the developing value of supplies. The value of supplies in the oil and gas sector by Ugandan suppliers from 2010-2013 amounted to USD 329.9 million representing 28% of the total spent for all the oil companies though Ugandan companies

⁷⁰ UN Economic Commission for Africa, 2016

comprised about 73% of pre-qualified suppliers. Similarly, middle and top management positions are majorly occupied by foreign nationals a practice that has compromised knowledge transfer for local human capital development in the sector Limited technology transfer.⁷¹

If the stunted involvement of local firms in the Oil and gas department procurement carries on unabated, the direct value adding benefits of the sector to the economy will remain a wish against high revenue repatriation by the international oil companies.⁷²

The valuable lessons from benchmark cases such as Norway, the UK, Canada and Malaysia, are limited in terms of their applicability to countries with entirely different contexts, such as those in Africa and Latin America where poor governance, corruption, a weak industrial base and workforce are specific challenges faced by their oil and gas sectors.

This is majorly because the stage of economic and social development of these countries is another aspect that influences the policy-making process.

This is evidenced by the growing employment chances, local private sector development technology transfer and local capacity development in those developed countries.

My dissertation represented an attempt to fill this gap and provide lessons that can be transferred between countries and regions where governance, anti -corrupt, strong industrial base and workforce have been achieved through the use of the local content policies and the procurement policies oil and gas sectors. This will be by establishing the relationship between local content

⁷¹ Auditor general, 2015

⁷² Wells & Hawkins, J 2015; increasing local content in infrastructure projects. Management , procurement and law 163 65-70

strategies of business competitiveness, use of locally produced goods/services and technology transfer on local firms' participations in the procurements of Uganda's oil and gas sector.

1.9 General Objectives

The inclusion of local content requirements in procurement requirements of Uganda's Oil and Gas contracts.

1.9.1 Specific objectives of the study

1. To analyse what constitutes a "local" business entity or local supplier?
2. To assess the relationship between the use of locally produced goods on the local firm's participation in procurement process in the O&G sector of Uganda;
3. To assess the relationship between promotions of business competitiveness on the local firm's participation in procurement process in the O&G sector of Uganda.

1.10 Research Questions

1. What interactions or relationships are foreseen to subsist between local content policies and procurement considerations under the oil and gas sector?
2. What are the effects of Uganda's local content policies on the nature of procurement institutional and operational regimes in the oil and gas sector?
3. What is the effect of the execution of the local content legal and policy frameworks in Uganda?

1.11 Scope of the Study

The scope of the study was divided into three perspectives, these include Content, Time and Geographical.

1.11.1 Geographical scope

It's reported that Uganda has a population of about 42 million people as according UBOS 2018 estimates in its statistics. The report indicated that most of the Ugandans youth and about 80% are unemployed there by creating a need for more investments as a way of creating more jobs for the youth through encouraging more investments in the Oil and Gas sector.

This study was carried out in Uganda since the study will focus on Uganda's as country in terms of assessing its oil and Gas industry. Uganda is found in East Africa Neighbouring Kenya in the East, Tanzania in the south, and D.R. Congo in the west, South Sudan in the North and Rwanda in the south Western part of East Africa. It located in the heart of Africa in the central sub-Saharan region of Africa. Its Oil and Gas fields are located near the part of Uganda and D.R. Congo.

The study aimed at looking at the companies that intend to invest in the Oil and Gas sector in the whole of Uganda. The oil that has been discoverer in Uganda which is about 6.5 billion barrels and the recoverable oil is about 1.8 to 2.2 barrels of oil.⁷³ The investment opportunities are quiet many ranging from transportation, road construction, welding, real estate,

⁷³ oil in uganda (<https://www.oxfordinstituteforenergystudies.org>) accessed on 19th August 2021

1.11.2 Time Scope

The time scope was between 2009-2019. Since most of the regulations affecting oil and gas industry in Uganda have just been effected.

1.12 Justification of the Study

In Uganda, the indigenous firms are gaining the slightest percentage of the oil and gas procurement costs.⁷⁴ This makes the efficacy of the local content policies to lie in a balance. There are also severe perception gaps within the indigenous firms concerning their role in growing the Ugandan the oil and gas sector. There is a requirement for observed particulars if strategy and institutional interventions are to ever build up the involvement of indigenous firms in Uganda's oil and gas sector to foster direct value benefits to the economy by the sector.

1.13 Purpose of the Study

The motive of the study was to analysis the efficiency of the local content regime in enhancing the living standards of Ugandans in the oil and gas sector. A case study of procurement requirement policy.

1.14 Significance Of The Study

1.14.1 To the policy makers.

- i. The study was to help to recommend and illustrate practical solutions to the policy makers. Through the extensive research carried out, policy makers will be able to learn more of how to assess the degree to which supply and procurement course of action are consciously of local content master plan with an objective of growing guidance for building up local content

⁷⁴Auditor general, n56.

policies so as to grow the involvement of local firms in the oil and gas sector.

- ii. It further facilitated the indigenous firms, as the study avails a possibility for them to extract their scheme and impediments to reverse linkage that the Uganda should deal with as a way of growing their involvement in the procurement of the oil and gas sector.

1.14.2 To the Researcher

- i. To articulate the problems hindering the local content strategies and develop recommendations for strengthening the local content policy for enhanced participation of indigenous firms in the O&G sector

1.14.3 To the Students

To learn more about the issues concerning local content and how it affects the living standards of those involved in the oil and gas sector of Uganda

1.14.4 Chapter Synopsis

My dissertation comprises five (5) parts, as follows:

- i) Chapter one introduces the study. It presents an overview of the background, Problem Statement, Research Objectives and Questions, Significance of the study, Scope of the study, Justification of the study as well as the Conceptual Framework; a summary of the chapter, Research methodology and Limitations of the study.
- ii) Chapter 2: Literature Review; This section reviews existing literature on, what makes a petroleum fiscal regime in one country more attractive to investors than the other. It expands on the characteristics of an effective petroleum fiscal regime as put across by

different scholars, academicians and researchers. This part also presents an analytical overview of petroleum taxation regime with regard to investments.

iii) Chapter 3: Methodology; this part looks bringing out the research design, study population, research instruments, data sources, ways of analysing data and research ethical considerations.

iv) Chapter 4: Data analysis and presentation; this analyses the questionnaire and interview response rates. It also presents an analysis of the main findings of the study including the interpretation and discussion thereof.

vi) Chapter 5: Conclusions and Recommendations; this section presents the summary of findings, limitations of the study, recommendations as well as outlines areas for future research.

CHAPTER TWO:

LITERATURE REVIEW

2.1 Introduction

According to Hart⁷⁵, literature review is “the selection of available documents on the topic which contain information, ideas, data and evidence written from a particular standpoint to fulfil certain aims or express certain views on the topic and the effective evaluation of these documents in relation to the research being proposed” by Hart.⁷⁶

This chapter therefore presents the theoretical framework of the research and review of relevant previous research.

Supply chain management integrates supply and demand management within and across companies.

Therefore my literature review begins with the broad literature on what constitutes a “local” business entity or local supplier and subsequently an analysis on the relationship between the Local Supplier and Other International Businesses Operating in the Country, in general, providing an insight and analysis to identify any gaps, trends, ideas and theories as highlighted by Saunders.⁷⁷

The affirmative action theory guided this study to highlight the need for positive discriminatory local content strategies in developing local firms’ opportunities for participation in Oil and gas sector procurement process.

⁷⁵ Saunders et al., “Research Methods for Business Students” Pearson Education, e-resource Robert Gordon University, Research Methods Module Notes at <https://campus.moodle.rgu.ac.uk/view.php?id=77818>. accessed on 18th August 2021

⁷⁶ Hart, C, *Doing a Literature Review: Releasing the Social Science Research Imagination*. London: Sage Publications 1998.

⁷⁷ Saunders, n 60

2.2 The definition of “local”

“local “ in this case is equivalent to domestic entities or local players , meaning goods, services or labour sourced from the national locality or region where the oil and gas activities take place, as opposed to nationalities or citizenship of the provider of the goods, services or labour.⁷⁸

Uganda’s upstream local content rules give a twofold definition of the term local content. In the first part, local or national content, is the substantial combined value added or created in the Ugandan economy through the utilization of Ugandan economy through the utilization of Ugandan human and material resources for the provision of goods and services to the petroleum industry.

In the second part, it is the level of use of Ugandan local expertise, goods and services, Ugandan companies, Ugandan citizens, registered entities, business and financing in petroleum activities.⁷⁹

The question of what constitutes local content is subject to different interpretations and varies with the context, although a common thread running through all the interpretations is “value-addition” in the country. Under the Nigerian Oil and Gas Industry Content Development Act, 2010, the Nigerian content is defined as “the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry.”⁸⁰ The Act requires that “first consideration” shall be given to services provided from within Nigeria, to goods manufactured in Nigeria and in matters of training and employment.⁸¹ To meet the Nigerian Local Content Requirements, therefore, it suffices that the native company used,

⁷⁸ Damilola S. Olawuyi, Local Content and Procurement requirements in oil and gas contracts: Regional trends in the Middle East and North Africa.

⁷⁹ The Petroleum (Exploration, Development and Production) (National Content) Regulations, 2016, section 4

⁸⁰ Nigerian Oil and Gas Industry Content Development Act, 2010, s 106

⁸¹ Nigerian Oil and Gas Industry Content Development Act, 2010 s 10(1).

or the person hired, is a Nigerian or that the raw materials used in the manufacture of goods and services are obtained within Nigeria, irrespective of the place in Nigeria. There is no need that a quantity of the quality must be obtained domestically where the company runs. However, the Act⁸² gives the content Board ability to demand a company to support an office in a community where it has notable functioning. Ghana's Petroleum (Local Content and Local Participation) Regulations, 2013 refers to local content as "the quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the petroleum industry value chain and which can be measured in monetary terms."⁸³ The regulation talk allowing "first consideration" to services availed within Ghana, goods manufactured in Ghana (where they meet established specifications) and to qualified Ghanaians in hiring aspects.⁸⁴ There is no necessity in the Regulation for any accommodation to be availed to communities found within the areas of the assets. This also mirrors the situation in several other countries, including Angola,⁸⁵ Equatorial Guinea and Indonesia. In April 2014, Tanzania published a draft of its Local Content Policy for the Oil and Gas Industry. Within the policy, local content is defined as "the added value brought to the country in the activities of the oil and gas industry in the United Republic of Tanzania through the participation and development of local Tanzanians and local businesses through national labour, technology, goods, services, capital and research capability." Further, the policy refers local content as "the added value brought to a host country (and regional and local areas in that country) through the pursuits of the oil and gas sector." The reference to "regional and local areas" suggests that there is specific recognition of the need to pay attention to the localities or

⁸² Nigerian Oil and Gas Industry Content Development Act, section 27

⁸³ Petroleum (Local Content and Local Participation) Regulations, 2013, LI 2204, Reg 49

⁸⁴ Petroleum (Local Content and Local Participation) Regulations, 2013, LI 2204, Reg 9(1).

⁸⁵ Republic of Angola, Decree-Law No. 17/09 of July 26: Rules and Procedures to Observe in Recruitment, Integration, Training and Development of Workers from the Oil Sector.

regions where the resources are extracted in the implementation of LCRs. However, “local” is defined under the policy as “the Tanzania Mainland and its people,”⁸⁶ specifying that as long as the individual is hired to avail services is a Tanzanian national, the need of local content will have been fulfilled. The policy also needs that “intentional liking be done in approbation of Tanzanians in hiring issues and supply of goods and services.”⁸⁷ But the policy acknowledges the requirement to evolve “Local content.”⁸⁸ This will give corporations the “social licence to operate” and donate to the evolution of local communities to attain a “mutually beneficial and sustainable” business environment. None the less, the policy does not call for any liking for local communities over other Tanzanians, but only persuades companies to, “as far as possible,” acquire their workforce, materials and services from the communities in which they operate. It is clear that the above Local Content Requirements do not pay any tangible attention to what Warner has termed “community content,” that is, “the strategic deployment of local participation and local capability development opportunities arising from an oil or gas project, specifically directed to strengthen the sustainability, relevance and political visibility of community investment programmes.”⁸⁹ Warner’s prospect of local content from the view of “community content,” writing that eventually, community content is about becoming fully aware of an aggressive edge for the oil company in the eyes of both the native population and percent of executive and senior management positions and one hundred percent of non-managerial and other positions.”⁹⁰ ⁹¹The African Development Bank’s definition of “local firms” is based on place of registration, the nationality of a majority of

⁸⁶United Republic of Tanzania, Local Content Policy (2014),

⁸⁷ United Republic of Tanzania, Local Content Policy, n70

⁸⁸ Ibid

⁸⁹ Michael Warner, Community Content: The Interface of Community Investment Programmes with Local Content Practices in the Oil and Gas Development Sector, Policy Brief Note 9, 2007, p. 5,

⁹⁰ Ghana Local Content Regulation (2013), Reg 49

⁹¹ World Bank, Increasing Local Procurement By the Mining Industry in West Africa, Report No. 66585-AFR, January 2012, p. 29

board members of the firm and the percentage of shares held by nationals of the country.⁹² What matters, according to them, is the contribution a company makes to building the domestic economy in which it operates (at both national and subnational levels) and whether these contributions meet the public policy objectives of that country.⁹³ This view derives credibility from the experiences of Norway and Malaysia where local content has been viewed mainly in terms of value-addition, without emphasis on the nationality of the company adding the value.⁹⁴ This view is attractive in appearance but fails in principle. It has the potential to preserve global economic inequality in an era of neoliberal capitalism. Especially in the extractive sector in developing countries where the key players are foreign multinationals more economically powerful than their host governments, it is essential for host developing countries to chart a path for taking ownership of the development of their resources. Ownership and registration requirements provide a potent avenue for them to regain control over their resources. This control regaining, however, cannot occur in the short term, but will follow a gradual process that will materialize in the long term. But it is hard to conceive a better way in which foreign companies can contribute to building the domestic economy of their host countries than by empowering locally owned and registered businesses to thrive and blossom side by side with them. Locally owned and registered businesses are more likely to hire local people than foreign-owned companies would hire and so would, potentially, more effectively fight unemployment and poverty than foreign-owned companies. Fighting poverty and unemployment is an important public policy objective of developing countries.

⁹² World Bank, *Increasing Local Procurement By the Mining Industry in West Africa*, n76

⁹³ J.A. Mwakali and J.N.M. Byaruhanga, "Local Content in the Oil and Gas Industry: Implications for Uganda", in J.A. Mwakali and H.M. Alinaitwe (eds.), *Proceedings of the 2nd International Conference on Advances in Engineering and Technology*, Entebbe, Uganda, 31 January–1 February 2011 (Kampala: Macmillan Uganda Publishers, 2011), pp. 517–522

⁹⁴ J.A. Mwakali and J.N.M. Byaruhanga, "Local Content in the Oil and Gas Industry: Implications for Uganda", in J.A. Mwakali and H.M. Alinaitwe (eds.), *Proceedings of the 2nd International Conference on Advances in Engineering and Technology*, Entebbe, Uganda, n79

2.3 Capacity Development

The motive of capacity growth in encouraging procurement involvement by local firms has gained few analytical and comparative studies. P Arthur et al, few reviews acquired in this study tend to suggest that there is increased involvement of local firms in the oil and gas sector of Ghana. This will be intensified through successful execution of local content policy on capacity development.⁹⁵ Similarly Nigeria officially announced that Local Content Policy has made big contributions to technological capacity development of oil. This has brought about the servicing SMEs together with the firms, leading to participating in a type of relationship which has toughened their engrossed capacity extent. This relationship incorporated the technological and management skills that has moved Nigeria and improved the country's capability in winning projects, bids and contracts. Unam, J M Agorzie et al, argued that the s y s t e m has also raised the intensity to quickly deal with industrial standards and matters of quality productivity.⁹⁶

Brand, M, V study shows that, in both developed and developing economies where teaching projects were carried out, the outcomes have been good in enhancing domestic awareness so as carry out important necessity for involvement in the oil and gas sector.⁹⁷

This purpose of capacity building is key in improving the capabilities of local capacity in becoming a part of the oil and gas procurement is seen in Angola where capacity development strategy and accounts are a necessity. However, in countries like Indonesia, Trinidad and Tobago

⁹⁵ P Arthur and Emmanuel Arthur, tertiary institutions and capacity building in Ghana. Challenges and the way forward (2014) pg. 387

⁹⁶ Unam, J M Agorzie, CJ & Asaolu T.O, local content policy and technological Capacity Buildings of SMEs in the Nigerian Oil & Gas Industry. Energy Technology and infrastructure for Development (2015) pg. 352

⁹⁷ Brand, M, V, local content policies in the oil industry; a comparative analysis, thesis, Politecnico Di Milano university (2017) pg. 342.

where capacity development strategies and accounts are not given special importance, the development of domestic capacity has been moderate.

Brand M V further reports in Nigeria and Kazakhstan, show, they could not successfully lessen the skill gap brought about by foreign employment quotas.⁹⁸ Teka, Z's longitudinal study in Angola revealed that between 1990 and 2003 only 1,581 high-skilled professionals and 1,111 medium-skilled professionals through its programs and by 2008 the number of high-skilled graduates reached only to 1,790.⁹⁹ Teka, Z's the above literature attests to the relationship between capacity building and procurement participation, their generalization in the Ugandan context is limited.¹⁰⁰ It is therefore necessary that this study is undertaken to examine the influence of capacity building on procuring the participation local firms in the seemingly nascent state of Oil and gas sector of Uganda.

2.4 Partnerships

Ihua, U.B reported that a critical analysis of the present state of writings on partnerships and procurement participation within the Oil and gas sector suggests some correlations between the two features.

Partnerships form because of the characteristics of high budgets and high risks in the Oil and gas Oyewole, B reported that consequently there is an increase in the number of SME local that are partnering for joint ventures in the Oil and gas sector even though forming trust, unclear roles, responsibilities and alignment to common goals were notable issues faced in Oil and gas

⁹⁸ Brand M V, n 57

⁹⁹ Teka, Z; linkages to manufacturing in the Resource Sector; the case scenario of the Angolan oil and Gas industry, 37 Resources policy (2012) pg. 416 -467

¹⁰⁰ Teka, Z; n, 23

partnerships.¹⁰¹ Leahy, J reported that substandard explanations during initial levels of the projects between parties, and whether the share division of the benefits will be proportionate to the risk they are taking can also open up to the liability in the execution and outcomes.¹⁰² Oyewole B made observations that short and long-term relationships within partnering arrangements have to be dealt with accordingly to avoid pitfalls and any untoward relationship that could be costly.¹⁰³ N Changarawe also reported that the same line, lack of business partnerships was the key limiting factor for local firms to supply goods and services in the oil and gas sector in Tanzania.¹⁰⁴

Although the above literature is informative on the relationship and challenges in partnership/alliances attribute on technology transfer, their generalization in the Ugandan context is limited. It is necessary that a study is undertaken to examine the influence of partnerships/alliance on procurement participation by local firms in Uganda's Oil and gas sector which is still nascent.

2.5 Research and Development

Technology movement needs particular technologies to be moved on non-commercial terms and/or specific levels and types of research and development to be carried out domestically. This is particularly because it contains major deliberations connected to capacity growth, growth of partnerships, research and growth. Unam, J Met et al reported that technology movement affects procurement involvement in the Oil and Gas reported that a limited number of oil servicing firms

¹⁰¹ Oyewole, B; Best practices in local content development strategy ; the Nigerian experience ,2015 pg.

4

¹⁰² Leahy, J; local supply policy tests Petrobas ; financial Time <http://www.ft.com/o/a2f51e12-60ad-11e1-84dd>

¹⁰³ Oyewole B, n 69

¹⁰⁴ N Changarawe, participation of local suppliers in oil and gas industry in Tanzania, A case study of Statoil Tanzania , 2014 pg. 11.

that deal in research and development activities do not have individual research and development department.¹⁰⁵ That notwithstanding, a narrow industrial base, underdeveloped capital markets and inadequate power supply still subsist as big limits to bring about technological capacity building of SMEs in the petroleum industry.

This study will advocate for partnership with foreign firms, provision of cost-friendly loans, and deregulation of the power sector. The above writings are insightful on the relationship and challenges of research and development. The attribute on research and development on technology transfer, and the generalization in research and development in the Ugandan context is limited.

2.6 Promotion of business competitiveness and local firms' participation in the procurement process for oil and gas sector

Objective three of the national local content policy envisages development the competitiveness of Ugandan enterprises as suppliers and joint venture partners. Key actions to this effect include promotion of business registration & licensing, promotion of Compliance, Business Development and promotion of financial access.¹⁰⁶

2.6.1. Promotion of Registration and Licensing

One of the actions in the national local content policy of Uganda is to encourage Uganda businesses to formalize through registration and licensing of enterprises. A number of studies on this action for promotion of business competitiveness reveals mixed experiences. A Nigerian study by Ihua¹⁰⁷ found that SMEs which strived to comply with the national laws and tax regime and

¹⁰⁵ Unam, J M , Agorzie, C J & Asaolu T, O. (2015) Local Content Policy and technological capacity building of SMEs in the Nigerian oil & gas industry. Energy Technology and infrastructure for development ,352-368

¹⁰⁶ National Local Content policy for the petroleum subsector in Uganda, n 53

¹⁰⁷ Ihua, n 32

specifically procurement guidelines and manufacturing standard reported growth in business deals in the O&G sector. Giroud et al¹⁰⁸ contends that effective procurement participation by local SMEs the O&G sector can only be requires not only promotion of business registration but also supervision and monitoring by the national authority charged with promotion of local content.

According to Byaruhanga et al¹⁰⁹, the informal nature of local firm's initiatives affects the governance of firms. Their findings further revealed that a big number of the firms in Uganda (85%) had no accounts with formal auditing company's s due to poor records management and limited willingness to reveal economic results. This limits compliance to the requirements to supply of good and services for oil and gas sector.

Formal requirements are often strict when working with the oil and gas sector implying that staff competence be documented. Byaruhanga¹¹⁰ found out that two of three firms they surveyed did not have one full time employee with formal training in health, security and environment. Three of four did not have any professional engineers in their staff, and only a few had some certification of their business of relevance for the oil and gas sector.

Although the literature was insightful on the affirmative action on promotion of business registration and licensing and procurement participation, its generalization in the Ugandan context was limited. This study strives to provide empirical evidence on if efforts to register and license SMEs has resulted into significant procurement participation in the embryonic O& G sector of Uganda.

¹⁰⁸ Giroud, A., Jindra, B., & Marek, P. Heterogeneous FDI in transition economies, advancing an overall approach to assess the developmental effects of backward linkages. (2012). *World Dev.*40, 11.

¹⁰⁹ Byaruhanga, H., P. Mwakali, P. and Ekern, of Enhancing Local Content in the Oil and Gas Industry in Uganda. (2011).

¹¹⁰ Byaruhanga , n77

2.6.2 Promotion of Compliance

Ejiro ¹¹¹for example found that a few interrelated segments of the oil and gas value chain stimulates goods and services for local SMEs than the general contractors. His findings further reveal that local SMEs can compete favourably in the oil and gas sector procurement process if only comply in national laws and business best practices.

Giroud et al ¹¹² contends that effective procurement participation by local SMEs the O&G sector is enhanced through effective monitoring of compliance by the concerned government agencies in Venezuela. Adedeji et al.¹¹³ also affirms that affirmative action on promote compliance of SMEs to national laws resulted in significant local SMEs participation in procurement and significant local value added.

Although the literature was insightful on the affirmative action on promotion of compliance among SMEs and procurement participation, its generalization in the Ugandan context was limited. This study strives to provide empirical evidence on if the efforts to promote compliance of SMEs has resulted into significant procurement participation in the embryonic Oil and Gas sector of Uganda.

2.6.3 Business Development

Business development according to the Uganda local tent policy aims at facilitating business development programs for Ugandan enterprises in the oil and gas industry. This will be achieved through development of business development programs in procurement, business counselling,

¹¹¹ Ejiro Blessing Inubiwon, *Developing Small and Medium Enterprises in the Nigerian Oil and Gas Sector*, (2017)

¹¹² Giroud, n 76

¹¹³Adedeji, A.N., Sidique, S.F., Abd Rahman, Z., Hook Law, S., & Law, S.H. (2016). The role of local content policy in local value creation in Nigeria's oil industry: A structural equation modeling (SEM) approach. *Resources Policy* 49, 61–73

management and technical assistance to build the capacities of Ugandan enterprises in the oil and gas¹¹⁴

An empirical case study by Asiago¹¹⁵ reports that affirmative action by Petroleum Development in Oman focused on Local Community Contractors. This program aimed at sharing the advantages of its working with the native community by involving the community contractors through contract work to foster SME competitiveness and participation in the Oil and Gas sector. This was achieved through nominating a business consultant to advise them in growing their business schemes and management systems that adjoin industry worth; dispatching skilful staff members to all the corporate entities to assist them better perceive the working of the petroleum sector. Allocating industrial plots and workshops; and acquiring all the relevant apparatus to accomplish the allocated work.

Ejiro equally reports that efforts to promote business development through joint ventures and supplier development efforts were in in position to win a good deal of procurement tenders in the O & G sector.¹¹⁶ A Ghana study by Ablo reports that the policy to promote business development in Ghana resulted into a10% local SMEs participation in the O & G sector.¹¹⁷

The literature findings on promotion SMEs business development and procurement participation could not be generalized in the Ugandan context. This study strives to provide empirical evidence on if the business development effort has resulted into significant procurement participation in the embryonic O & G sector of Uganda.

¹¹⁴ National Local Content policy for the petroleum subsector in Uganda, n53

¹¹⁵ Asiago, B.C. (2017). Rules of Engagement: A Review of Regulatory Instruments Designed to Promote and Secure Local Content Requirements in the Oil and Gas Sector. *Resources*, 6 (46), 1-19.

¹¹⁶ Ejiro Blessing Inubiwon, n 79

¹¹⁷ Ablo, A.J. From local content to local participation: Exploring entrepreneurship in Ghana's Oil and Gas Sector' Dissertation; University of Bergen (2016). Pg. 7

2.6.4 Finance Access

The national local content policy of Uganda targets improved access to financing by Ugandan enterprises to supply goods and services to the oil and gas industry.¹¹⁸ It has always been urged that access to financial services is a key success factor in promoting local SME competitiveness in the Oil & Gas sector as SMEs were less likely to access financial credit compared in International oil Company. The financial challenges is also exhibited in restricted access to finance by local SMEs due to lack of significant collateral requirements, and lack the knowledge and skills to prepare attractive business plans for loan proposals as per Akpanika.¹¹⁹

It has also been noted that financial access is a key factor on entrepreneurship or business formation and business growth through participation in business opportunities in the O&G sector Adewuyi et al.¹²⁰ Ablo equally noted that the case studies of Ghana entrepreneurial activities show how embedded resources and practices of actors shape local SMEs participation in the oil and gas industry. Sigam¹²¹ et al Brazil study reports that among the obstacles to the development of manufacturing capacity of the national industry in Brazil, together with the new investments in research and development, is the strain, particularly for SMEs, in acquiring finance required for the inflated cost of capital from the private banking sector. To be able to aid credit for national suppliers, the Program for the Mobilization of the National Industry of Oil and Natural Gas

¹¹⁸ National Local Content policy for the petroleum subsector in Uganda, n 53

¹¹⁹ Akpanika, O.I. (2012). Technology transfer and the challenges of local content Development in the Nigerian oil industry. *Global journal of engineering research*, 11(2), 123-131

¹²⁰ Adewuyi, A. O., & Oyejide, T. A. (2012). Determinants of backward linkages of oil and gas industry in the Nigerian economy. *Resource. Policy*, 37(4), 452–460.

¹²¹ Sigam, C., & Garcia, L. (2012). *Extractive Industries: Optimising Value Retention in Host Countries*. UNCTAD, Geneva.

helped the organization of new financing mechanisms and capitalization of the production chain through collaboration with public and private banks.

To this effect a Program in conjunction with Petrobras and the 11 large banks in Brazil, this program is directed creating available credit with competitive circumstances to the Petrobras supply chain (contractors and subcontractors). It also points to better liquidity and financial needs and more than 40 cross-industry sanctioning enterprise over six aspects of human resources, technology and innovation, business development, capital and finance, contracting and tendering, legislation and process improvement which encouraged procurement participation and SME competitiveness Sigam.¹²²

Although the literature was informative on the affirmative action on promotion of financial access among SMEs and procurement participation, its generalization in the Ugandan context was limited given the unique Ugandan financial services sector policies. This study strives to provide empirical evidence on if the efforts to promote financial access among SMEs has resulted into significant procurement participation in the embryonic O & G sector of Uganda.

2.7 Use of locally produced goods and local firms' participation in the procurement process for oil and gas sector

Use of domestically manufactured goods and services alludes to the procurement and use of domestically manufactured input materials and development of these materials. This is often identified as a necessary connection which reduces the capital cost that may have been incurred by the former and overextension of the firm. Teka Z reported that the use of locally manufactured goods tends to contain affirmative action on simplification of procurement procedures, emphasis

¹²² Sigam, n 89

on local operational base, standardization of local products through quality assurance and exclusive local tendering.¹²³

The national local content policy of Uganda foresees a raised use of domestically manufactured or available goods and services by the oil and gas industry.¹²⁴

Plans needed to obtain the objective include:

- Licensed oil companies, their contractors and subcontractors will implement procurement and contracting methods and practices to empower Ugandan enterprises.
- Secondly licensed oil companies, their contractors and subcontractors will set up operational bases in Uganda.
- Thirdly, there is a requirement to evolve and embrace standards and quality assurance systems for locally available/produced goods and services.
- Lastly, licensed oil companies, their contractors and subcontractors will exclusively tender locally available goods and services to Ugandan enterprises.¹²⁵

2.7.1 Procurement Procedures

An examination of the current body of writings lends support for the duty of affirmative action participation local firm on procurement procedures in promoting procurement in the oil and gas department. Local content regulations that put first affirmative action on procurement procedures are more likely to obtain beneficial results in respect of employment creation, skills development and the participation of their national industry along the oil and gas value chain.¹²⁶ Oyewole

¹²³Teka, Z. (2012). Linkages to Manufacturing in the Resource Sector: The Case of the Angolan Oil and Gas Industry, 37 *Resources Policy* 466-451

¹²⁴ National Local Content policy for the petroleum subsector in Uganda, n 53

¹²⁵ Ibid

¹²⁶ Sigam , n 89

reported that in Nigeria, effective design, implementation and monitoring of procurement procedures resulted into increased value added, enhanced entrepreneurial development, improvements in local investment in the sector and overall participation of local SMEs in the O&G sector.¹²⁷ Adedeji also affirms that affirmative action on procurement procedures resulted in significant local SMEs participation in procurement for works, services and supplies leading to significant local value added. Ihua, further, concluded that the legislating local content especially through procurement procedures has had very little positive implication in enhancing SMEs participation in the industry. Calls for more effective supervision and monitoring of the policy guidelines by regulatory authorities; lessening the pre-qualification requirements and the conditions for tenders and bid Giroud, et al said that there is the need to invest massively in the educational system to promote local firm's procurement participation in O&G sector has been made.¹²⁸

The literature will point to a significant relationship between affirmative action on procurement procedures and procumbent participation. However, their generalization in the Ugandan context is limited. It is necessary that a study is undertaken to examine the influence of affirmative action on procurement participation by local firms in Uganda's O&G sector which is still embryonic.

2.7.2 Operational base

A key emphasis of the local content policy is the need to for Licensed NOC, their contractors and subcontractors will establish operational bases in the explorations country and studies report

¹²⁷ Oyewole, B. Best practice in local content development strategy: the Nigerian experience. Presented at a Regional Workshop and Project Launching on Ameliorating the Structural Effects of Mineral Resources in the Economic Community of Central African Countries, Ndjamen, Chad, 25-30 November, 2015.

¹²⁸ Giroud, n 76

of mixed findings on its effect on procurement participation. In their study Adedeji et al¹²⁹ conceptualized backward integration to include the level of cooperation between local oil service firms and their local affiliate suppliers through local input development, information exchange, technical upgrading, negotiation of payment and delivery, and labour training.

A Ghana study by Ablo reports that in terms of goods and services provision, the policy mandates that all operators in the oil and gas industry shall as far as practicable have a local base and use goods/services produced by or provided in Ghana for their operations.¹³⁰ It was the hope of the government that after the commencement of operations, the participation of Ghanaians in value-added would be at least 10% initially, with a 10% increase annually in the provision of goods and services with the policy of having a local base in Ghana. However, Boyefio et al reported that, the Ghanaian oil industry was dominated by foreign manufacturers or suppliers of goods and services that could ordinarily be made or supplied by local SMEs or firms.¹³¹ They noted that, although most international oil companies profess support for local content, the reality is that they prefer to deal with their global suppliers for a number of reasons and are reluctant to break such supplier relationships.

A Venezuela by Giroud et al equally revealed that promotion of local goods and services by establishing a local base in the local content policy resulted into significant improvement in local firm's participation O&G sector and overall contribution to GDP.¹³² However, a Nigerian study by

¹²⁹ Adedeji, n 81

¹³⁰ Ablo n 85

¹³¹ Boyefio, G., & Ochai P. (2014). Another Look at Ghana's Petroleum (Local Content and Local Participation) Regulation: The Underlying Prospects and Intrigue. *Orient Energy*, 3.

¹³²Giroud, n76

Ihua concluded that the legislations on local supplies has had very little positive implication in enhancing SMEs participation in the industry.¹³³

The literature on promotion of firm localization in the O&G sector as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the O&G sector. This study strives to provide empirical evidence on local base strategy and its contribution to SME participation in the O&G sector of Uganda.

2.7.3 Standardization

To deliver cost savings on projects, operators across the oil and gas industry are looking at standardization as a way of simplifying the processes from design and construction through to installation and start-up, in order to create safer, more predictable and reliable facilities that start-up on time and stay up Mohammad & Price.¹³⁴ To this effect, one of the strategies in to increase the use of locally produced or available goods and services by the oil and gas industry in Uganda is to develop and adopt standards and quality assurance systems for locally available/produced goods and services. On the influence of standardization on procurement participation, Mohammad and Price note that since procurement process in the oil and gas industry is a capital-intensive industry and about 90-95% of project costs are paid to contractors and suppliers, to ensure project success, it is critical that procurement strategies should incorporate and integrate standardization in local supplies.¹³⁵ Some form of standardization programme and specification reviews must also be included. Mohammad and Price further notes that a strategic outsourcing, such as in supply

¹³³ Ihua , n 32

¹³⁴ Mohamad, A.S., Sapuan, S.M., Ahmad, M.M.H.M., Hamouda, A.M.S., Hang, B.T., & Baharadun, B.T. Modeling the technology transfer process in the petroleum industry: Evidence from Libya. *Mathematical and Computer Modelling*, 55, 2012 451–470

¹³⁵ Mohamad, n 102

chain management, must be in place.¹³⁶ Finally, a management and incentive programme for all key contractors and suppliers must exist in order to secure the commitment of contractors and suppliers to the overall success of the project by supplying standardized goods and services.

The literature on promotion of standardization in the O&G sector as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the O&G sector. This study strives to provide empirical evidence on standardization strategy and its contribution to SME participation in the O&G sector of Uganda.

2.7.4 Exclusive Local Tendering

The role of exclusive or preferential local tendering in promoting local firm participation in the extractive sector has been emphasized in most local content policies. To begin with Ihua, views local content from an angle of ‘community content’; stating that ‘Ultimately, community content is about realizing a competitive advantage for an oil and gas development company in the eyes of both the local population and the country’s guardians of economic policy.’¹³⁷ He observed two distinct policy strategies for achieving higher local content vis-à-vis: firstly, where the state requires oil companies to give greater preference to those nationals and national suppliers who can compete internationally on cost, quality and timeliness notably what can be termed local content participation. For instance, the Trinidad and Tobago case, where oil production operators shall give preference to national subcontractors where such are competitive with foreign bidders in skills, availability and price and meet technical and financial requirements; and the case in Nigeria

¹³⁶ *ibid*

¹³⁷ Ihua , n 32

where the proposed LC bill requires about 95 percent managerial and supervisory positions, 100 percent risk insurance and legal services to be handled by indigenous professionals as per Ihua.¹³⁸

In Latin America, Tordo et al reports that virtually all of the surveyed regimes mandate preference for local goods, services, consumables, works or enterprises.¹³⁹ In all of the jurisdictions examined, the IOC has an obligation to give due and proper consideration to preferring locally sourced services and goods when their price, quality, time of delivery and other terms are comparable to internationally available ones.

A related study by Leahy revealed that on overall, reveal that reactive exclusive tendering policy as opposed to proactive ones are believed to hinder Petrobras from achieving its production and financial targets. Ablo equally carried out through extensive fieldwork in Ghana's oil industry over a period of three years. The study noted that Ghana's local content law on exclusive local tendering is largely beneficial to local elites although it does not stimulate broad-based social and economic benefits. The case studies of Ghana entrepreneurial activities show how embedded resources and practices of actors shape local SMEs participation in the oil and gas industry.

The literature on promotion of excusive tendering as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the O&G sector. This study strives to provide empirical evidence on exclusive tendering strategy and its contribution to SME participation in the O&G sector of Uganda.

¹³⁸ Ibid

¹³⁹ Trodo S , local content in oil and gas sector,2013

2.8 Capacity development and Competitive level of local companies compared to the foreign companies.

Local content development is believed to depend on capacity and competitive level of local companies compared to the foreign companies.

It is assumed, that even in the face of the regulations favouring the local firms, the foreign oil companies will choose to engage local companies provided they offer higher value services in terms of cost-effectiveness and efficiency.

This is in other words what can be referred to as the competitive advantage of local firms which partly leverages this study.

The literature of Heum, et al, factors that are crucial for competitiveness. These include; stability and predictability, adequacy and quality of infrastructure for business development including public utilities such transport modes, telecommunications, electricity, water supply; and supportiveness of institutions such as taxes, interest rates, exchange rate.¹⁴⁰

Tordo et al, argue that industrial capacity is one of the most important factors for policy makers to consider when designing a local content policy.¹⁴¹ According Herum et al, the level of technology and the industrial base of a country shape the type of policy required to promote local content. If a country's local content strategy is focused on the promotion of local procurement, for example, national and local service companies must have high levels of technology and the country's

¹⁴⁰ Heum, P. Kasande, R., Ole, F.E and Nyombi, A. Policy and regulatory framework to enhance local content. Yardsticks and Best Practice: Paper presented at The 5th Conference & Exhibition on the Petroleum Potential and Investments Opportunities in East Africa Revenue (2011).

¹⁴¹Tordo n 107.

national industries must be able to meet the standards that international extraction companies require.¹⁴²

Heum et al, argued that, if the strategy of the local content policy is focused on the promotion of local employment, the capacities of available workforce are a key factor to consider.¹⁴³

According to Tordo et al, Institutional and legal arrangements also led to capacity development. Hence, extractive sector governance is as an additional factor that matters when designing and implementing local content policy.¹⁴⁴

Tordo et al. argued that Corruption, lack of transparency and bureaucracy are challenges that countries and companies commonly face which negatively influence local content implementation.¹⁴⁵

Nordas et al, analyse specific case studies of countries that have adopted a local content policy and the general outcomes they have achieved.¹⁴⁶

These countries include Angola, Brazil, Indonesia, Kazakhstan, Malaysia, Trinidad and Tobago, Brazil, Mexico, Nigeria, Angola and Norway.

According to the authors, after adopting specific local content policies, Brazil has successfully increased its local content quotas. In this scenario, Brazil has emerged as an important actor for implementing local content and permanent monitoring of the compliance of local content targets.

¹⁴² Heum, n 45

¹⁴³ Tordo, n 107

¹⁴⁴ ibid

¹⁴⁵ ibid

¹⁴⁶ Nordas, K. H., Vatne, E., Heum, P. 2003. The Upstream Petroleum Industry and Local Industrial Development: A Comparative Study. SNF Working Paper No. 08/03. Institute for Research in Economics and Business Administration, Bergen

Bidding processes incorporate local content requirements and designated institutions monitor compliance according to the national local content framework.

However, despite the fact that there has been an increase in the creation of jobs and local industries have been strengthened, Brazil has faced challenges due to the costs of implementing its local content policy, production quota delays, a lack of technology and some issues of corruption. Despite this, Brazil has become a reference for other countries in the region when creating and adopting local content frameworks.

Nordas et al, argued that Mexico's oil and gas industry has a strong history of protectionism and nationalization. Pemex (Mexico's National Oil Company) and the Union of Oil Workers have played a pivotal role in the implementation of local content.¹⁴⁷ Mexico's local content strategy has focused on the development of its national industries through industrialisation programmers. Despite the achievement of positive local content outcomes such as the development of a sound and competitive industrial base outside the oil sector and the generation of national jobs, Mexico's monopoly and protectionism over the industry has resulted in some challenges such as reduced exploration levels, a weak technology infrastructure and overstaffing of Pemex among others.¹⁴⁸

Nordas et al argues that Nigeria has introduced several measures with the objective of increasing local value added, employment and ownership in the petroleum and industrial sector. The Nigerian Oil and Gas Industry Content Development Act was passed in 2010 and subsequently the Nigerian Content Development Monitoring Board was created in order to monitor and enforce the Act.¹⁴⁹

This framework has contributed to increasing ownership in Nigerian National Petroleum

¹⁴⁷ Nordas, n 114

¹⁴⁸ Ibid

¹⁴⁹ ibid

Corporation and employment of national labour in skilled, unskilled, professional and managerial positions. Moreover, International Oil Companies have been more active in promoting local content in Nigeria through independent skills development programmes. However, due to the fact that the objectives of the Local Content Act are quite ambitious, Nigeria has faced many challenges during implementation in terms of reaching the expected targets. Furthermore, Ovadia, argues that Nigeria faces historic challenges such as corruption, weak internal governance and low capacities.¹⁵⁰

Angola has been following two strategies, the “angolanization” of the workforce and the domestic sourcing of goods and services. To this end, the government has created a series of frameworks, especially through decrees and PSAs. Sonangol (country’s National Oil Company) has played a key role during the implementation of these strategies, which has resulted in the achievement of targets such as the increment of national jobs (unskilled, mid and upper level) with higher rates reported on unskilled and administrative staff. Tordo et al, argue that the lack of experience of local and national firms has been a challenge that foreign firms have faced.¹⁵¹ Further, Ovadia, reported that weak governance, conflict of interest and the danger of local content reinforcing the power of the country’s elite are some of the challenges faced by Angola that influence the way in which local content is implemented.¹⁵²

Finally, some literature focuses on countries that have achieved mostly positive outcomes and that have developed local content policies to expand their oil and gas sector internationally. For example, in reviewing the case of Norway and the path it took to implement local content policies, Heum highlights the uniqueness of this case since Norway had strong institutions and an

¹⁵⁰ Ovadia JS. Local Content Policies and Petro-Development in Sub-Saharan Africa: A Comparative Analysis.

¹⁵¹ Tordo, n 107 & Anouti, Local Content in the Oil and Gas Sector: Case Studies, 2013.

¹⁵² Ovadia, n 118

industrialised economy before oil and gas was discovered.¹⁵³ These factors enabled Norway to focus on the participation of its national industry within the oil and gas sector first nationally and then internationally. Easo et al identify as another key factor for Norway (and also for the United Kingdom) its highly educated workforce with technical competence in manufacturing, shipbuilding and engineering.¹⁵⁴

Notwithstanding, the Norwegian and British cases offer few lessons for countries that do not share these characteristics, as is the case for Africa and Latin America.

Byaruhanga argued that, Ugandan Local SMESs, have been identified with inadequate institutions and regulations.¹⁵⁵ Heum, et al also argued that Uganda is faced with limited investment capital and inadequate financing which includes limited working capital, insufficient equity and expensive credit cos. All these have characterized inadequate capacity.

Heum, et al opined that it is also evident that SMEs in Uganda lack international quality certifications in the procurement processes especially for transport and logistics supplies are complex where as the cost of production is high.¹⁵⁶ These challenges have also been stressed in the country's National Development Plan. The magnitude of challenges is likely to vary across SMEs depending on their age and size measured in terms of fixed assets value and investment capital.

Abuka, argued that It is suggested that with time business enterprises tend to discover and develop long term survival strategies and advance from their capital developments over time.

121 Heum, P. C. Quale, J.E. Karlsen, M. and Osahon, G. (2003). Enhancement of local content in the upstream oil and gas industry in Nigeria – a comprehensive and viable policy approach, Bergen: The Institute for Research in Economics and Business Administration, SNF-Report 25/03, 2003

¹⁵⁴ Easo J and Wallace, A, Understanding local content Policies in Africa's Petroleum sector. Huston , Texas, (2014)

¹⁵⁵ Byaruhanga, n 77

¹⁵⁶ Heum , n 121

Business maturity reduces tendencies of risk averseness and crafting of risk mitigation procedures.¹⁵⁷ Mwakali reports that many Private Sector Apex Institutions have responded to the obvious needs for capacity building of the companies by educating best practices to the business community; training in fundamental business skills, calculating costs, keeping of proper accounting records and certification of skills.¹⁵⁸

Tullow oil, the oil extraction company, has taken lead in implementing the interventions towards promoting local content in Oil and Gas. The company has streamlined local content development in its operations.¹⁵⁹ The company's interventions have focused on building a dynamic supplier base which can take part in the Uganda's oil industry's supply chain. The capacity building activities have entailed; closing-the-gap seminars and business development advisory services to local SMEs, provision of information to suppliers regarding available business opportunities in the oil and gas industry.¹⁶⁰

2.9 Averting corruption in Uganda's oil industry.

2.9.1 Anti-corruption policy in Uganda.

Uganda has established several state bodies and entities with obligations of avoiding and prosecuting corruption including the Anti-Corruption Court, the Inspectorate of Government, the Auditor General, the Directorate of Public Prosecutions and other related bodies. The inadequacy of capacity, these entities without interruption do not to carry out their necessary duties. This

¹⁵⁷ Abuka, C.K., Egesa, C.A., Atai, A and Abeona, M. Firm Level Investment: Trends, determinants and Constraints: Research Series No.47, Economic Policy Research Centre, Kampala, (2006).

¹⁵⁸ Mwakali, J.A. "Local Content in the Oil and Gas Industry: Implications for Uganda", in J.A. Mwakali and Alinaitwe (eds.), Proceedings of the 2nd Conference on Advances in Engineering and Technology, Entebbe, Uganda, (2011). 31 January-1 February

¹⁵⁹ Tullow Oil Tullow Uganda Country Report: Creating shared prosperity in Uganda, (2012).

¹⁶⁰ Ovidia, n 118

introduces issues at whether these bodies will avail the supervision required to avert oil sector corruption.

2.9.2 Uganda's oil legislation and attempts to stop the leaks.

Uganda has several legislations to attend to oil exploration, growth and production. Most important to the topic of corruption, are the Petroleum (Exploration, Development and Production) Act 2013 and the Public Finance Management Act 2015. The two statutes control how rights to production will be allowed to companies and how the revenue from the petroleum industry will be controlled by state. The Petroleum (Exploration, Development and Production) Act 2013, known as The Upstream Act, shows how rights to production will be assigned and how each company's upstream pursuits will be controlled. This act allocates the level of "horizontal" transactions between companies and government. The act introduces a tri-partite structure for oil sector management, splitting duties between a Petroleum Directorate, a Petroleum Authority, and National Oil Company. The Petroleum Directorate is obligated with controlling the sector department manned by the Minister of Energy. The Petroleum Authority is obligated with availing individualistic supervision over the sector while the NOC is obligated with controlling the State's business interests in the sector. Although this tri-partite structure does avail necessary separation of powers because of too much authority given to the Minister, it is not evident whether the system will avail proper checks on power. The petroleum authority and the National Oil Company do not have possess the authority similar to the Minister. Even though the Petroleum Authority is meant to be individualistic, the Minister can send directives to the Authority and members of the Board of the Authority can be removed directly by the President.

2.9.3 Transparency in oil sector

From the mid-1990s, subsequent to the evolving academic literature on the resource curse, journalists and activists from Human Rights Watch, Global Witness and Oxfam, focused on the topic of transparency in the oil sector by asking companies to publish their revenues.¹⁶¹ Subsequent to the campaign, the birthing of the Extractive Industries Transparency Initiative which would permit natives to observe the pursuits of companies and governments became the energy behind other measures, such as the United Nations Convention Against Corruption and the Council of Europe's Group of States against Corruption.¹⁶² Be that as it may, the supposition brought by the Extractive Industries Transparency Initiative brought about the sense that the combating corruption in the extractive industries determined on its success.¹⁶³

2.9.4 Accountability in the oil sector.

Transparency is not enough to decrease corruption, but transparency and accountability together may be likely to raise substantially the level of governance of any state. This understanding directed the birthing of the Transparency and Accountability Initiative, a group of funders specialized in the furtherance of programmes pointed at reinforcing transparency and accountability globally.¹⁶⁴

As debated by Jonathan,¹⁶⁵ transparency, deliberated as a bottom-up operation where natives observe the deeds of the state, can be either opaque or clear. However, accountability can be either soft or strong. Soft accountability responds to a type of "answerability"¹⁶⁶ that is not accompanied by penalties or political consequences, while powerful accountability entails consequences. As argued by Christopher,¹⁶⁷ transparency and accountability are often portrayed as Siamese twins, but the reality is that the presence of one is more often accompanied by the absence of the other.

¹⁶¹ Obeng-Odoom F: Measuring what? 'Success' and 'Failure' in Ghana's oil industry Soc. Nat. Resour., 27 (6) (2014), pp. 656-670

¹⁶² Pleines. H, Wöstheinrich. R The international-domestic Nexus in anti-corruption policy making: the case of caspian oil and gas states Eur. Stud., 68 (2) (2016), pp. 291-311

¹⁶³ Kerr R.A: Peak oil production may already Be Here Science (2011).

¹⁶⁴ Gaventa J, R. Mcgee The impact of transparency and accountability initiatives Dev. Policy Rev., 31 (S1) (2013)

¹⁶⁵ Fox J: The Uncertain relationship between transparency and accountability Dev. Pract., 17 (4-5) (2007), pp. 663-671

¹⁶⁶ Fox, n 183,

¹⁶⁷ Hood C Accountability and transparency: siamese twins, matching parts, awkward couple? West Eur. Polit., 33 (5) (2010), pp. 989-1009.

These valuable, lessons, are limited in terms of their applicability to countries with entirely different contexts, such as those in Africa and Latin America where poor governance, corruption, a weak industrial base and workforce are specific challenges faced by their oil and gas sectors.

This is majorly because the stage of economic and social development of these countries is another aspect that influences the policy-making process. While African countries have been actively discussing the adoption of local content policies during recent years, Latin American countries have adopted different strategies to promote local content as part of their productive policies, although they have not developed specific frameworks for the oil and gas sector.

Both Latin American and African oil and gas producing countries have been involved in this dynamic for years and have achieved different kinds of outcomes.

Currently, this is still an important gap in research as far as comparisons across cases is concerned.

My dissertation represented an initial attempt to fill this gap and provide lessons that can be transferred between countries and regions where governance, anti -corrupt, strong industrial base and workforce are achieved in the oil and gas sectors.

2.9.4 Challenges in implementing local content strategy

Cerbusca, V reported a number of challenges identified in the literature on local content and they have classified the challenges into capacity gaps, corruption, inefficiencies risks, policy implementation and monitoring.¹⁶⁸

¹⁶⁸ Cerbusca, V, financing SME future development. economy and sociology , 139-142

Kazzazi, A , et al reported that capacity gaps arise on the basis that local entities are not able to provide the required inputs in most low developed economies¹⁶⁹. Akpanika stated that the argument is that it is quite difficult for LCDs to quickly supply specialized goods and services to the oil industry for lack of because of the technical complexity of producing them, the specific skills required and the large size of the contracts, among others problems. ¹⁷⁰ Akpanika **also** stated that the capacity challenges are also exhibited in restricted access to finance by local SMEs due to lack of significant collateral requirements, and lack the knowledge and skills to prepare attractive business plans for loan proposals.¹⁷¹ He further reported that corruption has resulted into opportunities for local participation being denied and explored by the economic elites which leads to less efficient than a perfectly competitive environment, thus giving rise to welfare losses. Cases of fictitious companies could equally lead to a flawed a procurement process on the basis of local content policy. ¹⁷² He also reported inefficiency risks that are widely cited as significant threat in local content policy. This arises from the position that the local content policies are grant by law. A portion of the contracts to local suppliers give rise to a decrease in their incentives to invest in research and development innovation, as the jobs are assured to them, without facing foreign competition.¹⁷³

Kazzazi reported policy implementation and monitoring challenges, arises from the fact that although policies have been meticulously analysed and ensure a priority national welfare developments in the long run, it will be hard for any outcome to materialize if the policies are not

¹⁶⁹ Kazzazi, A , & Nouri , B; conceptual model for local content Development in the Petroleum Industry, management science letters 2165-2174
& Nouri, 2012;

¹⁷⁰ Akpanika, technology transfer and the challenge of local content Development in the Nigerian oil industry. Global journey of engineering research , 11(2),123-131

¹⁷¹ Akpanika, n 131

¹⁷² Ibid

¹⁷³ ibid

adequately implemented and monitored.¹⁷⁴ Kazzazi has also argued that the actual implementation process, if done correctly, can be more challenging.¹⁷⁵ If no formal information flow mechanism is implemented, local businesses and individuals will not be aware of the opportunities in place. When the rules are not clear a number of legal, coordination and financing problems might arise. On the other hand, a lax monitoring process can lead to operators hiding, withholding, or strictly not complying with the legal requirements intentionally.¹⁷⁶

2.10. Summary of Literature Review

The review of existing body of research reveals an inconclusive position on the influence of local content policies on procurement participation by local firms in the oil and gas of developing countries. Like any other developing country, provocations in Uganda's local content development have focused on whether there is sufficient technological local capacity to deal with the employment, goods and service needs for the oil and gas industry. On the other hand, standards of locally produced goods and services to meet the requirements of the Oil and gas sector remains questionable.¹⁷⁷ To fill the knowledge void, this study examined the effect of local content policies specifically; business competitiveness, promotion of locally produced goods/services and technology transfer on local firm's participation in procurement of goods and services in the Oil and gas department of Uganda.

¹⁷⁴ Kazzazi , n 130

¹⁷⁵ Akpanika, n 131

¹⁷⁶ *ibid*

¹⁷⁷ Peter Magelah Gwayaka, Local content in oil and gas sector, An Assessment of Uganda's Legal and Policy Regimes

CHAPTER THREE:

METHODOLOGY

3.0 Introduction

This chapter introduced the research methodology of the study. This dissertation leverages on findings generated from primary data from which was used in response to the research questions of local content policies and procurement involvement by local firms in Oil and gas sector. The chapter's structure includes the research design, population of study, sample size and selection, data collection methods, data collection instruments, validity and reliability, data collection procedures, data analysis and measurement of variables.

3.1 Research Design

This study used a cross-sectional survey plan using a qualitative approach.

As is assisted by Creswell,¹⁷⁸ a cross-sectional survey plan was adopted because the local content strategies and procurement involvement by local firms in oil and gas sector was to be inspected at that point in time. The qualitative data was used as both primary and secondary data. Primary data was gathered using in depth one on one semi structured interviews and questionnaires.¹⁷⁹

This will assist and avail data required to link up the needed aims and to experiment on the connection and study hypotheses linked to local content policies and procurement involvement by

¹⁷⁸ Creswell J W & Clark, V. L. P. Designing and conducting mixed methods research (2nded). Thousand Oaks , CA; sage

¹⁷⁹ Amin, M.E, Social Science Research : Conception , Methodology and analysis, (Makerere University, Kampala , Uganda, 2005)

local firms in Oil and gas sector.¹⁸⁰ Secondary data gathered was from the data collected by other researchers. A comparative analysis was also be used in the secondary data collected.

3.2 Study Population

The study population was a collection of subjects or individuals who were put through the research. The study was supported by an accessible target population of 304 Local SMEs including those which previously accessed business supply tenders at Tullow Oil and those which attempted but failed.¹⁸¹ The target companies were drawn from Tullow Oil's records, stratified into the two categories. Simple random sampling was applied to select the Company Heads and Managing Directors who formed the primary respondents for the study.

3.3 Sample size and procedure

Sampling as stated by Amin's the procedure of choosing enough quantities of components from the population.¹⁸² This is important so that a study of the sample and the knowledge of its characteristics would plausibly generalize such features to the population components. The study was in expression of a questionnaire with a set of systemized inquiry on local content schemes, backward integration and procurement involvement by indigenous firms in oil and gas department. The questionnaire was used on all the eighty selected SMEs. During the study, the researcher sent out emails containing the link to the kobo toolbox server to eighty SMEs managers that were not be easily physically accessed. The secondary data by some of the expert reports authored by the

¹⁸⁰ Cresswell n, 139

¹⁸¹ The National Suppliers' Database for the Oil and Gas sector, n 53

¹⁸² Amin, n 140.

International Oil Companies operating in Uganda's oil and gas sector was used to arrive at the outcomes of this study

3.4 Sampling Techniques and Procedures

3.4.1 Simple Random Sampling

The study utilized simple random sampling in which the sample size is acquired from the population in such a way that samples of the same size have uniform possibilities of being selected.¹⁸³ The sampling list was created from all SMEs in the Oil and Gas sector to set up a sampling framework. Random numbers were produced in excel to randomly select the SMEs for the study.

3.5 Data Collection Method

The study was in expression of a questionnaire with a set of systemized inquiry on local content schemes, backward integration and procurement involvement by indigenous firms in oil and gas department. The particulars on the questionnaire was transferred on kobo toolbox so as gather the data using mobile phones which are cheap for data collection,¹⁸⁴ environmentally friendly and collects large quantities of data in less time. The questionnaire was used on all the eighty selected SMEs. During the study, the researcher sent out emails containing the link to the kobo toolbox server to eighty SMEs managers that will not be easily physically accessed. Document reviews were also used to collect secondary data so as to be able to relate it to the primary data obtained. This enabled me to come up with findings for the study.

¹⁸³ Creswell & Plano-Clark, n 139

¹⁸⁴ Sekaran U , Bougie,R, research methods for Business , A skill Building Approach (5th Ed), 2009

3.6 Data Collection Instrument.

A standard Questionnaire sought respondents' perceptions on three local content strategies of technological development, competitiveness and use of local supplies based on the National local content policy document. The items were measured using a 5-point Likert scale ranging from 5= strongly agree to 1 = agree. The questionnaire also focused on Procurement participation items developed by Adedeji et al¹⁸⁵ focusing on access to business opportunities, environment conduciveness, market power, contract and bidding process and procurement Incentives.

3.7 Validity and Reliability of the Instruments

To limit threats to the credibility and enhance consistence of variables of the study in agreement with set measurements; the researcher adopted the use of standard questionnaires tied to the Likert scale. Each respondent that filled in the questionnaire. To ensure validity¹⁸⁶, the study carefully selected respondents from relevant fields and in addition, assigned them standard questionnaires.

3.8 Ethical Considerations

Several moral deliberations were tackled. All quoted works were referred to. The respondents were told that involvement was optional, and their state of being kept secret was assured by not writing their names on the questionnaire. To enhance objectivity, the questionnaire was planned premised on local content strategies and procurement participation by local firms in Oil and gas department best practices. All the collected facts management was guarded in a safe computer and was only retrieved by the researcher and an experienced data analyst who handle data analysis.

¹⁸⁵ Adedeji , n 81

¹⁸⁶ Validity is the degree and ability of a research instrument to measure what it is actually intended to measure. (jenson, 2003:2) & (AERA et al, 1999:184)

3.9 Data Analysis

Data analysis refers to the process and stage when the researcher reduces raw data to understandable and meaningful levels and accordingly draws conclusions there from¹⁸⁷. Data collected in this study was coded¹⁸⁸ and analysed using the Statistical Package for Social Sciences (SPSS). Coding ensures consistency and eases the tabulation task. The researcher employed both descriptive and inference statistics for the sample to truly represent the population under study. The researcher generated frequency tables and percentages for categorical variables. For ordinal variables such as attitude questions, the researcher also generated frequency tables which were interpreted for easy understanding.

¹⁸⁷ Robert Bogdan and Sari Knopp Bikken, *Qualitative research for education: an introduction to theory and methods* (Boston, Allyn and Bacon Inc., 1982) 145. 'See also' Mathews B.Miless and Michael A. Huberman, *Qualitative Data Analysis* (2nd edn, Thousand Oaks CA: Sage Publications, 994) 11.

¹⁸⁸ It refers to conversion of data collected using questionnaires into easily understandable and analysable data. A coding sachem may be determined at the beginning of the research study thereby allowing direct data entry into the database as the questionnaires are filed or one record the responses to the questionnaires onto a different coding sheet and later entering it into the database. In this study the responses to the questionnaires were recorded on a separate sheet coding sheet and then entered into the database

CHAPTER FOUR:

DATA PRESENTATION AND DISCUSSION OF RESEARCH FINDINGS

4.0 Introduction

In this chapter, the researcher reports the findings and discussion of the study based on the collected data through questionnaire survey. The presentation of the report is based on the objectives and major study themes or research questions laid out in the report namely:

1. To analyse what constitutes a “local” business entity or local supplier?
2. To assess the relationship between the use of locally produced goods on the local firm’s participation in procurement process in the Oil and gas of Uganda;
3. To assess the relationship between the promotion of business competitiveness on the local firm’s participation in procurement process in the Oil and gas sector of Uganda.

4.1 Standardised Questions

These formed the first part of the questionnaire and they required the respondents to stipulate and give their thoughts. These were in form of where the respondents were to agree, disagree, strongly agree, strongly disagree and to remain neutral.

The first section presents the response rate. This is then followed by a presentation of background information about the respondents and the major findings and discussion based on the study objectives.

4.2 Response Rate

Eighty (304) respondents were selected to participate in the study and were issued with questionnaires. Out of 304 questionnaires that were administered to respondents, 302 were completed and submitted to the kobo toolbox server. The overall response rate was 302 out of 340 which was equivalent to about 97.5%. According to Mugenda,¹⁸⁹ a response rate of 70% and above is acceptable as representative of the sampled population. In this regard, a response rate of 99.3% was adequate and excellent for the study results to be valid.

4.3 Nationality of the owner(s) of the SMEs

Table 1: Showing Nationality of the Owner(s) of the SMEs

Nationality of the owner(s) of the	Frequency	Percent
<i>Multi-National company</i>	93	30.8
<i>Nationals only</i>	208	68.9
<i>State owned enterprises</i>	1	.3
Total	302	100.0

Source: Primary data

The table gave a general overview of how the respondents reacted to the aspects in line with this ownership of the small to medium enterprise. Among the statements were that the SME is owned by nationals, multi nationals or was state owned

Table 1 below illustrates that majority of the small-to-medium enterprise in the Oil and Gas sector in Uganda are owned by nationals only as reported by 67.9% (n=55) of the respondents. About

¹⁸⁹ Mugenda A Social Science Research : Theory and P. Nairobi: Applied Research & Training Services, 2008

30 % (n=24) of the sampled SMEs were owned by multi-national owners and only one SME (NARO) was reported to be owned by the government.

Among the standardised questions, posed to the respondents was whether the companies are registered and if so do they possess licences.

When it comes to who a local supplier is in Uganda, the upstream and midstream laws do not provide an answer to that.

The Petroleum (Exploration, Development and Production) Act¹⁹⁰ provides that;-

(1)The licensee, its contractors and subcontractors shall give preference to goods which are produced or available in Uganda and services which are rendered by Ugandan citizens and companies.

(2) Where the goods and services required by the contactor or licensee are not available in Uganda, they shall be provided by a company which has entered into a joint venture with a Ugandan company provided that the Ugandan company has a share capital of at least forty eight percent in the joint venture.

However the law does not define what a “Ugandan” company.

The Companies Act ¹⁹¹mandates all companies incorporated outside Uganda with businesses in Uganda to register with the Registrar of Companies as a pre-condition to operating in Uganda. Basically the companies Act on this aspect tries to separate “incorporation” from “registration”.

¹⁹⁰ Petroleum (Exploration , Development and Production) Act, n 43

¹⁹¹ The Companies Act No. 1 of 2012, n 6.

The former is a process of forming a company and while the latter is a mere administrative requirement.

4.4 Is the Company/Enterprise listed?

During the study, the researcher wanted to know whether the sampled SMEs were listed. From table 2 below, it was revealed that majority 98.3% (n=297) of the small-to-medium enterprise in the Oil and Gas sector in Uganda are listed and of these majority were listed less than 5 years ago. Only 1.7% (n=5) of the sampled SMEs reported that they were not listed.

Table 2: Showing whether the sampled SMEs are listed.

Is the company/enterprise listed?	Frequency	Percent
No	5	1.7
Yes	297	98.3
Total	302	100

Source: Primary data

One of the actions in the national local content policy of Uganda is to encourage Uganda businesses to formalize through registration and licensing of enterprises.¹⁹²

A Nigerian study by Ihua¹⁹³ found that SMEs which strived to comply with the national laws and tax regime and specifically procurement guidelines and manufacturing standard reported growth in business deals in the Oil & Gas sector.

¹⁹² National Local Content policy for the petroleum subsector in Uganda, n 53.

¹⁹³ Ihua, n 32

Giroud et al¹⁹⁴ contends that effective procurement participation by local SMEs the O&G sector can only be required not only promotion of business registration but also supervision and monitoring by the national authority charged with promotion of local content.

According to Byaruhanga, et al¹⁹⁵ the informal nature of local firm's initiatives affects the governance of firms. Their findings further revealed that a big number of the firms in Uganda (85%) had no accounts with formal auditing company's s due to poor records management and limited willingness to reveal economic results. This limits compliance to the requirements to supply of good and services for oil and gas sector.

Formal requirements are often strict when working with the oil and gas sector implying that staff competence be documented. Byaruhanga and Mwakali (2011) found out that two of three firms they surveyed did not have one full time employee with formal training in health, security and environment. Three of four did not have any professional engineers in their staff, and only a few had some certification of their business of relevance for the oil and gas sector.

Although the literature was insightful on the affirmative action on promotion of business registration and licensing, its generalization in the Ugandan context was limited. This study strives to provide empirical evidence on the efforts to register and license SMEs has resulted into significant procurement participation in the embryonic Oil & Gas sector of Uganda.

¹⁹⁴ Giround, n73

¹⁹⁵ Byaruhanga, n77

Table 3: Showing results of observed score items on use of local goods and services in the Oil and Gas

		Strongly agree	Agree	Not sure	Disagree	Strongly Disagree
Use of local supplies						
Issuing of procurement guidelines by Licensed oil companies has promoted local firms' participation in oil and gas sector procurement process	Freq	0	71	4	1	4
	Percent	0	89	4.9	1.3	5.0
Our company capacity to meet procurement guidelines issued by licensed oil companies has promoted our participation in the Oil and gas sector procurement process	Freq	13	280	4	6	0
	Percent	4.3	92.4	1.3	2.0	0
Simplifying procurement procedures for local firms by Government of Uganda promoted our company participation in Oil and Gas procurement process	Freq	10	253	33	7	0
	Percent	3.3	83.5	10.9	2.3	0
Easy access to procurement procedures for local firms promoted our participation in Oil and Gas industry	Freq	13	242	35	12	0
	Percent	4.3	80.1	11.6	4.0	0
The demand for licensed Oil companies and their contractors to establish operational base in Uganda has promoted our company's participation in O&G procurement process	Freq	6	156	7	128	5
	Percent	2.0	51.7	2.3	42.4	1.7
Access to operational procedures from licensed oil and gas companies has promoted our company's participation in the Oil and Gas procurement process	Freq	11	172	5	110	4
	Percent	3.6	57.0	1.7	36.4	1.3
Conducive operational base for local firms promoted our company participation in the Oil and Gas procurement process	Freq	12	259	3	27	2
	Percent	4.0	85.8	1.0	8.9	0.4
The physical presence of our company in Uganda promoted our participation in the Oil and gas sector procurement process	Freq	10	280	9	3	0
	Percent	3.3	92.7	3.0	1.0	0
Our company's ability to meet the standards of goods and services in O&G sector has promoted our participation in the Oil and Gas sector procurement process	Freq	12	268	7	14	1
	Percent	4.0	88.7	2.3	4.6	0.3
The induction by the standard body (ISO or UNBS) on the standards for goods and services in Oil and gas has encouraged our company participation in oil and gas sector procurement process	Freq	6	228	12	56	0
	Percent	2.0	75.5	4.0	18.5	0
Simplifying the UNBS certification procedure promoted our participation in the Oil and gas procurement process	Freq	6	122	18	146	10
	Percent	2.0	40.4	6.0	48.3	3.3
Possession of the UNBS Certification standards certificate encouraged our participation in the Oil and Gas Procurement process	Freq	4	129	14	150	5
	Percent	1.3	42.7	4.6	49.7	1.7
Our company's adoption of a quality assurance system to meet the demands of the Oil and Gas sector supplies promoted our participation in the sector's procurement process	Freq	17	271	4	10	0
	Percent	5.6	89.7	1.3	3.3	0
Certification of our supplies by bureau of standards promoted our company's participation in the Oil and Gas sector procurement process	Freq	9	221	7	65	0
	Percent	3.0	73.2	2.3	21.5	
Adherence to quality standards set by oil companies for local supplies promoted our participation in the Oil and Gas sector procurement	Freq	2	125	3	118	54
	Percent	0.7	41.4	1.0	39.1	17.9
Possession of a recognized quality management certification promoted our participation in the Oil and Gas sector procurement policy	Freq	10	235	52	6	0
	Percent	3.3	77.6	17.2	2.0	0
All locally available goods are exclusively provided by Ugandan enterprises in O&G Sector to promote local firm's procurement participation	Freq	4	73	42	168	16
	Percent	1.3	24.1	13.9	55.4	5.3
All locally available services are exclusively provided by Ugandan enterprises in Oil and gas Sector to promote local firm's procurement participation	Freq	5	77	34	171	16
	Percent	1.7	25.4	11.2	56.4	5.3

Source: Primary data

The second objective of the study was to assess the effect of the use of locally produced goods on the local firm's participation in procurement process in the Oil & Gas sector of Uganda.

This section of the study sought to establish whether promotion of use of locally produced goods strategy contributed to procurement performance in the oil and gas sector in Uganda. Several question items that were administered to the respondents.

The questions put to respondents were in relation to the simplification of procurement procedures, emphasis on local operational base, standardization of local products through quality assurance and exclusive local tendering. Their answers would determine if the objective¹⁹⁶ was obtained by carrying out the plans below:-

- Licensed oil companies, their contractors and subcontractors will implement procurement and contracting methods and practices to empower Ugandan enterprises.
- Secondly licensed oil companies, their contractors and subcontractors will set up operational bases in Uganda.
- Thirdly, there is a requirement to evolve and embrace standards and quality assurance systems for locally available/produced goods and services.
- Lastly, licensed oil companies, their contractors and subcontractors will exclusively tender locally available goods and services to Ugandan enterprises.

The question items were scaled using the five-point Likert scale where code 1 = Strongly Disagree, 2 = Disagree, 3 = Not sure, 4 = Agree and 5 = Strongly Agree. The results obtained on the question items are as given in Table below. The percentage for agree is added to strongly agree to denote

¹⁹⁶ National Local Content policy for the petroleum subsector in Uganda 2017, objective 4.

agreement with that particular item implying high use of local supplies while the percentage of disagree is added to strongly disagree to denote disagree or low use of local supplies.

Table 3 reveals that issuing of procurement guidelines by Licensed oil companies has promoted local firms' participation in oil and gas sector procurement process as reported by majority of the respondents 89.1% (n=270). Only 5.3% (n=19) of the respondents disagreed that issuing of procurement guidelines by Licensed oil companies has promoted local firms' participation in oil and gas sector procurement process.

It was also revealed that the company's capacity to meet procurement guidelines issued by licensed oil companies promoted the respondent's company participation in the Oil and gas sector procurement process as reported by 96.7% (n=293) and only 2.0% (n=6) disagreed that their company's capacity to meet procurement guidelines issued by licensed oil companies promoted the company's participation in the Oil and gas sector procurement process.

Further analysis revealed that majority 60.8% (n=184) of the respondents disagreed that all locally available goods are not exclusively provided by Ugandan enterprises in O&G Sector to promote local firm's procurement participation, about 13.9% (n=42) of the respondents reported that they were not sure whether all locally available goods are not exclusively provided by Ugandan enterprises in O&G Sector and only 25.4% (n=77) of the respondents agreed that all locally available goods are exclusively provided by Ugandan enterprises in O&G Sector to promote local firm's procurement participation.

Similarly, 61.7% (n=186) of the respondents disagreed that all locally available services are exclusively provided by Ugandan enterprises in O&G Sector to promote local firm's procurement participation, 11.2% of the respondents reported that they were not sure and

27.1% (n=82) of the respondents agreed that all locally available services are exclusively provided by Ugandan enterprises in O&G Sector to promote local firm's procurement participation.

These findings suggest that about half of the SMEs did not benefit from the condition demanding for licensed Oil companies and their contractors to establish operational base in Uganda.

SMEs were constrained to access to operational procedures from licensed oil and gas companies factor which constrained participation in the Oil and Gas procurement process by local SMEs. About half of the SMEs were constrained to access UNBS certification standards certificate suffocating their participation in Oil & Gas Procurement process. About half of the SMEs did not enjoy the exclusive tendering for Ugandan enterprises provision in the national local content policy.

Use of domestically manufactured goods and services alludes to the procurement and use of domestically manufactured input materials and development of these materials. This is often identified as a necessary connection which reduces the capital cost that may have been incurred by the former and overextension of the firm. Teka Z reported that the use of locally manufactured goods tends to contain affirmative action on simplification of procurement procedures, emphasis on local operational base, standardization of local products through quality assurance and exclusive local tendering.¹⁹⁷

The national local content policy of Uganda foresees a raised use of domestically manufactured or available goods and services by the oil and gas industry.¹⁹⁸

Plans needed to obtain this objective include;

¹⁹⁷ Teza n 91

¹⁹⁸ National Local Content policy for the petroleum subsector in Uganda, n 53

- Licensed oil companies, their contractors and subcontractors will implement procurement and contracting methods and practices to empower Ugandan enterprises.
- Secondly licensed oil companies, their contractors and subcontractors will set up operational bases in Uganda.
- Thirdly, there is a requirement to evolve and embrace standards and quality assurance systems for locally available/produced goods and services.
- Lastly, licensed oil companies, their contractors and subcontractors will exclusively tender locally available goods and services to Ugandan enterprises.¹⁹⁹

The national local content policy of Uganda targets improved access to financing by Ugandan enterprises to supply goods and services to the oil and gas industry.²⁰⁰ It has always been urged that access to financial services in a key success factor in promoting local SMEs competitiveness in the O&G sector a SMEs were less likely to access financial credit compared in IOC. The financial challenges is also exhibited in restricted access to finance by local SMEs due to lack of significant collateral requirements, and lack the knowledge and skills to prepare attractive business plans for loan proposals Akpanika.²⁰¹

It has also been noted that financial access is a key factor on entrepreneurship or business formation and business growth through participation in business opportunities in the Oil and gas sector.²⁰² . Ablo²⁰³ equally noted that the case studies of Ghana entrepreneurial activities show how embedded resources and practices of actors shape local SMEs participation in the oil and gas

¹⁹⁹ National Local Content policy for the petroleum subsector in Uganda, n 157

²⁰⁰ National Local Content policy for the petroleum subsector in Uganda ,n 53.

²⁰¹ Akpanika n 31

²⁰² Adewuyi n 34

²⁰³ Ablo n 85

industry. Sigam²⁰⁴ et al Brazil study reports that one of the barriers to the expansion of production capacity of the domestic industry in Brazil, as well as to new investments in research and development, is the difficulty, especially for SMEs, in obtaining finance due to the high cost of capital from the private banking sector. In order to facilitate credit for domestic suppliers, the Program for the Mobilization of the National Industry of Oil and Natural Gas supported the structuring of new financing mechanisms and capitalization of the production chain through collaboration with public and private banks.

To this effect a Program in conjunction with Petrobras and the 11 large banks in Brazil, this program points to make accessible credit with competitive circumstances to the Petrobras supply chain (contractors and subcontractors). It also purposes to better liquidity and financial needs and more than 40 cross-industry enabling initiatives across six dimensions of human resources, technology and innovation, business development, capital and finance, contracting and tendering, legislation and process improvement which stimulated procurement participation and SME competitiveness Sigam et al.

Although the literature was informative on the affirmative action on promotion of financial access among SMEs and procurement participation, its generalization in the Ugandan context was limited given the unique Ugandan financial services sector policies. This study strives to provide empirical evidence on if the efforts to promote financial access among SMEs has resulted into significant procurement participation in the embryonic O & G sector of Uganda.

²⁰⁴ Sigam n 89

The use of local supplies promotes procurement participation in the O&G sector of Uganda especially with issuance of procurement guidelines and their simplification and standards certification to promote quality and exclusive local tendering.

4.5 Operational Base

A key emphasis of the local content policy is the need to for Licensed NOC, their contractors and subcontractors will establish operational bases in the explorations country and studies report of mixed findings on its effect on procurement participation. In their study Adedeji et al²⁰⁵ conceptualized backward integration to include the level of cooperation between local oil service firms and their local affiliate suppliers through local input development, information exchange, technical upgrading, negotiation of payment and delivery, and labor training.

A Ghana study by Ablo²⁰⁶ reports that in terms of goods and services provision, the policy mandates that all operators in the oil and gas industry shall as far as practicable have a local base and use goods/services produced by or provided in Ghana for their operations. It was the hope of the government that after the commencement of operations, the participation of Ghanaians in value-added would be at least 10% initially, with a 10% increase annually in the provision of goods and services with the policy of having a local base in Ghana.

However, Boyefio et al,²⁰⁷ the Ghanaian oil industry was dominated by foreign manufacturers or suppliers of goods and services that could ordinarily be made or supplied by local SMEs or firms. They noted that, although most international oil companies profess support for local content, the

²⁰⁵ Adedeji, n 81

²⁰⁶ Ablo n 85

²⁰⁷ Boyefio , n 99

reality is that they prefer to deal with their global suppliers for a number of reasons and are reluctant to break such supplier relationships.

A Venezuela study by Giroud et al²⁰⁸ (2012) equally revealed that promotion of local goods and services by establishing a local base in the local content policy resulted into significant improvement in local firm's participation O&G sector and overall contribution to GDP. However, a Nigerian study by Ihua²⁰⁹ concluded that the legislations on local supplies has had very little positive implication in enhancing SMEs participation in the industry.

The literature on promotion of firm localization in the O&G sector as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the O&G sector. This study strives to provide empirical evidence on local base strategy and its contribution to SME participation in the O&G sector of Uganda.

4.6 Standardization

To deliver cost savings on projects, operators across the oil and gas industry are looking at standardization as a way of simplifying the processes from design and construction through to installation and start-up, in order to create safer, more predictable and reliable facilities that start-up on time and stay up.²¹⁰ To this effect, one of the strategies in to increase the use of locally produced or available goods and services by the oil and gas industry in Uganda is to develop and adopt standards and quality assurance systems for locally available/produced goods and services.²¹¹

²⁰⁸ Giround, n 76

²⁰⁹ Ihua , n 32

²¹⁰ Mohammad n, 102.

²¹¹ National Local Content Policy, n 53

On the influence of standardization on procurement participation, Mohammad and Price noted that since procurement process in the oil and gas industry is a capital-intensive industry and about 90-95% of project costs are paid to contractors and suppliers, to ensure project success, it is critical that procurement strategies should incorporate and integrate with the standardization in local supplies. Some form of standardization programme and specification reviews must also be included. Mohammad and Price further notes that a strategic outsourcing, such as in supply chain management, must be in place. Finally, a management and incentive programme for all key contractors and suppliers must exist in order to secure the commitment of contractors and suppliers to the overall success of the project by supplying standardized goods and services.

The literature on promotion of standardization in the O&G sector as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the O&G sector. This study strives to provide empirical evidence on standardization strategy and its contribution to SME participation in the O&G sector of Uganda.

4.7 Exclusive Local Tendering

The role of exclusive or preferential local tendering in promoting local firm participation in the extractive sector has been emphasized in most local content policies. To begin with Ihua, views local content from an angle of ‘community content’; stating that ‘Ultimately, community content is about realizing a competitive advantage for an oil and gas development company in the eyes of both the local population and the country’s guardians of economic policy. He observed two distinct policy strategies for achieving higher local content vis-à-vis: firstly, where the state requires oil companies to give greater preference to those nationals and national suppliers who can compete internationally on cost, quality and timeliness notably what can be termed local content

participation. For instance, the Trinidad and Tobago case, where oil production operators shall give preference to national subcontractors where such are competitive with foreign bidders in skills, availability and price and meet technical and financial requirements; and the case in Nigeria where the proposed LC bill requires about 95 percent managerial and supervisory positions, 100 percent risk insurance and legal services to be handled by indigenous professionals as per Ihua.

In Latin America, Tordo et al reports that virtually all of the surveyed regimes mandate preference for local goods, services, consumables, works or enterprises.²¹² In all of the jurisdictions examined, the IOC has an obligation to give due and proper consideration to preferring locally sourced services and goods when their price, quality, time of delivery and other terms are comparable to internationally available ones.

A related study by Leahy revealed that on overall, reveal that reactive exclusive tendering policy as opposed to proactive ones are believed to hinder Petrobras from achieving its production and financial targets²¹³. Ablo equally noted that through extensive fieldwork conducted in Ghana's oil industry over a period of three years, the study concludes that Ghana's local content law on exclusive local tendering is largely beneficial to local elites and does not stimulate broad-based social and economic benefits. The case studies of Ghana entrepreneurial activities show how embedded resources and practices of actors shape local SMEs participation in the oil and gas industry.

²¹² Tordo, n107

²¹³ Leahy, J. (2012). Local Supply Policy Tests. Petro bras. "Financial Times"
<http://www.ft.com/cms/s/0/a2f51e1260ad11e184dd00144feabdc0.html#axzz1uMRaK7z4>.
accessed 21st October 2021

The literature on promotion of exclusive tendering as highlighted above could not be generalized in the Ugandan context given its unique local content policy and the nascent nature of the Oil & Gas sector. This study strives to provide empirical evidence on exclusive tendering strategy and its contribution to SME participation in the Oil & Gas sector of Uganda.

The use of locally manufactured goods tends to contain affirmative action on simplification of procurement procedures, emphasis on local operational base, standardization of local products through quality assurance and exclusive local tendering.

4.8 Promotion of business competitiveness and the local firm's participation in procurement process in the O&G sector of Uganda

The third objective of the study was to assess the effect of promotion of business competitiveness on the local firm's participation in procurement process in the O&G sector of Uganda. This section of the study sought to establish whether promotion of business competitiveness strategy contributed to procurement performance in the oil and gas sector in Uganda. Several question items that were administered to the respondents. The question items were scaled using the five-point Likert scale where code 1 = Strongly Disagree, 2 = Disagree, 3 = Not sure, 4 = Agree and 5 = Strongly Agree. The results obtained on the question items are as given in Table below. The percentage for agree is added to strongly agree to denote agreement with that particular item implying high promotion of competitiveness of local firms while the percentage of disagree is added to strongly disagree to denote disagree or low promotion of business competitiveness.

Table 4: Showing results of observed score items on promotion of business competitiveness strategy

Promotion of business competitiveness strategy		Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree
Government of Uganda has simplified procedures for registering local firms to promote their participation in the Oil and Gas sector procurement process	Freq	13	245	37	6	1
	Percent	4.3	80.9	12.2	2.0	0.3
Access to simplified procedures for registering local firms in the Oil and Gas sector fostered your company participation in the Oil and Gas procurement process	Freq	9	244	34	14	1
	Percent	3.0	80.8	11.3	4.6	0.3
Possession of an authentic and valid Certificate of Incorporation and/or registration promoted our company participation in the oil and gas sector procurement process	Freq	13	281	6	2	0
	Percent	4.3	93.0	2.0	0.7	0
Government of Uganda has simplified procedures for Licensing local firms to stimulate their participation in the Oil and Gas sector procurement process	Freq	14	233	42	13	0
	Percent	4.6	77.2	13.9	4.3	0
Simplified Procedures for Licensing local firms in the Oil and Gas sector have promoted your procurement participation	Freq	15	231	41	15	0
	Percent	5.0	76.5	13.6	5.0	0
Access to simplified licensing procedures for local firms promoted our company participation in the Oil and Gas sector procurement process	Freq	10	238	41	13	0
	Percent	3.3	78.8	13.6	4.3	0
Open bidding as a prerequisite for licensing oil companies promoted your company participation in Oil and Gas Sector procurement process	Freq	69	231	0	2	0
	Percent	22.8	76.5	0	0.7	0
Compliance with tax requirements promoted your company participation in the oil and gas sector procurement process	Freq	20	277	3	2	0
	Percent	6.6	91.7	1.0	0.7	0
Compliance with social security obligations has promoted your company participation in the oil and gas sector procurement process	Freq	33	265	2	2	0
	Percent	10.9	87.7	0.7	0.7	0
Compliance to the bidding guidelines published by Oil companies promoted your company participation in the oil and Gas sector procurement process	Freq	12	279	8	3	0
	Percent	4.0	92.4	2.6	1.0	0
Our company's prequalification as supplier in the oil and gas sector supplier's database has promoted our company procurement participation	Freq	14	183	6	89	10
	Percent	4.6	60.6	2.0	29.5	3.3
The support received from the oil and gas sector supplier development fund promoted our company participation in the oil and oil and Gas sector procurement process	Freq	16	255	21	10	0
	Percent	5.3	84.4	7.0	3.3	0
Access to funds from the Oil and gas Development fund promoted our company's participation in the oil and gas sector procurement process	Freq	10	271	11	10	0
	Percent	3.3	89.7	3.6	3.3	0
Access to credit from banks and other financial institutions promoted our company's participation in the oil and gas sector procurement process.	Freq	7	177	5	104	9
	Percent	2.3	58.6	1.7	34.4	3.0
Access to 30% advance from Oil and Gas companies promoted our participation in the Oil and Gas sector procurement process	Freq	2	41	1	203	55
	Percent	0.7	13.6	0.3	67.2	18.2

Source: Primary data

Concerning Government of Uganda simplifying the procedures for registering local firms to promote their participation in the Oil and Gas sector procurement process, this study revealed that majority 85.2% of the respondents agreed to the statement, 12.2% were not sure and only 2.3% of the respondents disagreed to the statement. This implies that the government of Uganda is doing all that is possible to simplify the procedures for registering local firms. A case in point is that in 2019, the government of Uganda through the Petroleum Authority introduced an online system for firms seeking to be added to the National Supplier Database to attest that their registration documents are authentic. This was aimed at fast tracking the process of registration and cutting costs involved.

During this study, the researcher was interested in knowing whether access to simplified procedures for registering local firms in the Oil and Gas sector fostered the company's participation in the Oil and Gas procurement process and majority 83.8% of the respondents reported that their participation in the procurement process of the oil and gas sector in Uganda was fostered by access to simplified procedures for registering local firms in the Oil and Gas sector and only 4.9% of the respondents disagreed.

During this study, it was majority of the respondents also revealed that possession of an authentic and valid Certificate of Incorporation and/or registration promoted their company's participation in the oil and gas sector procurement process as reported by 97.3% (n=294), about 2.0% of the respondents reported that they were not sure whether possession of an authentic and valid Certificate of Incorporation and/or registration promoted their company's participation in the oil and gas sector procurement process and only 0.7% of the respondents reported that possession of an authentic and valid Certificate of Incorporation and/or registration did not promote their company's participation in the oil and gas sector procurement process.

This study findings imply that a reasonable number of SMES though prequalified as supplier in the oil and gas sector supplier's database were still constrained to participate in the O&G sector procurement. The findings also reveal that SMES were constrained to access to credit from banks and other financial institutions while most SMEs did not enjoy a 30% procurement advance from IOC as provided for in the national local content policy to reduce on financial constraints experience by local SMEs.

Objective three of the national local content policy envisages development the competitiveness of Ugandan enterprises as suppliers and joint venture partners.²¹⁴Key actions to this effect include promotion of business registration & licensing, promotion of Compliance, Business Development and promotion of financial access (National Local Content policy for the petroleum subsector in Uganda 2017).

4.9 Nigeria's of local content interventions in the oil industry

Nigeria's oil and gas industry was established in the 1930s, when Royal/Dutch Shell launched its explorations in Nigeria's onshore areas. In 1971, Nigeria created its national oil company, Nigerian National Oil Corporation (NNOC) (which became the Nigerian National Petroleum Corporation – NNPC in 1977) and joined OPEC. Only one year later, Nigeria's onshore and shallow waters oil production already reached 2 million barrels per day. With the oil price shock of 1973, OPEC gained more influence and Nigeria introduced its programmes of nationalization and indigenization, leading to government ownership of Shell Nigeria and of 60 per cent of the other international oil companies operating in Nigeria. The government also acquired equities in subsidiaries of multinational oil service companies. The total revenues from oil exports increased

²¹⁴ National Local Content policy for the petroleum subsector in Uganda , n53

from US\$ 718 million to US\$ 94.6 billion by 2012 and recent figures indicate that the oil industry accounted for approximately 74,4 per cent of Nigeria's exports in the first quarter of 2015 (i.e. for more than one-third of the country's GDP). However, Nigeria's oil and gas supply industry received only a very small share of the benefits from this industry as Adedeji et al. To gain a larger share of the benefits, Nigeria's government introduced the Nigerian Oil and Gas Industry Content Development Act in 2010 as was argued by Ramdoo. The Nigerian Oil and Gas Industry Content Development Act provides a comprehensive legal framework for local content and covers "all regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry" as per Hufbauer et al. Furthermore, the Nigerian Oil and Gas Industry Content Development Act includes targets for Nigeria's participation in 280 different categories of oil services to foster local linkages¹⁰ and local job creation as per Ovardia . The local content development targets were set progressively starting at 45 per cent of local content in 2007, reaching 70 per cent in 2010 and exceeding 80 per cent by 2020 as per Adedeji et al.

CHAPTER FIVE

5.1 Conclusion

5.1.1 Use of locally produced goods and the local firm's participation in procurement process in the O&G sector of Uganda

It was concluded that use of local supplies significantly affects procurement participation in the Oil and gas sector of Uganda especially with issuance of procurement guidelines and their simplification and standards certification to promote quality and exclusive local tendering.

5.1.2 Promotion of business competitiveness and the local firm's participation in procurement process in the O&G sector of Uganda

It was inferred that promotion of business competitiveness affects procurement participation in the Oil and gas sector through business registration, Licensing, Compliance, Business Development, and facilitation of financial access.

5.2 Recommendations of the study

The study found that although local Uganda SMEs to great actively participated in the Oil and gas sector, there were still significant challenges that constrained procurement participation by local SMEs. This major section presents, the action points that the primary stakeholders in the sector need to undertake and how best they could be implemented to enhance procurement participation

5.3 Use of locally produced goods and the local firm's participation in procurement process in the O&G sector of Uganda

1. This study observed that about half of the SMEs did not benefit from the condition demanding for licensed Oil companies and their contractors to establish operational base in Uganda. It is therefore recommended that the petroleum authority in pursuit of its mandate on monitoring should regularly monitor the O&G suppliers and enforce the requirement that locally registered SMEs are given first priority for locally available supplies and services. Monetary penalization of IOC who do not use prequalified list of locally registered suppliers could be sought.
2. It was also found that about 4 in every 10 SMEs were constrained to access to operational procedures from licensed oil and gas companies factor which constrained participation in the Oil and Gas procurement process by local SMEs. It is therefore recommended that to enhance procurement participation, IOC should organize regular local supplier procurement symposiums workshops to share procurement procedures, policies and certifications requirements oil companies to enable SMEs understand their contract needs/requirements. Use of e-procurement portals, social media and sending of emails procurement guidelines to local suppliers should be encouraged.
3. The study found that about half of the SMEs were constrained to access UNBS certification standards certificate suffocating their participation in O&G Procurement process. It is therefore recommended that the National Petroleum Authority in liaison with Uganda National Bureau of Standards should organize standardization workshops for O&G SMEs to enable them implement total quality management to satisfy the O&G sector standards for

supplies and services. This will go a long way to enhance adherence to quality standards set by oil companies.

4. The study also finds that about half of the SMEs did not enjoy the exclusive tendering for Ugandan enterprises provision in the national local content policy. To enhance procurement participation, the study recommends that the National Petroleum Authority should regularly monitor the observance of the exclusive tendering policy and enforce sanctions on IOC discriminating against local SMEs who are deemed to qualify for procurement in the O&G sector. Enforcement of procurement administrative reviews could be exploited.

5.4 Promotion of business competitiveness and the local firm's participation in procurement process in the O&G sector of Uganda

1. The study found that about 4 in every 10 SMES though prequalified as supplier in the oil and gas sector supplier's database were still constrained to participate in the O&G sector procurement. It is therefore recommended that IOC should rotate their framework contracts by considering the prequalified list of local suppliers to promote competitiveness of local SMEs in the O&G sector.
2. Similarly, the study found that about 4 in every 10 SMES were constrained to access to credit from banks and other financial institutions. It is recommended that the National petroleum Authority in liaison with development partners and Commercial banks should establish an O&G sector SME credit facility to provide short- and long-term credit facilities. Use of bid bond facilities and loan products for SMEs in the O&G sector should be exploited by commercial banks.

3. It was also found that about 80% of the SMEs did not enjoy a 30% procurement advance from IOC as provided for in the national local content policy to reduce on financial constraints experience by local SMEs. To enhance local SMEs procurement participation in the O & G sector, the study recommends that the National Petroleum Authority should monitor and enforce this requirement with penalties to offending IOCs.

5.5. Contributions of the study

The study has helped evaluate the level of implementation of the national local content strategy and its effect in on local SME participation in the O&G Sector. This has been the first study of this nature to provide such empirical evidence. The study has also helped to fill knowledge and literature gaps on the effect of local content strategy on procurement participation in the O& G sector.

5.6. Areas for further research

The study found that 33.8% of the variations in procurement participation can be explained by technology transfer, promotion of business competitiveness strategy and use of local goods and services. Other studies need to examine the effect of capacity building, and promotion of employment strategies as enshrined in the national local content policy on procurement participation.

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