



LEGAL APPRAISAL OF THE NIGERIA AND SAO-TOME AND PRINCIPE JOINT DEVELOPMENT ZONE AGREEMENT

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Abstract

Since the coming into force of the treaty establishing the Nigeria – Sao Tome Joint Development Zone (NSJDZ), and its first oil block bidding rounds, the initial fanfare that welcomed that epoch making treaty is waning out. The NSJDZ was established for the purposes of harnessing the natural resources of the two countries within their overlapping exclusive economic zone as well as avert potential cross border dispute. By the provisions of the United Nations Convention of the Law of the Sea (UNCLOS) countries with overlapping maritime boundaries are encouraged in the spirit of understanding and cooperation to make efforts to enter into provisional arrangements of a practical nature to exploit straddling hydrocarbon resources across maritime boundary pending delimitation. However, there have been issues surrounding the Joint Development Zone which has resulted in the inactivity of the zone. What are the economic potentials of the NSJDZ? What have been the challenges militating against the efficient implementation of the NSJDZ? Is there any possible way-out? These issues form the crux of this paper. The paper found that the implementation of the NSJDZ is stiffened by political and socio-economic factors while noting that the NSJDZ needs strengthening, the administrative apparatus needs urgent review and overhauling.

Keywords: Economic development, International trade, Nigeria, NSJDZ, UNCLOS

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Introduction

In what started as a maritime boundary dispute after claims and counter claims, Nigeria and Sao Tome were able to arrive at a consensus after extensive negotiations to jointly pursue the exploitation of natural resources and development of the area of overlapping maritime boundary claims¹ A cooperative development agreement was struck in 2001 by the governments of Sao Tome and Principe and Nigeria to explore and exploit hydrocarbon and non-hydrocarbon resources that straddle their maritime borders.² The Joint Development Zone is to be established in accordance with the Treaty. In order to prevent a repeat of the humiliating cross-border dispute with its neighbour Cameroon, which led to the ICJ Hague Judgment transferring Bakassi Peninsular to that nation, the Nigerian government, acting through the administration of then President Olusegun Obasanjo, engaged its counterpart in Sao Tomean and Principe to ensure that the two nations, which share natural resources that cross their maritime boundaries, came together in a cooperative spirit and entered into a treaty.³

This was geared towards establishing a joint development zone for the exploration and exploitation of natural resources for the mutual benefits of both countries.⁴ The Treaty therefore, was a product of the several diplomacy and negotiations undertaken by the Governments of the two state parties guided by the spirit of cooperation and recognizing the facts of the existence of large deposits of natural resources within the same contiguous zones maritime boundaries. The Treaty derives its legal impetus from the provisions of the United Nations Convention on the Laws of the Sea (UNCLOS).⁵ Under International Convention of the Laws of the Seas (UNCLOS), where petroleum reservoir straddles across the territories of two or more countries, particularly within territories without boundary delimitation and the resources within the territorial jurisdiction are exclusive to the countries. In 1999, the government of Nigeria and

¹ Joint Development Authority (JDA) at 10; 2002-2012, Shepherd Concepts Communications.

² Yemi Oke, “*The Concept of Joint Ownership and Development (JDZ) in the Oil Sector: A case study of Nigeria and Sao Tome and Principe*” Nigerian Energy Resources Law and Practice, (Lagos: Princeton & Associates Publishing Co Ltd, 2019)141.

³ T Mensah “Joint Development as an Alternative Legal Arrangement In Offshore Maritime Disputes” In Rainer Lagoni and Daniel Vignes (eds), *Maritime Dispute (Kroninklijke) Brill NV2006*) 29.

⁴ *Ibid.*

⁵ JDA @ 10, 2002-2012: A publication of the Corporate and Public Affairs Department of the Nigeria and SaoTome and Principe Joint Development Authority; (Produced by Shepherd Concepts Communications) p.05



Sao Tome and Principe embarked upon delineating their maritime boundary and based on this, it was discovered that there was a considerable overlap between the maritime boundaries of the two countries situated in the Gulf of Guinea as a result of establishing their Exclusive Economic Zone (EEZ). The obvious step to take, therefore, was to establish the JDZ off their coasts which covers the area of their overlapping claims and which area was also a part of their exclusive economic zone⁵ in line with the provisions under Article 74(3) and 83(3) of UNCLOS.⁶

Specifically, Article 74(3) and 83(3) of the 1982 UNCLOS enjoin states with contiguous coastal areas pursuant to good neighbourliness and international cooperation, to take the initiative, pending the execution of formal delineation agreement, to make provisional arrangement which is incapable of prejudicing the making or entering into final agreement on the demarcation of their Exclusive Economic Zones. The EEZ is a creation of UNCLOS III which seeks to reflect the aspirations and economic development desires of less developed countries. A maximum of 200 nautical miles can be found between the exclusive economic zone and the baseline. In the EEZ, a coastal state is granted the following rights under Article 56 of UNCLOS: the ability to exercise sovereignty for the purposes of searching for, using, protecting, and managing the natural resources (living or non-living) in the waters immediately adjacent to the sea bed, the seabed, and its subsoil, as well as for other purposes related to the zone's economic exploration and exploitation. It should be recalled that the Democratic Republic of Sao Tome and Principe ratified and submitted its "Official Maritime Law" to the UN in March 1988. The Democratic Republic of Sao Tome and Principe's marine claim was defined by this law as ending at the Nigerian median line. The Nigerian Exclusive Economic Zone (EEZ) Laws of 1978, on the other hand, accepted median lines as a foundation for defining maritime borders with other nations.⁷ Decree No. 41 of 1988 amended this law by removing the mention of median lines and substituting negotiated settlement.

⁶ Y Oke, "Impacts of International Law and Global Best Practices on Energy Resources Governance in Nigeria" (2012) 8 *UILJ* 156–180.

⁷ Exclusive Economic Zone Act (CAP T.5) Laws of the Federation of Nigeria (LFN) 2004).



Territorial Sovereignty and Joint Ownership of Hydrocarbon Resources

The existence of cooperative development zones between two States making territorial claims to a sea or land while the area is still being delimited, allowing for the exploration and use of overlapping maritime resources,⁸ does not prohibit any State from using its own territorial sovereignty to work with others to develop and share petroleum and hydrocarbon resources in the designated area. With the end of World War II in 1945, the idea and development of permanent sovereignty over natural resources began. Following World War II, post-colonial developing country regimes and other developing nations began asserting their sovereignty over the natural resources within their borders and in areas where they claimed "sovereignty rights." Meanwhile, other states began to question the legality of concession agreements that their governments had either imposed or entered into with foreign investors for the purpose of exploring and exploiting natural resources. Iran was the first nation to boldly use its claim to sovereignty when it nationalized the Anglo-Iranian Oil Company in 1951.⁹ During this period, the National Iranian Oil Company was established and this paved the way for the concession agreement entered into between the British-owned Anglo-Persian Company and the Iranian government to be annulled. Under the said concession agreement, the British-owned company acquired up to 1993 the exclusive right to extract and process petroleum in a specified area in Iran.¹⁴ This claim of sovereignty rights over petroleum resources evolved through international economic law principle enunciated under Article 1(2) of the *United Nations Charter*¹⁵ which states that one of the purposes of the United Nation is to develop friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

This set the stage for colonized peoples to seek self-determination which culminated in the United Nations General Assembly Resolution on *Granting of Independence to Colonial Territories and Peoples*.¹⁶ However, prior to adopting the foregoing resolution, it was considered within the

⁸ Yemi Oke, *The Concept of Joint Ownership: Nigerian Energy Law Resources, Law and Practice* (2019) Princeton & Associates Publishing Co., Ltd. P 127.

⁹ Zubair Jubril, "An Appraisal of the Legal Concept of Unitization and Joint Development Agreement in Oil and Gas Industry Operation: Case Study: Nigeria – Sao Tome and Principe Unitization Experience" (2018) 3(1) *University of Abuja Public Law Journal*, 37



United Nations that political self-determination will be meaningless without economic self-determination.¹⁷ Thus, this principle has now been expanded to accommodate concerns of indigenous peoples and other groups where natural resources are located.¹⁸ Several resolutions passed thereafter by the UN General Assembly further gave boost and impetus to the states and other groups sovereignty rights and ownership over hydrocarbon resources within their territorial jurisdiction. Among the resolutions are: Right to Exploit Freely Natural Wealth and Resources 1952,¹⁰ Concerted Action for Economic Development of Economically Less Developed Countries 1960,¹¹ Permanent Sovereignty Over Natural Resources 1962¹² and Permanent Sovereignty Over Natural Resources of Developing Countries, 1972. Now, having established the principles, concept and evolution of permanent sovereignty over natural resources, States can freely determine whether their subsoil natural resources are owned by State or private landowners and whether the produced petroleum will belong to the private owners or the State.¹³ Thus, in the case of overlapping hydrocarbon resources across maritime boundaries, will determine the mode of exploitation and exploration of the overlapping resources taking into cognizance its sovereignty and territorial jurisdiction. Several options are always available for States within the same contiguous zones maritime boundaries when they find themselves sharing common resources.

Where the reservoir is shared, the situation calls for cooperation between the parties in the exploration and exploitation of the resources in such a reservoir. Cooperation, in this case, is required for peace and as a mark of responsibility amongst the parties and accords with the provisions of Article 74(3) and 83(3) respectively of UNCLOS.¹⁴ The concerned States may choose to adopt any prescribed model for the joint development of their trans-boundary maritime

¹⁰ UNGA Resolution 626 (VII), December 21, 1952, 7 UN – GAOR, Supp. No.20, p. 18, UN Doc. A/2361.

¹¹ *ibid.*

¹² UNGA Resolution 1803 (XVII), December 14, 1962, 17 UN – GAOR, Supp. No. 17, p. 15, UN Doc. A/5217 (now Resolution 1803).

¹³ R Beckman and L Bernard, *Framework for the Joint Development of Hydrocarbon Resources* (Singapore, Centre for International Law, 2008) 78.

¹⁴ Article 6(1) of the Treaty Establishing the Federal Republic of Nigeria and Democratic Republic of Sao Tome and Principe Joint Development Zone. (TENST&P JDZ)



resources.¹⁵

Geographically speaking, the joint development zone (JDZ) of Nigeria and Sao Tome and Principe spans 34,540 square kilometres, or roughly 10,000 square nautical miles. There are 53 articles in the treaty. The set of geodetic lines that define the sites that circumscribed the joint development zone (JDZ) using the WGS 84 Datum is provided in Article 2 on the "Establishment of Joint Development Zone."¹⁶ The Treaty's Article 3(1), which stipulates that "within the Zone, there shall be joint control by the States Parties of the exploration for and exploitation of resources, aimed at achieving optimum commercial utilization," clearly lays out the concepts of cooperative development. The State Parties will split all benefits and responsibilities from development projects carried out in the Zone in conformity with the Treaty in the following proportions: 60% for Nigeria and 40% for Sao Tome and Principe."¹⁷ The following are additional advantages of economic cooperation between nations with cross-border reservoirs through joint development zones such as lowers the cost of developing geological infrastructure and reservoirs; avoids caginess and misgiving, precludes conflict, which typically arises when two nations share petroleum and other resources within the exclusive economic zone; as well as access to new knowledge and expertise.

A number of significant clauses are included in the Joint Development Zone Treaty, including the following: the creation of the JDZ in a geographically defined area; the creation of the Joint Development Authority (JDA) to develop and manage the petroleum and other natural resources in the JDZ; the sharing of the proceeds in the ratio of 60% (Nigeria) and 40% (DRSTP); the inability to renounce claims during the 45-year validity of the Treaty; the JDA's independent legal personality; and the Joint Ministerial Council (JMC) to supervise the JDA.

The Joint Development Model under the Treaty

Though there are several models for joint development of trans-boundary maritime resources as

¹⁵ H Wen-bo, "Analysis of Nigeria-Sao Tome and Principe Joint Development and Suggestions for China" (2015) 4(3) *IJE&PE* 123-128.

¹⁶ Article 2 TENST&P JDZ.

¹⁷ *Ibid.* Article 3(1).

identified and agreed upon by the British Institute of International and Cooperative Law (BIICL). The BIICL put together a study team in 1965 with the goal of determining and evaluating the viability of creating a model joint development agreement that differs significantly from long-term joint development arrangements.²⁷ As a result, three models were determined upon and accepted (albeit the three models might include up to twenty).

The Joint Venture Model

According to this concept, every state is able to grant licenses to its citizens to operate within its joint development zones, and these licenses can include requirements for mandatory joint ventures amongst the licensees. According to this approach, the States maintain control over the Joint Development Zone and grant the joint authority little to no authority. Alternatively, the States may decide to assign the operation of the JDZ to a third party, typically an expert or consultant. The Malaysia-Vietnam agreement for a joint party system, in which each State designated its national oil firms (NOCs) to carry out hydrocarbon activities in the designated territory, is an illustration of this.

i. *Single Model*

One State manages resource development on behalf of the other two, and the other State's engagement is limited to income sharing and supervision. A significant role is granted to one party. The creation of the JDZ is overseen by a State with experience in the oil and gas industry, and the other State's involvement is limited to income sharing under a predetermined scheme. Examples of this model are Bahrain and Saudi Arabia (1958), Abu Dhabi and Qatar (1969), and Sharjah and Iran (1971).

ii. *Joint Authority Model*

This model is highly complex and formal. A strong joint authority with licensing and regulatory powers is charged with the management and developmental activities of the resources of the JDZ on behalf of both parties. It has legal personality and can therefore enter into binding contracts with prospective contractors on behalf of the States concerned. This involves some surrender of sovereignty over the zone of cooperation to a supernatural entity and is therefore a matter of some sensitivity. Examples of this include the Timore- Leste- Australia JDZ (known as the Joint

Petroleum Development Area or JPDA) and the Nigeria-Sao Tome and Principe JDZ. The principal common argument supporting joint development arrangements is that it is probably the best method of settling boundary disputes.¹⁸

Governance Structure under the Nigeria-Sao Tome and Principe JDZ

The coordination, administration and management of the Nigeria – Sao Tome and Principe Joint Development Zone is structured on a two-tier governance model, as provided for under Articles 6(1) and 8(1) of the Treaty; the Joint Ministerial Council and the Joint Authority. Both were established under the extant laws to manage and ensure that the mandate of the establishment of the zone is fully achieved. The management board is in charge of strategy and service under this kind of governance model, while the supervisory board is in charge of control. When there is a dual board structure, employees usually have greater say in who is appointed to the supervisory board, allowing them to effectively represent their interests. Article 9 of the Treaty provides for the Nigeria – Sao Tome and Principe JDZ management board. The design of a two-tiered governance model automatically lessens some of the biases that have been shown to be problematic in a one-tier system. Some of the advantages of a two tier governance structure are that it provides board independence and better defines the job duties/schedules of each member, instead of everyone having shared duties. More members can help to decrease stress. One of the draw-backs of this model is that the decision making process may be bogus and cumbersome which may ultimately affect operational and administrative functions/performance.¹⁹

a. The Joint Authority

Under this model, the interested State Parties enter into an agreement to form the Joint Authority model. Article 8 of the Treaty provides for the Joint Authority Model, which is applied in the Nigeria-Sao Tome and Principe case. The fundamental principle that it is founded is the same

¹⁸ Article 6(1) and 8 (1) of the TENST&P JDZ.

¹⁹ A Okoye, “The International Maritime Boundaries of Nigeria - Revisiting Joint Development of Natural Resources” <https://www.afronomicslaw.org/category/analysis/international-maritime-boundaries-nigeria-revisiting-joint-development-natural> accessed 20 August 2023.



as it establishes international joint authority. Under the Treaty, Article 8(1) provides thus the Authority is hereby established.”²⁰ It is the second leg of the governance structure of the Nigeria – Sao Tome and Principe Joint Development Zone, the other being the Joint Ministerial Council. Both are mutually complementary, and might be rightly termed, the Special Purpose Vehicle (SPV) charged with the responsibility of administration of the Treaty and managing the activities relating to exploration for and exploitation of the resources in the Zone. In effect, the Authority is saddled with the responsibility of giving effect to the Treaty. It possesses legal personality both in international law and under the laws of each of the States Parties, as well as the legal capacities required to carry out its duties and exercise its powers. These capacities include the ability to enter into contracts, purchase and sell real estate, acquire and dispose of moveable and immovable property, and start and participate in legal proceedings.²¹ The Council holds the Joint Authority accountable. The Authority and one or more contractors may enter into a petroleum development contract, under which no petroleum activities may be carried out within the Zone.³⁵ Along with its broad mandate to oversee the development of the designated zone on behalf of the States, the Joint Authority is also endowed with licensing and regulatory authorities in the exercise of its legal authority.²² In addition, the Joint Authority performs a variety of additional broad duties and has the authority to supervise and make decisions. One could characterize it as a powerful organization. The Joint Development Authority, which is in charge of managing resource research and exploration activities under the guidelines and directives of the Joint Ministerial Council of the Joint Development Zone, possesses the following specific attributes.²³

Proceed with the division of the Joint Zone in areas of contract negotiations, tendering and awarding and supervising contracts established in the Joint Zone; establishment of safety zones and controlled areas in accordance with international law, to ensure safe navigation, to petroleum

²⁰ Article 9 of the TENST&P JDZ.

²¹ Article 9(2) of the TENST&P JDZ.

²² *Ibid.* Article 9(3).

²³ **KG Kingston & EM Wosu**, “Complexities and Sustainability of Joint Development of Maritime Oil and Gas Resources: The Case of Nigeria and Sao Tome and Principe Treaty” (2019) 11(1) *The JPL&CS* 102 – 111.



activities, the fishing activities and other development activities and effective management of the JDA; comprehensive rules and guidelines for oversight and management of operations, covering issues related to health, safety, and environmental preservation; govern scientific marine research; assemble and deliver the yearly reports to JMC; review and evaluate the contractors' yearly reports and books in relation to the development agreements; offer recommendations to States Parties regarding relevant laws and changes to those laws that are required in order to grow the JDZ's resources; protect the marine environment in accordance with JDZ-applicable international law regulations; gather and exchange scientific data, technical expertise, and other resources related to the JDZ; ask the States Parties' competent authorities to carry out actions in line with the Treaty with regard to (a) search and rescue operations in the region, (b) the prevention or suppression of acts of terrorism or other threats to ships and structures using development operations in the JDZ, and (c) the prevention or treatment of pollution; address issues that occasionally occur or that is being made, specifically between the JMC or any State Party; and exercise any other functions which also may be assigned by the Joint Ministerial Council and as well as carry out routine enquiries on promotional and development efforts of the zone. These function are expansive and germane to the thriving of the agreement.

The Joint Authority is responsible to the Council, who decides the seat of the Authority, in this case, Abuja, with a subsidiary office in Sao Tome, Sao Tome and Principe. Such clause as contained in the treaty inspires confidence in investors and also conforms to international best practices. In giving effect to the provisions of Article 8(4), with respect to the seat of the Authority, the Headquarters Agreement was officially gazette by the Federal Republic of Nigeria on the 7th of July, 2004 thereby making Abuja the official headquarters of the Joint Development Zone.²⁴ As obtained under international practice, the Headquarters Agreement provides for privileges and immunities to officials of the Authority at its Headquarters. It follows therefore that State Parties shall be accorded diplomatic privileges as those provided under the

²⁴ Federal Republic of Nigeria Official Gazette No. 61, Vol. 91 *Headquarters Agreement between the Nigeria – Sao Tome and Principe Joint Development Authority and the Government of the Federal Republic of Nigeria*, published in Lagos, 7th July, 2004.



Immunities and Privileges Act.²⁵ The Board of the Joint Authority, which will be led by four Executive Directors, will be subject to any directive from the Council. Two (and their successors from time to time) will be chosen from among Nigerian nationals with the necessary training and experience by the Head of State of Nigeria, and two (and their successors from time to time) will be chosen from among Sao Tome and Principe nationals with the necessary training and experience by the Head of State of Sao Tome and Principe.

b. The Joint Ministerial Council

The other limb of the Treaty's governance structure is the Joint Ministerial Council. As stated explicitly in Article 5(3) of the Treaty, the JMC does not operate under the guise of legality.⁴⁰ In addition to any other duties that the State Parties assign it, the Joint Ministerial Council will be in charge of all issues pertaining to resource exploration and exploitation in the Zone. No fewer than two nor more than four Ministers or individuals of comparable standing nominated by the respective Heads of State of each State party may serve on the Council.²⁶ The meeting procedures that the Board and Council must adopt are outlined in the Treaty. Twice a year, or as frequently as needed, council meetings are planned to be held alternately in Nigeria and Sao Tome & Principe.²⁷ However, it is anticipated that the Board would convene every three months or more frequently as needed. A member chosen by the host State Party will chair meetings. Every matter concerning the daily operations of the Zone is investigated by the Board. The Council meets primarily to discuss policy matters, yearly budget approval, audits, and other essential matters concerning the block's functioning. The Council will accept all of its resolutions by consensus. In 2003, the JMC exercised its authority under the Treaty by adopting the JDZ Petroleum Regulations 2003, the JDZ Tax Regulations, and the JDZ PSC (Petroleum Sharing Contract) Model Contract, 2003, respectively. These regulations governed several matters including but not limited to (i) the terms and conditions under which licenses, leases, and contracts are granted; (ii) fees, rental rates, and royalties; (iii) the rights and obligations of

²⁵ Immunities and Privileges Act, 2004, Laws of the Federation of Nigeria (LFN).

²⁶ Article 5(2) of the TENST&P JDZ.

²⁷ *Ibid.* Article 7 (2) (b).

contractors and license and lease holders; (iv) account management and reporting procedures. One of the administrative branches of the Zone, the Secretariat was founded under Article 13 of the Treaty and is in charge of the Zone's secretarial operations. Its obligation is to handle the directorial tasks for the Council and the Authority, and one of the Executive Directors serves as Secretary on a three-year cycle.²⁸ As a result, the Secretariat fulfils two roles by acting as the Joint Ministerial Council and Joint Authority's central authority. All appointments to the Secretariat will be made by the Board, according to any guidelines established by the Council and within the parameters specified. The recruitment of secretariat officers and staff will follow the guidelines approved by the Authority. Council approval is required for senior appointments. Such officers and staff are not required to be chosen from the ranks of current or former government employees or officials of either State Party.²⁹ It should be noted that the 60:40 ratio allocation between the State parties as stipulated in Article 3 of the Treaty still applies when hiring employees.

c. Preparation and Approval of the Zone Plan

The Treaty required the Authority to convene as soon as it was practical after it came into effect to prepare an initial Zone Plan in line with the guidelines outlined in Article 3 of this Treaty. This plan would outline strategies for developing the Zone's resources in an effective, timely, and cost-effective manner. Comparable to a master plan, the Zone Plan is created with the goal of carrying out its mandate by covering all aspects of the Zone's growth, including economic ones. The Council must accept the Zone Plan; it may do so with or without modifications, or it may send it back to the Authority with suggestions for additional work or directives for revisions. Nonetheless, the Council is charged with giving the Zone Plan its ultimate approval. The Authority and the State Parties shall publish the approved zone plan, as agreed by the Council, in a suitable way. Subjects not covered by the Zone Plan will be handled by the Treaty, or in the event that this Treaty contains no provisions, by Council decisions or other agreements between

²⁸ G Oduntan, "The Emergent Legal Regime for Exploration of Hydrocarbons in the Gulf of Guinea: Imperative Considerations for Participating States and Multinationals" (2008) *57 I&CLQ* 253-258.

²⁹ Article 13(3) of the TENS&PJDZ.

the State Parties.

Challenges of the Administration of the JDZ Treaty

Over the years, the problems and concerns surrounding the Joint Development zones have been very diverse, with issues such as the lawfulness of the arrangements, the scope of the JDZ's powers and, in certain cases, consequences for other competing maritime claims. Bulbous inquiries by Human Rights Watch (2010) and the International Monetary Fund (IMF) in 2005 and 2010, respectively, showed that the Joint Development Authority was dealing with a number of issues that were endangering its existence. What are these challenges that have been responsible for the inactivity in the JDZ and have directly or indirectly militated against the full actualization of the objectives as set out in the Treaty?

Fugacious nature of oil

The key challenge that has been responsible for the inactivity of the JDZ in failing to achieve its mandate is the inability to find oil in commercial quantity. The area is suspected to be rich in oil in commercial quantity, given its characteristics similar to the entire Gulf of Guinea noted to be rich in oil within the region, but the reverse seems to have been the case. This unfortunate incident may be classified as natural. So the lack of discovery of oil in commercial quantity from the oil Blocks have been disappointing and has led to so many of the prominent companies losing their interest in the Zone. This lack of significant discoveries also led to financial difficulty for the Authority as the States Parties interest in the JDA also waned, thereby making the JDA to be seen as financially a draining wasteful venture. However, the fact that the IOC's left does not mean that the Zone is totally barren of oil. There is a level of deposit that smaller companies must be allowed to take over; signifying that all hope is not lost.

Political Interference

Studies have shown that one of the factors that have been responsible for the inactivity or low level performance of the Zone is not related to the Treaty, as the said Treaty was well thought out, but that of political interference by State parties and their officials. Furthermore, the



difficulty in exploring in the Zone led to the pull out of international oil companies (IOCs). The current conditions in the oil market and international oil politics led to unfavourable circumstances for investors, making it extremely difficult for them to continue making investments. According to reports, there was a noticeable and persistent increase in political meddling in the Joint Development Authority's (JDA) daily operations. This led to pressure to sway the bidding process in favour of certain corporations.

Lack of Transparency and Inadequate Funding

Analysts and researchers into the activities of the Zone have majorly agreed that one of the challenges facing the JDZ is lack of transparency and inadequate funding. Reports from studies have shown that the processes adopted for the issuance of licenses for oil blocks are fraught with opaqueness and insincerity, devoid of transparency. Regulations for bidding established in the Treaty were not followed. According to Oke,³⁰ the system by which permits to search for and develop resources would be granted, as well as the process that would increase improved transparency practices with regard to the legal and fiscal regimes. He went on to comment that neither the bidders nor the JDA, nor advisors consulted by the president of Sao Tome, could conclusively determine whether the firms submitting bids were qualified due to the published requirements for bidders to be qualified being so vague. This left the JDA with effectively unfettered discretion, which rendered it vulnerable to political pressure and external influences. The consequence of this led to IOC's pulling out from the Zone. In the face of inability to produce meaningful results in terms of exploration having lost out on bidding licenses, the JDZ barely managed to sustain itself. Particularly, with alleged corruption charges against one of the officials, it became extremely difficult to have the state parties pull out resources to fund the activities of the Zone. In addition, the JDZ had bloated staff personnel on its payroll. With dwindling exploration activities in the Zone and the reluctance to fund, it becomes apparently difficult to ginger activities within the Zone. The mismanagement of money from signature bonus compounded the Zone's woes, as payment of over bloated work force in salary and

³⁰ Oke (note 2) at 58.



office space was already jeopardizing the objective of the JDZ treaty.³¹ Of course, transparency and funding are critical to the survival and flourishing of any enterprises and the JDZ is not an exception. Thus, there is the need to ensure corporate and financial transparency in its operations while increasing funding to actualise its aim and objectives.

Conclusion/Recommendations

Generally, investment in business is a risk. Only the investor decides what is of priority in deciding how far to go. The sad thing about oil exploration is that the loss is always very huge whenever investment is not followed with discovery in commercial quantity. But where there is a matching discovery people forget easily, such huge investment, given the cash out that follows thereafter. So sustainability in this context depends on how long Nigeria (the big spender in the project) and its counterpart are ready to go. The way petroleum geology operates is that even if you are the world's brightest person and you look at the data and find nothing that makes you think there is something, then someone else may come along and interpret the data. The solution lies in the States Parties reconsidering in redoubling its efforts in investing in the latest technology of exploration to speed up the process. While the JDZA is a step in the right direction, it must be observed that it is not totally sustainable in preventing maritime disputes between the parties. It is therefore recommended that the parties resort to negotiation in a bid to keep compliance with the agreement. Also, the parties should endeavour to develop more socio-political ties and camaraderie to lubricate and sustain the existing JDZ.

³¹ D Garauba, *Fueling the World, Failing the People: Energy Policies, Energy Poverty and Energy Transition in Nigeria*” Conference on Energy at Nicon Hilton, Abuja, 12-14 May, 2018.