NIGERIAN CONTENT DEVELOPMENT AND MONITORING BOARD (NCDMB)

GUIDELINE ON MARINE VESSEL CATEGORISATION IMPLEMENTATION STRATEGY

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Reason For Issue:	Improve processes and outcome of the Marine Vessel Categorization Scheme.						
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Document No.	NCDMB/CBD/SBD/001/20						

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1.0 Introduction

The Nigerian Oil and Gas Industry Content Development Act (2010) mandates the Nigerian Content Development and Monitoring Board, (NCDMB) to:

i) Assist local contractors and Nigerian companies to develop their capabilities and capacities to further the attainment of the goal of developing Nigerian Content in the Oil and Gas industry. cl. 70(h)

ii) Make procedures to guide the implementation of the Act and ensure compliance with all provisions of the Act, cl. 70(i)

iii) Monitor and coordinate the Nigerian Content performance of all operations in accordance with the provisions of this Act cl. 70(i)

1.1 Section 105 of the NOGICD Act, 2010 empowers the Board to enforce compliance with relevant sections of the Coastal and Inland Shipping (CABOTAGE) Act in relation to matters pertaining to Nigerian Content Development in the Nigerian Oil and Gas Industry in collaboration with NIMASA. The Coastal and Inland Shipping (CABOTAGE) Act, was passed into law in 2003 to 'Restrict trade along Nigeria's coastal waters to indigenous operators. Under the Act, Foreigners are only to participate in coastal shipping when there is no Nigerian who has capacity for such jobs. The CABOTAGE Act is similar to the Jones Act (1938) which requires all goods shipped between U.S. ports to be transported by U.S. vessels (and operated primarily by Americans). It calls for providing the nation with a merchant marine that can transport goods between U.S. ports, increase national security during war times, and support the U.S. maritime industry.

1.2 In the discharge of its statutory mandate and consistent with the CABOTAGE Act of 2003, the Board in 2012, initiated the Marine Vessels Scheme (MVS), with the ultimate objective of increasing Marine Vessels ownership by indigenous companies operating in the Nigerian Oil and Gas Industry from less than 8% (Pre-NOGICD Act) to 60% (Post-NOGICD Act).

1.3 A key component of the MVS is the categorization of Marine Vessels and Vendors based on their level of investments in the acquisition/ownership of vessel(s) particularly vessels built in-country, amongst others. This is intended

to give first consideration to Nigerian built and/or owned Vessels for contract award/job offers in the Nigerian Oil and Gas Industry in line with the provisions of the NOGICD Act, 2010.

1.4 After ten years of implementation of the NOGICD Act and practice of vessel registration, major challenges have been identified, which this process improvement is intended to address. These include:

i) Lack of clarity in the required documentation and the processes for vessel categorisation

ii) Delayed publication report, and inadvertently slows down deployment of vessels in the industry.

iii) Sharp practices by vendors who collude with foreign vessel owners to bring in foreign owned vessels into the country, leading to a sharp rise in capital flight and a predominantly low level of Nigerian Content in the Maritime category

iv) Failure of vessel owners to carry out the statutory inspection and maintenance/ classification of vessels, as at when due

v) Failure of vessel owners to pay the statutory fees to government, including Customs Duties.

vi) Falsification of supporting Marine Vessel(s) ownership documents by vendors

vii) Duplication of Vessel(s) on the MVC Reports under different vendors as a result of leasing from the owner of the vessel

viii) Inability of the Scheme to track and ascertain the location of Vessels categorized by the Board to ensure that Vessels under the Scheme are within the shores of Nigeria

ix) The scheme does not certify integrity of Vessels and fitness for use in line with global best practices.

x) The current Scheme does not include physical verification/inspection of Vessels. This creates the tendency of categorizing non-existent Vessels, as evaluation is based on desktop verification of documents uploaded by vendors on the NOGIC-JQS Portal.

xi) There is need for more alignment with the approval processes of NIMASA which is a mandatory input to the vessel categorisation process.

1.5 Proposed Changes and Improvements to the Marine Vessel Categorisation Scheme

This guideline introduces a few changes that will greatly improve the marine vessel categorisation. Some of these improvements and immediate measures include:

1. Introduction of the Nigerian Content Marine Vessel Certificate (NCMVC) which will replace the current categorisation report. The certificate will be issued to vessels.
2. Cancellation of existing categorisation of vessels operating in the Nigerian oil and Gas industry by 30 September 2020.
3. Mandatory presentation of NCMVC effective 1 October 2020, for all vessels and companies wanting to participate in contracts in the Nigerian Oil and Gas Industry.
4. Introduction of a validity period for vessel categorisation, which is the lower of:
    i. Five years, or
    ii. The remainder of the validity period of the class certificate issued by International Association of Class Societies (IACS),
5. Only vessels with NCMVC shall be allowed to provide services in the Nigerian Oil and Gas industry.

1.6 Benefits of the Changes and Improvements to the Marine Vessel Categorisation Scheme

The following are the benefits of the new Marine Vessel categorisation process.

i. Improved transparency in the implementation of the Marine Vessel Categorisation scheme

ii. Improved speed and tracking in the application processes- Application is processed online and within 2 working days after vessel inspection.

iii. Improved integrity of vessels, as vessels now require presenting requisite maintenance certificates issued by relevant certifying authorities, such as;
    a) IACS (for all vessels weighing above 500GT (Vessels working offshore in the oil and Gas industry, over 100 Nautical Miles offshore).
    b) NIMASA (for vessels weighing between 150GT and 500GT; (Vessels working offshore in the oil and Gas industry, below 100 Nautical Miles offshore).
    c) NIWA for vessels weighing less than 150GT; (Vessels working in the inland water ways).

Vessels without the requisite maintenance certificates as listed above will not be issued with the NCMVC.

iv. The new scheme will also consider the development of Vessels Tracking Application/Device, which will ensure flexibility of delisting of Vessels that are

categorized by the Board, but are not working within the shores of Nigeria, thereby improving efficiency of the Scheme and reliability of the MVC Reports;

v. Growth of business opportunities for Nigeria shipyards with drydocking and maintenance facilities as vessels classified under this scheme will be required to carry out drydocking and major maintenance activities in Nigeria.

vi. It will also build Marine Vendors and Industry confidence

vii. The Scheme will eliminate sharp practices in the industry and support the growth of Nigerian ownership of vessels.

viii. Finally, it will simplify the entire process and raise confidence of stakeholders in the integrity processes being implemented by the Board.

ix. The scheme will help check capital flight and support the growth of the Nigerian marine sector.

2.0 Definitions

The terms and acronyms used in this document shall take the meaning defined on this table.

S/N	Acronyms/Terms	Definitions/Description
1.	CAC	Corporate Affairs Commission
2.	CBD	Capacity Building Division
4.	CDPD	Custom Duty Payment Document
5.	GM	General Manager
6.	IACS	International Association of Class Societies
7.	IOCs	International Oil Companies
8.	ISPS	International Ship and Port Security
9.	ISM	International Safety Management System
10.	NC	Nigerian Content
11.	NCMVC	Nigerian Content Marine Vessel Certificate
12.	NCDMB	Nigerian Content Development and Monitoring Board
13.	NIMASA	Nigerian Maritime Administration and Safety Agency
14	NIWA	Nigerian Inland Waterways Authority
15.	NOGICD ACT	Nigerian Oil and Gas Industry Content Development Act of 2010
16.	NOGIC JQS	Nigerian Oil and Gas Industry Content Joint Qualification System

S/N	Acronyms/Terms	Definitions/Description
17.	OPERATOR	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
18.	P&I	Protection and Indemnity Insurance
18.	SBD	Strategic Business Development
19.	STCW	Standards of Training, Certification and Watchkeeping for Seafarers

3.0 Application

In line with Sections 4, 5, 6, 28(1-2), 29, 30, 31(1), 35, 37 and 70 of the NOGICD Act of 2010, this Guideline shall apply to operators, project promoters, contractors, alliance partners, training providers and all stakeholders in the Nigerian Oil and Gas Industry.

4.0 Objectives of this guideline.

The key objectives of this Guideline include:

i. Drive marine vessel ownership and ensure the delivery of maximum Nigerian Content in this category of business in the Nigerian Oil and Gas industry.
ii. Maximize the effective and sustainable utilization of Nigerian owned assets and vessels.
iii. Attract investments, support the development of world-class and globally competitive maritime industry in Nigeria.
iv. Drive the improvement of integrity of marine vessels and improve safety in the industry.
v. Drive best in class practices in the marine industry.

5.0 Responsibilities

The Executive Secretary (ES) of the Nigerian Content Development and Monitoring Board shall have the overall responsibility and authority for the review and amendment of any part of this Guideline.

6.0 The Marine Vessel Categorisation processes

The simplified requirements and processes for obtaining the **NCMVC** shall be as follows:

a. The vessel Owner shall pay a non-refundable application fee of One hundred thousand Naira (N100,000.00) for Nigerian Owned vessels and $10,000.00 (ten thousand US Dollars) for foreign owned vessels, into the account of the Nigerian Content Development and Monitoring Board. This fee shall be applied in the physical verification of the existence and integrity of the vessel, within Nigerian Waters. All the associated cost for the verification of vessels outside Nigerian waters shall be borne by the vessel owner.

b. The vessel owner shall apply for vessel registration through the Nigerian Content Portal at www.nogicjqs.gov.ng

c. The vessel Owner shall upload the required documentation. The required documentation shall include the following:
   i. NIMASA Certificate of Nigerian Registry.
   ii. NIWA Operational Certificate for other categories of vessels.
   iii. Nigerian Customs Duty Payment
      a. Assessment Document for the vessel.
      b. NCS Pay Direct payment acknowledgement
   iv. International Association of Class Societies (IACS) certificate, for offshore vessels in the Nigerian Oil and Gas Industry,
   v. Bill of Sale or Receipt of Purchase
   vi. IMO NUMBER.
   vii. Builders Certificate

d. In addition, the following statutory documents shall also be submitted:
   i. CAC - Memorandum and Article of Association
   ii. CTC of Form CAC 7 (Particulars of Directors) and CAC 2 (Allotment of Shares)
   iii. Current Tax Clearance Certificate
   iv. Completed declaration of ownership form with the owners passport photograph attached
   v. Bank statement/Reference

vi. Condition survey report
vii. Evidence of utilisation of Nigerian maintenance or dry docking facility or maintenance history.
viii. Annual survey report for the preceding 3 years

e. The Board shall review and establish the authenticity and completeness of all documents provided within 48 hours. If confirmed, the Board will raise and issue the NCMVC.

f. If any document submitted by the vessel owner is found to be forged or fake, the Board shall notify the applicant and refuse the issuance of the certificate and blacklist the applicant for a minimum period of five years.

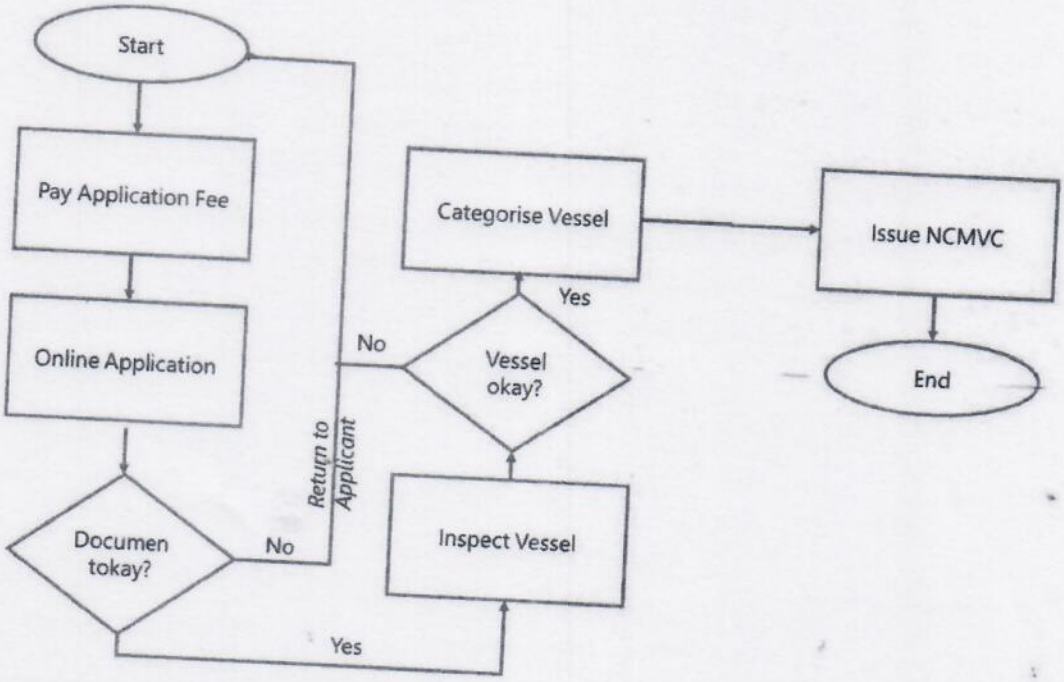

Fig. 1 Flow Chart for Marine Vessel Categorization

6.1 Marine Vessel Categorization Matrix

Each NCMVC shall clearly specify the category in which the vessel has been registered.

Marine Vessels shall be categorised into any of the following categories based on the evidence submitted by the owner and the physical verification by the Board:

Category	Description of Category
A	Nigerian Owned, Nigerian Crewed, Nigerian Flagged
B	Nigerian Owned, Foreign Crewed, Nigerian Flagged
C	Foreign - Owned, Nigerian Crewed, Nigerian Flagged
D	Foreign Owned, Foreign Crewed, Foreign Flagged
E	Non-Compliant Vessels

The revised categorization matrix is shown in the table below.

6.11 **Matrix A: Vessel Categorisation Matrix**

	Compliance Requirements										
Vessel Category	Evidence of payment of Application Fee	Nigerian Equity	Nigerian Crew	Evidence of Nigerian Insurance	Evidence of Nigerian Legal Retainership	Evidence of Nigerian Bank Account for the Vessel	NIMASA Certificate of Nigerian Registry	NIMASA Bare Boat Charter Certificate	Custom Duty Payment Document	Bill of Sale/ Purchase Receipt	Completed Declaration of Ownership
A	Yes	>80%	>80%	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
B	Yes	>51%	<50%	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
C	Yes	<50%	>80%	No	No	Yes	Yes	No	No	Yes	Yes
D	Yes	<50%	<50%	No	No	Yes	Yes	Yes	No	Yes	No
E	Yes	<50%	<50%	No	No	No	No	Yes	No	No	No

Documents listed in Matrix A will result in the assignment of categories as shown in column 1 of the Matrix. Vessels in category A must be given the right of first refusal and mandatory utilisation before vessels in category B. Similarly, Vessel in category B must be fully utilised before Vessels in category C are considered. Vessels in category D are considered as bare boat charters and will only be used when such vessels do not exist in categories A to C.

Vessels in category E cannot be used in the Nigerian Oil and Gas industry.

6.1.2 **Matrix B: Mandatory Documentation**

Safety and Statutory Requirements								
Vessel Category	IACS/NIMASA/ NIWA Operational Permit	IMO No. verified from IMO Database, Equasis Global Ship Ownership Database	ISM Certificate	ISPS Certificate	P&I Certificate	Builders Certificate	Temporary Importation Permit	Current Tax certificate
A	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
B	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
C	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
D	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
E	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Documents listed in Matrix B and marked yes in the matrix are mandatory. They are considered as fatal flaws and when not submitted by applicants and will result in refusal of NCMVC.

Vessels in category A must be given the right of first refusal then Category B, before category C. In the absence of suitable vessels in categories A-C, the operator shall apply to the Board for permission to use vessels in category D. Once permitted, such vessels can be used only for a maximum period of two years with no period extension. Vessels categorized in E are not permitted to deliver services in the Nigerian Oil and Gas industry.

7.0 Implementation Framework

The implementation and enforcement of this Guideline shall be the sole responsibility of the Board in line with the provisions of the NOGICD Act of 2010. The following information shall be strictly adhered to in ensuring effective implementation and enforcement of this Guideline:

i. The Guideline shall take effect from the date of approval by the Board.
ii. The Guideline shall be reviewed by the Board every four (4) years or as the need arises, without prior notification.
iii. Capacity Building Division (CBD) of the Board shall be responsible for the full implementation of this Guideline.
iv. The operator shall exercise the responsibility to carry out preliminary checks of every vessel integrity and assure that the vessel is suitable for its operations, and ensure that NCMVC is presented by vessel company before engagement of vessel into any operation in the Nigerian Oil and Gas Industry.

v. The Board reserves the right to carry out routine and unscheduled assessment of vessels to establish integrity, location and compliance status of vessels categorised under this guideline,

vi. Vessel Owners shall submit to the Board, quarterly report on vessels, stating current job location, clients, composition of crew, and flag status of the vessel.

vii. The operator/users of vessels shall submit quarterly report to the Board stating Vessel type, Owners and integrity (IACS/NIMASA/NIWA) status of vessels in its operation.

8.0 Consequences of Non-Compliance

Operators/project promoters, contractors, alliance partners, service providers, vessel owners and all stakeholders in the Nigerian Oil and Gas Industry are required to strictly comply with this Guideline. The consequences of non-compliance with this Guideline shall include the following:

i. Refusal of the Board to issue Certificate of Authorization to the operator/project promoter.

ii. Refusal of the Board to participate in the operator`s Tenders or issuance of Nigerian Content Compliance Certificate (NCCC).

iii. Refusal/withdrawal of privileges, support and/or approvals required from the Board.

iv. Disqualification/denial from participation at Tenders and in the award of contracts in the Nigerian Oil and Gas Industry.

v. Blacklisting and denial of NCMVC for all vessels in the fleet of the company and cancellation of all active NCMVC issued by the Board.

vi. Initiation of penal sanctions as provided in section 68 of the NOGICD Act of 2010.

vii. Invoking of administrative sanctions in line with section 70 (i) and (p) of the NOGICD Act of 2010.

viii. Any other penalties including imposition of Capacity Development Initiative (CDI) as may be determined and deemed fit by the Board in line with the provisions and aspirations of the NOGICD Act of 2010.