



# **An Overview of the Report on Investment Climate and Exceptions to National Treatment for Nigeria\***

By

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# Presentation Outline

1. Introduction
2. Energy policies of Nigeria
3. Energy supply and demand
4. Market structure by sub-sector
5. Future development and investment needs in each sub-sector
6. Reforms in each sub-sector
7. Legislations relevant to investment in the energy sector
8. Exceptions to national treatment
9. Conclusion

# 1.0 Introduction

- The primary purpose of the **Report on Investment Climate and Exceptions to National Treatment (ICENT)** is to serve as one of the three accession reports to the Energy Charter Treaty.
- **Investment climate:** set of current political, socio-cultural, economic, financial, legal and regulatory conditions that determine the quality of business infrastructure, the efficiency of investment, and degree of possible risks when investing capital in a country.
- **Exceptions to national treatment:** National treatment is a concept of international law which declares that if a state provides certain rights and privileges to its own citizens or businesses, it also should provide equivalent rights and privileges to foreigners or foreign businesses that are in the country.
  - Where there are differences between treatment of national and foreign investments, these are regarded as **Exceptions to National Treatment**.
- By disclosing all information relevant to doing energy investment, Nigeria sends strong message to foreign investors that it is committed to observe the principles of openness and non - discrimination in the energy market, embodied in the membership of the International Energy Charter.

# 1.0 Introduction, *cont'd*

## General Information



Figure 1: Map of Nigeria

Population - 190.8 million in 2017  
 - 264 million by 2030  
 - 410 million by 2050  
 - 794 million by 2100

GDP /capita in 2015;	2019
Nigeria - US\$2,530;	US\$2,361.20
African average - US\$1,942;	
World average - US\$10,293;	

Electricity Access - 60%

Electricity consumption /capita in 2015:

Nigeria - 144 kWh
African average - 566 kWh
World average - 3,052 kWh

FDI Inflow in 2015 - US\$ 9.786 Billion, Energy (Oil & Gas US\$32 million = 0.327%);  
 FDI Inflow in 2019 - US\$23.990 Billion, Energy (Oil & Gas - 0.90%, Electricals - 0.02%).

Political system - Presidential System of Government similar to that of the USA.

## Table 2: Current Energy Policy and Plan Documents

Name of Institution in Charge	Policy	Action Plan	Policy and Action Plan
National Planning Commission	-	-	Economic Recovery and Growth Plan (ERGP)
	-	-	Vision 20: 2020
	-	-	National Integrated Infrastructure Master Plan (NIIMP)
Energy Commission of Nigeria	National Energy Policy revised version approved 27 <sup>th</sup> April 2022.		National Energy Masterplan (NEMP) approved 27 <sup>th</sup> April 2022.
Federal Ministry of Power, Works and Housing	Rural Electrification Policy	Rural Electrification Strategy and Implementation Plan (RESIP)	-
	National Renewable Energy and Energy Efficiency Policy (NREEEP) for the Electricity Sector 2015.	Sustainable Energy for All Action Agenda (SE4ALL-AA)	-
		National Renewable Energy Action Plans (NREAP (2015 – 2030) 2016	
National Energy Efficiency Action Plans (NEEAP) (2015 – 2030), 2016.			

**Table 2: Current Energy Policy and Plan Documents, *cont'd***

Name of Institution in Charge	Policy	Action Plan	Policy and Action Plan
Ministry of Petroleum Resources	-	-	National Petroleum Policy – Nigerian Government Policy and Actions 2017.
	-	-	National Gas Policy – Nigerian Government Policy and Actions 2017.
Ministry of Mines and Steel Development	-	-	National Minerals and Metals Policy 2008.
Federal Ministry of Water Resources	Draft National Water	Nigeria National Water Resources Masterplan	

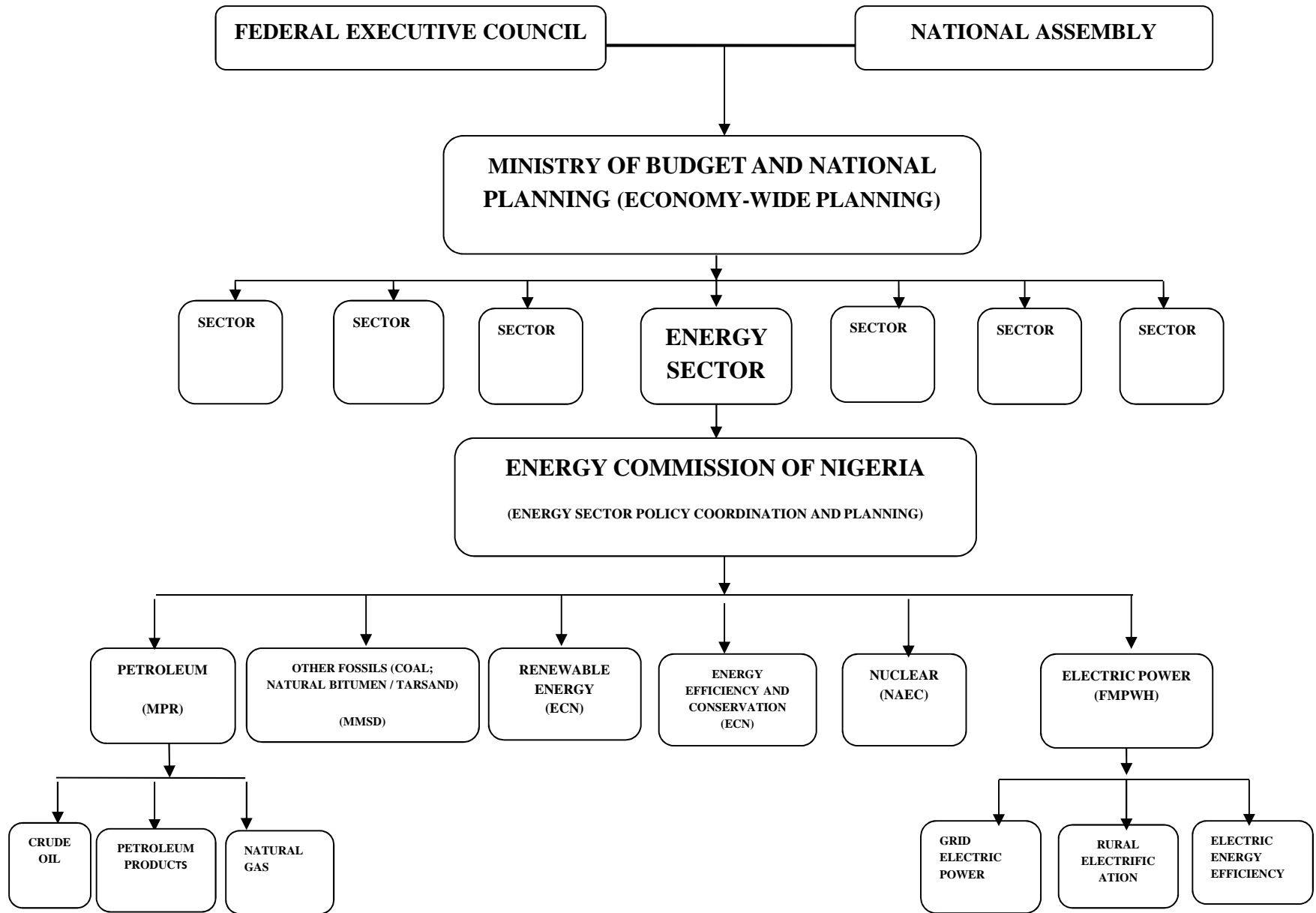


Figure 2: Energy Policy Formulation and Energy Planning Framework for Nigeria

## 2.0 Energy Policies of Nigeria

Energy policies of the country include:

- Ensuring the availability of reliable electric power at competitive rates for the industrial, economic, and social purposes of the Nigerian people;
- Continuing to pursue the diversification of energy resources for electricity generation;
- Engaging in the development of the electricity subsector to ensure the availability of local capacity along the electricity value chain;



## 2.0 Energy Policies of Nigeria, *cont'd*

- Expanding the potential for renewable energy and increasing the reserve base for depletable energy resources;
- Encouraging the participation of indigenous and foreign companies in the electricity subsector;
- Developing and utilising Nigeria's energy resources in a sustainable and climate friendly manner;

## 2.0 Energy Policies of Nigeria, *cont'd*

- The adoption and promotion of energy efficiency and conservation across the value chain of Nigeria's energy resources;
- The pursuit of international collaboration on energy.

# 2.0: Energy Policies of Nigeria, *cont'd*

**Table 3: Key Energy Policy Targets**

Description	Unit	Historical			Targets			
		2010	2015	2016	2020	2023	2030	2043
Power generation capacity	Installed , GW	8.7	12.52	13.63	10	56	-	350
Access to electricity	%	40	60	61	75	90	100	100
Power generation mix	Fossil	Natural gas – 70%;		Natural Gas – 70%;		Fossil – 70%;		
	Other resources	Large hydro – 30%		Hydro and other sources - 30%		Alternatives – 30%		
	% of production	19.32	11.92	10.65			0%	% of production
Energy efficiency of entire economy	%	-	-	2 per year	-	-	(30% improvement over 2010 values	-

## 2.0 Energy Policies of Nigeria, *cont'd*

**Table 4: Key Renewable Energy Targets**

Energy Type	Unit	2010	2015	2016	2020	2023	2030	2043
Installed capacity of on-grid solar PV	GW				1		9.9	
Installed capacity of off-grid solar PV	GW						13	
Installed capacity of solar water heaters	Number				60,000		150,000	
Clean cooking fuelwood stoves	Number	-	-		500,000		1,000,000	

# 3.0 Energy Supply and Demand

## 3.1 Resource Endowments

**Table 7: Non-Renewable Energy Resources in Nigeria**

Resources	Reserves	Production	Domestic Utilisation
Crude Oil	37.1 billion barrels	0.774 billion barrels (2015)	0.098 billion barrels @ 4.9% capacity utilisation (2015)
Natural Gas	182.3 Tscf	2.9 Tscf (2015)	88% : utilised(2015) 12% : flared (2015)
Coal	2.7 billion tonnes	0	Negligible
Tar Sands	31 billion barrels of oil equivalent	0	18.25 million barrels (2014)
Nuclear	Yet to be quantified	0	30kW experimental nuclear reactor

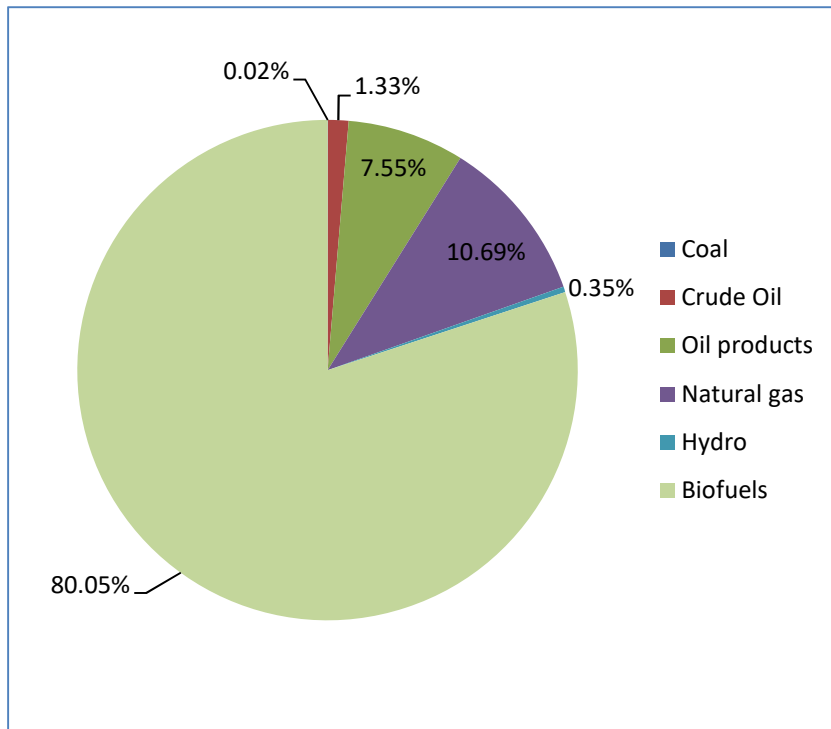
# 3.0 Energy Supply and Demand, *cont'd*

**Table 8: Renewable Energy Resources**

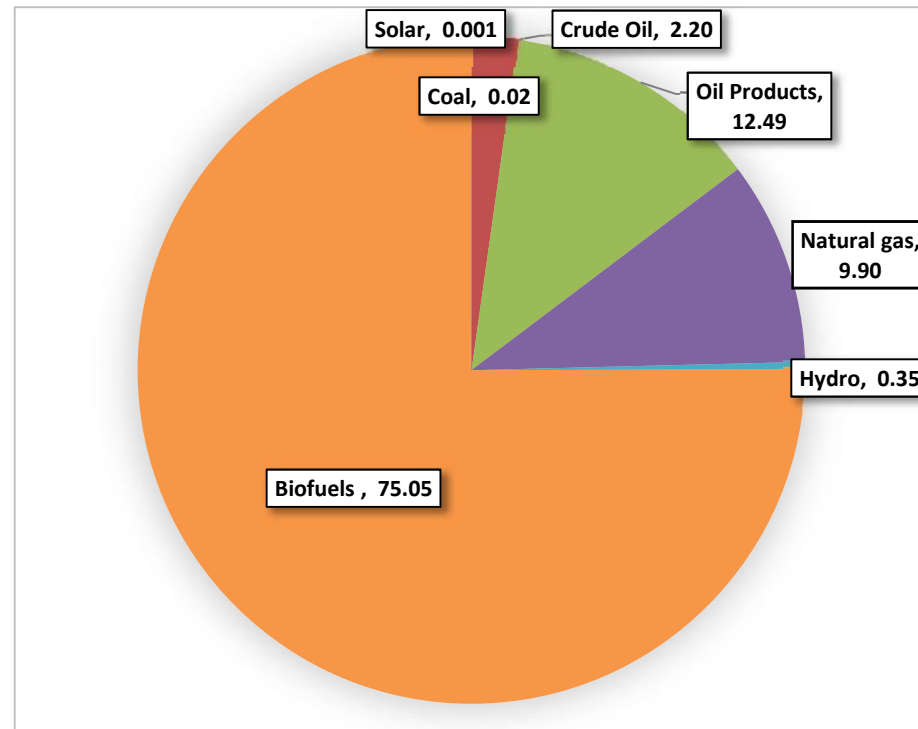
Resource		Gross Potential	Utilisation Level
Large hydro power		11,250MW	1,938MW
Small hydro power		3,500MW	64.2MW
Solar energy		4.0 kWh/m <sup>2</sup> /day 6.5kWh/m <sup>2</sup> /day	30MW solar PV stand-alone No solar thermal electricity
Wind		2-4m/s at 10m height	2x2.5KW electricity generator; 10MW wind farm in Katsina
Biomass	Fuelwood	11 million hectares of forest and woodlands	43.4 million tonnes of firewood/year
	Municipal waste	18.3 million tonnes in 2005* & about 30 million tonnes/year now	-
	Animal waste	243 million assorted animals in 2001	-
	Energy crops and agricultural waste	72 million hectares of agricultural land	28.2 million hectares of Arable land only 8.5% is cultivated
Geothermal		Not yet quantified	

# 3.0 Energy Supply and Demand, *cont'd*

## Supply



**Figure 3a: Primary Energy Supply in 2015 = 139,373ktoe**



**Figure 3b: Primary Energy Supply in 2018 = 159,881ktoe**

# 4.0 Market structure by sub-sector

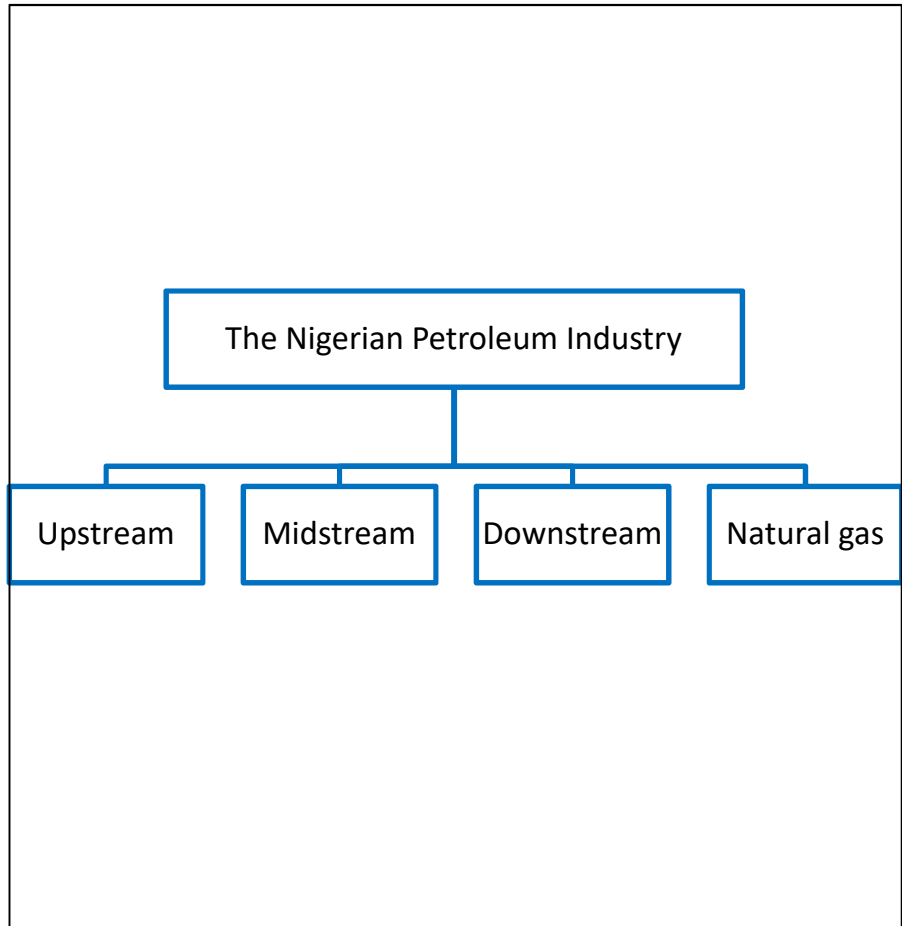
The report presents market structures, including the operational institutions and their roles, for the following sub-sectors:

- Petroleum
- Electricity
- Coal and natural bitumen
- Nuclear
- Renewable energy
  - Hydropower
  - Solar energy
  - Wind energy
  - Bioenergy



# 4.0 Market structure by sub-sector, *cont'd*

## Petroleum sub-sector



**Upstream** – exploration, crude oil and natural gas production, and crude oil marketing.

**Midstream** – refining, petrochemicals, and crude oil transportation.

**Downstream** – retail services and products distribution.

**Natural gas** - activities involve gas gathering, processing, transmission, and distribution.

Figure 4: Petroleum Industry Structure

# 4.0 Market structure by sub-sector, *cont'd*

Nigeria LNG exported 18.57 MT to 22 countries in 2016 (Figure below), the fourth largest export by a country in that year.

Two other LNG projects are awaiting final investment decisions:

- OKLNG (35 million tonnes / year ).
- Brass LNG ( 10 million tonnes /year).

Nigeria was the country with the fourth largest export of LNG in 2018 – following Qatar (77.2 MT); Australia (44.3MT); Malaysia (25.9 MT).

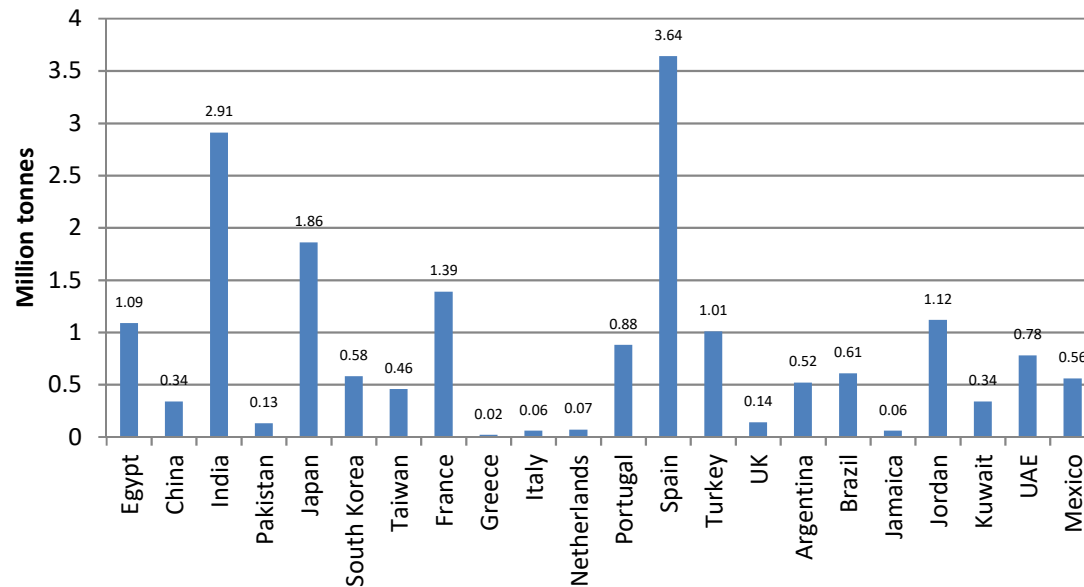


Figure 6: Nigeria LNG Export in 2016

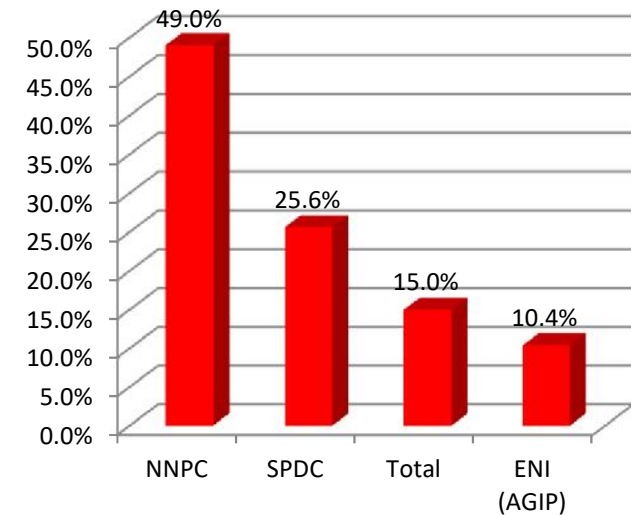


Figure 5: Ownership structure of the NLNG

# 4.0 Market structure by sub-sector, *cont'd*

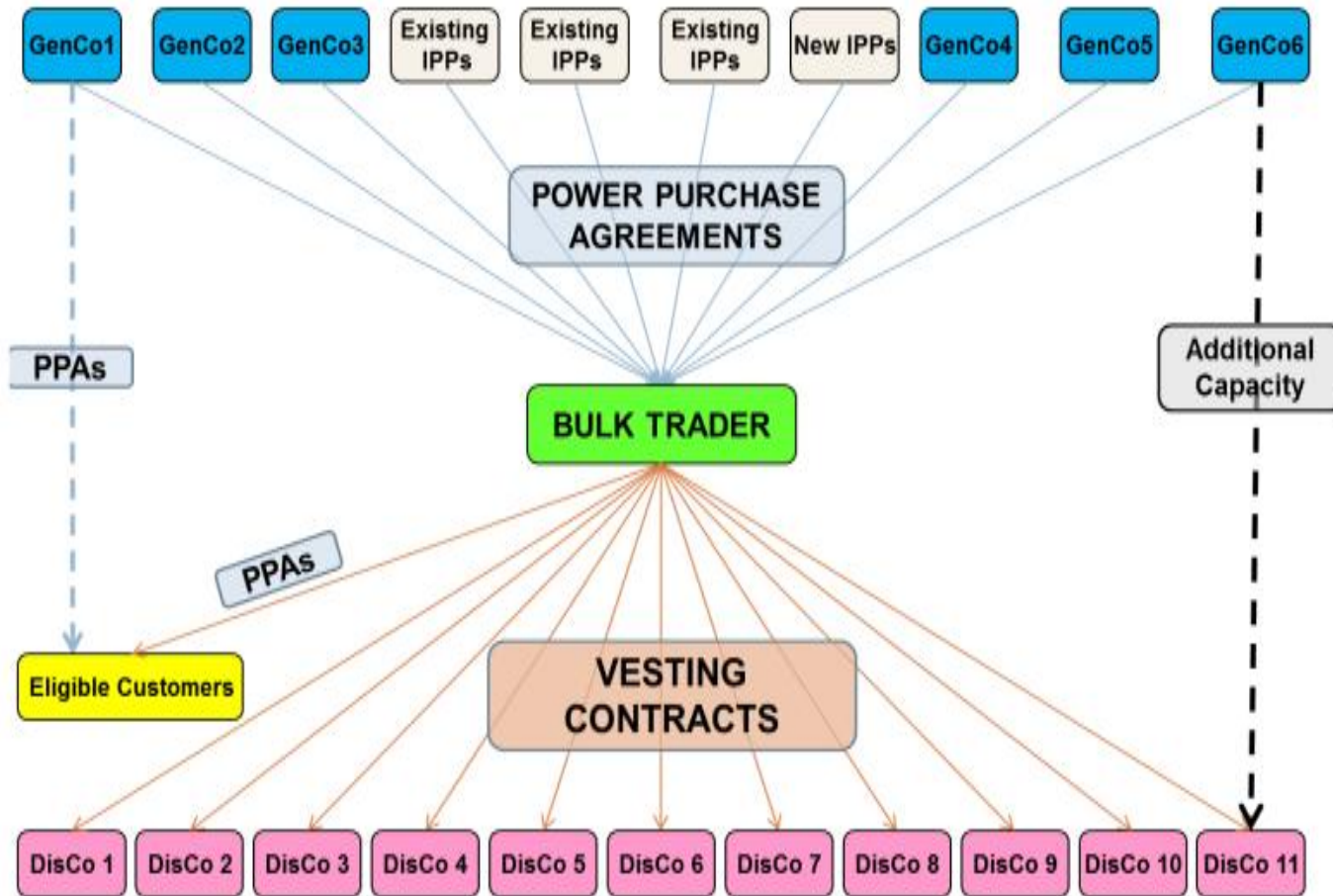
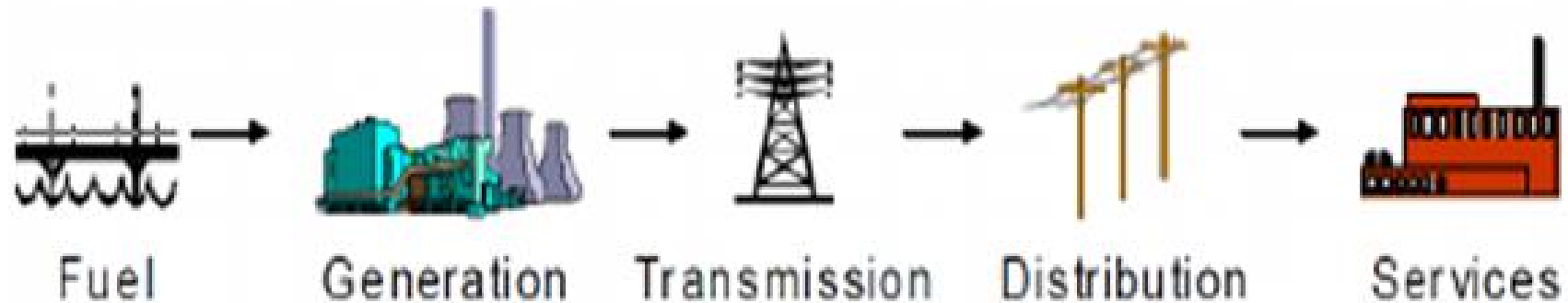


Figure 7: Market Structure of the Electricity sub-sector

## 5.0 Future Development and Investment Needs in the Energy Sector

- The National Integrated Infrastructure Master Plan (NIIMP) for 2013 to 2043 put investment needs at:
  - Electricity infrastructure - US\$600 billion
  - Oil and gas sector infrastructure - US\$400 billion.
- The private sector, domestic and foreign, is expected to provide the required funding.

## 5.0 Market structure by sub-sector, *cont'd*



**Figure 8: Electricity Value Chain**

**Investment opportunities exist across the entire electricity value chain in Nigeria**

## 5.0 Future Development and Investment Needs in the Energy Sector, *cont'd*

### Investment Opportunities in the Petroleum Sector

- Investment opportunities in:
  - exploration and production, drilling,
  - oil well completions, seismic surveys and interpretation, etc.
  - refining, pipelines, storage facilities,
  - LNG
  - Natural gas pipelines
  - etc.
- Oil blocks, licences, leases, licence renewals and licence extensions are awarded following a transparent competitive bidding process.

# 6.0 Energy Sector Reforms

- The electricity sector has been privatised;
- Petroleum Industry Act 2021 passed:
  - NNPC to become a limited liability company;
  - Two regulatory institutions created instead DPR;
    - Nigerian Upstream Regulatory Commission;
    - Nigerian Midstream and Downstream Regulatory Authority

## 7.0 General Legislations Relevant to Investment

Some of the relevant laws governing foreign investment in Nigeria are as follows:

- Companies and Allied Matters Act Cap. C20 Laws of the Federation of Nigeria, 2004;
- Nigerian Investment Promotion Commission Act Cap. NI17 LFN, 2004;
- Immigration Act Cap. I1 LFN, 2004;
- Investments and Securities Act Cap. 124, LFN, 2007;
- Foreign Exchange [Monitoring and [Miscellaneous Provisions] Act Cap. F34 LFN, 2004;
- Industrial Inspectorate Act Cap. I8 LFN, 2004;
- National Office for Technology Acquisition and Promotion Act Cap. N62 LFN, 2004.
- The Electric Power Sector Reform Act of 2005.



## **7.0 General Legislations Relevant To Investment, *cont'd***

- The Nigerian Investment Promotion Commission Act of 1995 guarantees investment protection.
- **Investment Treaties**
  - BITs with 31 countries;
  - 10 treaties with investment provisions;
  - 21 investment-related instruments;
  - Avoidance of Double Tax Treaties with 13 countries.
- **Investment Support Facilities**
  - Presidential Enabling Business Environment Council (PEBEC);
  - One Stop Investment Centre;
  - Online Investment Guide.

# 8.0 Exceptions to National Treatment

## 8.1 The Nigerian Oil and Gas Industry Content Development Act of 2010

- **Part I, Section 3 (1)** - Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licences, oil lifting licences and in all projects for which the contract is to be awarded in the Nigerian oil and gas industry; and
- **Part I, Section 3 (2)** - Exclusive consideration shall be given to Nigerian indigenous service companies that demonstrate ownership of equipment, Nigerian personnel and capacity to execute work on land and swamp operating areas.

# 8.0 Exceptions to National Treatment, *cont'd*

## 8.3 The Land Use Act of 1978

- The Land Use Act of 1978 vests the title to land in all states of the federation in the governors of the respective states who hold land in trust for the use and benefit of Nigerians.
- The relevant laws on acquisition of land by foreigners in various states places certain restrictions on foreign investments in the real estate sector, by restricting the transfer or acquisition of any interest in, right in or over land without approval in writing of the relevant authority, usually the governor of the relevant state or the minister.
- Where such a right has been lawfully acquired, it is unlawful for such foreigner to transfer or dispose of its interest in the said land to another foreigner without the consent of the relevant authority.

## 9.0 Conclusion

- The ECN, in collaboration with the International Energy Charter has produced the Report on Investment Climate and Exceptions to National Treatment for Nigeria;
- The Report elaborates on the energy policies, energy supply and demand, market structure by sub-sector, future development and investment needs in the energy sub-sector, reforms in the energy sector, general legislations relevant to investment, and exceptions to national treatment in the legislations of Nigeria.

## 9.0 Conclusion, *cont'd*

- The Report is intended to serve as one of the accession documents to the Energy Charter Treaty;
- Comments and suggestions to the Draft Report are most welcome.

**THANK YOU FOR YOUR ATTENTION**