

**TRENDS IN DISPUTE RESOLUTION MECHANISM;  
EXPLORING INSTITUTIONAL AND REGULATORY  
FRAMEWORKS FOR ADR IN THE NIGERIAN ENERGY  
SECTOR**

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**Abstract**

*The optimal exploitation of energy potential in Nigeria is largely determined by an efficient dispute resolution mechanism. This paper examines the regulatory and institutional frameworks on dispute mechanism and potential impact on the Nigerian energy economy. The paper adopts the qualitative of research with reliance on primary and secondary data. Some relevant statutes such as the Petroleum Industry Act and others are examined. The paper found that the PIA and EA are the regulatory frameworks on energy governance, with provisions on dispute resolution*

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*mechanism with preference for ADR. The establishment of ADR Centres by the Nigerian Upstream Regulatory Commission and the enunciation of ADR Regulations for resolving midstream and downstream disputes indicate the exerting dominance it exercises in the management of disputes in the petroleum sector. Similarly, the utilisation of ADR mechanisms by the Nigerian Electricity Regulatory Commission in resolving electricity disputes further attests to the growing wave of ADR in resolving energy disputes. The paper recommends for the establishment of a national energy ADR Centre in Nigeria. This specialised energy court would entrench a court connected ADR system in engendering a resilient energy dispute mechanism, as precursor to robust investment and sustainable economic development in Nigeria.*

**Keywords:** Dispute Mechanism; Regulatory Frameworks; Alternative Dispute; Energy Potential

## **1.0. INTRODUCTION.**

The rich energy profile domiciled within the shores of Nigeria has influenced an avalanche of legal and policy initiatives, aimed at providing an effective governance architecture that would facilitate optimal exploitation of the energy resources and orchestrate robust investment in the country. The Nigerian energy market, spanning the petroleum and electricity sectors, and complemented by the increasing traction gained by the renewable sector, provides the largest landscape for energy investment in Africa, with underpinning for promoting energy security and increasing the frontiers of sustainable development in the country.

The Nigerian Petroleum Industry Act 2021(hereinafter referred to as the PIA) and Electricity Act 2023(hereinafter referred to as the EA) are the major legislations on energy governance in Nigeria. These legislations have transformed the energy governance landscape and introduced revolutionary changes with prospects for entrenching robust national and international energy investments in Nigeria. The PIA has reshaped the governance structure in the petroleum industry by removing the monopoly hitherto exercised by the Nigerian National Petroleum Industry, and creating a private sector driven investment clime that promotes market liberalism under a competitive investment economy. In the same spirit of market liberalism, the EA has restructured the Nigerian electricity market which had been under federal dominance by providing the legislative competence for states to by legislative frameworks, establish, manage and invest in the Nigerian electricity market.

The liberalisation of the petroleum and electricity markets in Nigeria has opened a new phase in the political economy of energy governance, with underpinning for promoting market competitiveness that facilitates robust private sector driven investments. This policy is in tandem with global trends and realities where nations are restructuring their economic frameworks to align with the objectives of globalisation and regional integration<sup>1</sup>, for the purposes of creating economic alliances that would facilitate trade and investments across states and continental borders. Notably, the regime on market liberalism in the Nigerian energy sector does

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<sup>1</sup> Ondale Akor and Anokwuru Faith, “Review of the Regulatory Framework on Trade Liberalisation and Transnational Cooperation in Nigeria”. Lexscripto Journal Department of Jurisprudence and Public Law, volume 2. No 2 (2025); Kwara State University, Maleta, Nigeria

not only focus on providing a cohesive framework for governance; it has also introduced a new trajectory on dispute mechanism in the sector, with significant preference for the use and application of Alternative Dispute Resolution (ADR) in the determination of energy and investment related, as well as contractual and regulatory disputes.

Global trends in dispute mechanism indicate a significant and consistent preference for the application of ADR in the determination of various investment, contractual and regulatory disputes. Propelled by reforms and deep commitment towards entrenching a functional energy economy, ADR mechanisms are increasingly gaining traction and pervasively defining energy dispute resolution system in Nigeria. This is indicated in the way and manner ADR mechanisms have shaped the dispute resolution process in the petroleum and electricity value chain.

Unarguably, cost reflective speedy resolution of disputes under an increasingly technologically driven energy economy, with growing need for leveraging expertise in navigating the complexities of energy disputes, remain key drivers for the ADR shaped trends in the Nigerian energy dispute resolution landscape. The study argues that the energy sector is a critical component of national development, thus underscoring the importance of exploring the regulatory and institutional frameworks on ADR as the backbone of dispute mechanism in the industry, with a view to determining how it can engender an investment driven economy, with a corresponding impact on energy security and development in Nigeria. Against the backdrop of this objective, the study is structured into five parts. The second and third sections of the study examine the regulatory and institutional frameworks promoting ADR in the Nigerian petroleum and electricity sectors respectively. The fourth section of the study examines the

potential effect of an ADR shaped dispute resolution landscape on energy governance and investment in Nigeria, while the fifth section of the study forms the conclusion and backed with the required recommendations.

## **2.0. REGULATORY AND INSTITUTIONAL FRAMEWORKS FOR ADR IN THE NIGERIAN PETROLEUM INDUSTRY**

The first legislative framework for petroleum regulation in the post-colonial Nigeria is the Nigerian Petroleum Act (PA) 1969.<sup>2</sup> The Act provided the framework for petroleum governance that incorporated the application of ADR as part of the dispute mechanism in the sector, with emphasis on the use of arbitration<sup>3</sup> and negotiated settlement<sup>4</sup>. However, the PA did not provide the procedure or rules to be followed in the conduct of arbitration proceedings in Nigeria. The PIA 2023 repealed the PA 1969, and serves as the extant legislation governing the Nigerian petroleum industry. The PIA provides for a dispute mechanism with significant preference for ADR in the determination of oil and gas disputes in Nigeria. The prescribed ADR mechanisms include either arbitration, mediation, conciliation or expert determination.

Under the PIA, the hydrocarbon governance landscape has been restructured through the establishment of some major regulatory institutions reposed with critical responsibilities within the industry. Among these institutions are the Nigerian Upstream Petroleum Regulatory Commission (“NUPRC”) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority. These institutions are mandated with regulatory powers over the hydrocarbon industries across the upstream,

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<sup>2</sup> Cap.P10 LFN 2004

<sup>3</sup> Section 11 of the Act

<sup>4</sup> Section 5 of the second schedule to the PA

midstream and downstream sectors of the petroleum sectors, as well as the competence to oversee the dispute mechanism processes in the industry.

The Nigerian Upstream Petroleum Regulatory Commission, otherwise known as ‘the Commission’ is established to regulate oil and gas activities in the upstream sector. The Commission has as its objective the regulation of upstream petroleum operations<sup>5</sup> and ensuring compliance with all applicable laws and regulations governing upstream operations; as well as promoting the enabling environment for operations in the upstream petroleum sector<sup>6</sup>. Petroleum activities in the upstream include the exploration and production processes and extraction of crude oil and natural gas from the earth surface. It also includes geological surveys to trace hydrocarbons, exploration and drilling. This is basically the initial stage of extracting raw materials through the application of advanced technological infrastructures including the application of artificial intelligence, automated and digitalized technology to achieve optimum exploration and production benefits.

Gas exploration is one of the major activities at the upstream. Nigeria possesses some of Africa's largest proven oil and gas reserves, that provides a strong foundation for investment, with an estimated gas reserve deposit of 5.91 trillion cubic metrics of proved natural gas reserves as at 2022,<sup>7</sup> worth over 803.4trillion US dollars as at 2023<sup>8</sup>. Nigeria has been described as a gas province with proven vast natural gas reserves estimated to be far larger

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<sup>5</sup> s 5 of the PIA

<sup>6</sup> s 6 of the PIA

<sup>7</sup> <https://www.statista.com/statistics/1387331/proved-natural-gas-reserves-in-nigeria/>; accessed on 24 February, 2024.

<sup>8</sup> <https://punchng.com/nigerias-proven-gas-reserves-worth-over-803-4tn-fg/>.. accessed on 24 February, 2024.

than its oil reserves. The government's "Decade of Gas" initiative and the Nigerian Gas Flare Commercialization Programme (NGFCP) government are initiatives aimed at attracting investment in gas explorations, expected to reduce flaring and attract significant funding<sup>9</sup>. Other activities within this sector include deep water exploration and Asset divestments for onshore and shallow-water assets, which are capable of creating opportunities for indigenous and foreign investors in the industry.

Considering the nature of petroleum activities being carried out, the upstream sector is often beleaguered by diverse disputes that are either contractual such as joint venture or service contracts, or regulatory and government connected such as tax, royalties, licensing, expropriation; and disputes connected with host communities such as royalties, environmental degradation and land rights. Operational challenges such as vandalism, oil theft, data reliability and Labour related disputes can possibly erupt in the sector. The commission has shown some form of commitment towards the dispute mechanism process in the upstream sector, with considerable preference for the application of ADR. Sometimes in August, 2024, the Commission announced plans to establish Alternative Dispute Resolution Centres ("ADRCs") in various regions of the country. This development marks a significant milestone in the practice of dispute resolution that is predicated on the application of ADR in the Nigerian oil and gas sector that aligns with global best practices. There is no express provision under the PIA mandating the minister of Petroleum Resources or the Commission to establish dispute resolution Centres in Nigeria. However, it seems the legality of the ADRC is founded under the saving provisions of Section 311(1) of the PIA, which provides that "*Any Act, subsidiary legislation or regulation, guideline, directive and*

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<sup>9</sup> Ibid

*order made under any principal legislation repealed or amended by this Act, shall, in so far as it is not inconsistent with this Act, continue in force mutatis mutandis as if they had been issued by the Commission or Authority under this Act until revoked or replaced by an amendment to this Act or by subsidiary legislation made under this Act and shall be deemed for all purposes to have been made under this Act". Section 11 of the repealed Petroleum Act provides the legal basis for the settlement of disputes through alternative dispute resolution. The provision states thus: "Whereby any provision of this Act or any regulations made thereunder, a question or dispute is to be settled by arbitration, the question or dispute shall be settled in accordance with the law relating to arbitration in the appropriate State, and the provision shall be treated as a submission to arbitration for the purposes of that law."*

From the foregoing, it would seem that section 11 of the PIA is still operational under the saving provisions in section 311 of the PIA, and giving legal teeth to the actions of the commission in establishing alternative dispute resolution centres for resolving disputes emanating from the upstream sector through application of ADR mechanisms. Establishing the ADRC shows commitment on the part of oil rich Nigerian state towards providing a strategic mechanism for dispute resolution that would mitigate risk and promote seamless upstream investments in the oil and gas industry. The ADRC represents a simplified multilayer and centralised ADR dispute mechanism anchored on effective regulatory oversight in enforcing compliance and entrenching systemic consistency in the dispute resolution process within the oil and gas sector.

The Nigerian Midstream and Downstream Petroleum Regulatory (also referred to as “the Authority”), is established under the PIA<sup>10</sup>, with the objectives and responsibilities of *inter alia*, exercising regulatory control over the midstream and downstream sectors of the Nigerian petroleum industry<sup>11</sup>, regulating midstream and downstream petroleum operations; ensuring the efficient, safe, effective and sustainable infrastructural development of midstream and downstream petroleum operations and promoting market competitiveness in the midstream and downstream sectors.

The Authority is empowered to make regulations with respect to dispute resolution and consumer protection<sup>12</sup>, thereby making it a relevant institution in the dispute mechanism within the Nigerian energy sector. In exercise of the powers conferred on it under the PIA<sup>13</sup>, the Authority has enacted the Nigerian midstream and Downstream Dispute Resolutions Regulation 2023, for the establishment the Midstream and Downstream Petroleum Alternative Dispute Resolution Centre (hereinafter referred to as “the center”). The Centre is to provide procedures for timely and cost-efficient dispute resolution, through application of ADR mechanisms in the Nigerian midstream and downstream petroleum industry<sup>14</sup>. The powers of the center are confined to petroleum activities within the midstream and downstream petroleum sectors<sup>15</sup>, encompassing powers “*to provide administrative supervision of ADR at the Centre in accordance with the*

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<sup>10</sup> s 29 of the Act

<sup>11</sup> s 30 PIA

<sup>12</sup> Ibid. s 33(t) of the PIA

<sup>13</sup> s 33(t), 120(j), 163 and 179(2) of the Petroleum Industry Act.

<sup>14</sup> Regulation 1 of the Midstream and Downstream Petroleum Alternative Dispute Resolution Regulations, 2023.

<sup>15</sup> Regulation 2

*rules adopted by the Centre or those agreed upon by the parties to disputes; resolve disputes through ADR methods in accordance with the relevant rules adopted by the Centre; coordinate, cooperate, and conclude agreements and memoranda of understanding with specialised regional and international arbitration institutions and Centres<sup>16</sup>. ”*

The scope of the mandate conferred on the center also extends to corroborate with relevant courts and agencies within and outside Nigeria with respect to the enforcement of arbitral awards as shall be issued by the Arbitration Tribunal in the Centre or with respect to ratification of any settlement agreement reached by mediation or conciliation who are registered with the Centre. Moreover, the obligation of the Centre includes to “*raise awareness and build capacity on ADR methods; enforce awards, determinations, decisions, settlements and agreements reached between parties at the Centre by itself, through the Authority or by application to the Federal High Court; and discharge other duties or exercise other powers required to achieve the objectives of the Centre*”.

The Centre has jurisdiction over disputes arising from operations between licensees or permit holders in the midstream and downstream petroleum industry<sup>17</sup>; the provision of open access in gas and petroleum liquids operations and disputes arising from the provision of third-party access to facilities and infrastructures used for gas and petroleum liquids operations by owners operating on their own account. Other aspects of disputes within the jurisdiction of the Centre include gas trading and settlement transactions; midstream and downstream petroleum Labour matters and

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<sup>16</sup> Regulation 4

<sup>17</sup> Regulation 5

referrals made to the Centre by a court of competent jurisdiction. The scope of jurisdiction extends to commercial, technical and operational aspects of midstream and downstream petroleum operations among licensees or permit holders any other dispute involving companies, within or outside Nigeria, in connection with midstream and downstream petroleum operations.

Licensees and holders of permits in respect of midstream and downstream petroleum activities with conditions for refereeing disputes to the center are also obligated under the regulations to explore this option before proceeding to litigation<sup>18</sup>. Moreover, the Centre has the authority to use any of the ADR mechanisms spanning expert determination, conciliation, mediation, arbitration and any other dispute mechanism as may be approved by it<sup>19</sup>, while the procedures for use and application of the ADR mechanisms are provided in the rules and guidelines made in the regulations<sup>20</sup>.

In apparent recognition of the need to promote inclusivity and broaden participatory rights for host communities where petroleum exploration and other related activities take place, the PIA provides for the host communities development initiative aimed at fostering sustainable prosperity within host communities, through the provision of direct social and economic benefits from petroleum operations to enhance peaceful and harmonious co-existence between licensees or lessees and host communities<sup>21</sup>. The Commission and Authority are mandated to make

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<sup>18</sup> Regulation 5(2)

<sup>19</sup> Regulation 6

<sup>20</sup> Regulation 6(2)

<sup>21</sup> Section 234 PIA

regulations in this respect on areas within their competence and jurisdiction as specified in the Act<sup>22</sup>, including a grievance mechanism to resolve disputes between settlors and host communities<sup>23</sup>. The Host Communities Development Trust is established under the PIA with the responsibility reposed on settlor or settlors as the case may be, to incorporate the trust for the benefit of the host communities for which the settlor is responsible<sup>24</sup>.

Pursuant to the provisions of the PIA, the commission enacted Petroleum Host Community (Commission) Regulations touching *inter alia*, on the management of host communities' development trust. The regulations apply to host communities under the jurisdiction of the Commission in accordance with section 235 of the PIA. The Regulation provides for the Grievance Mechanism of host communities, made pursuant to Section 235 PIA. Section 16 of the regulation states that any dispute between host communities be referred to the National Oil and Gas Excellence Centre (NOGEC), being the Alternative Dispute Resolution Centre (ADRC), for resolution through either of the ADR mechanisms of mediation, reconciliation or arbitration.

### **3.0. REGULATORY AND INSTITUTIONAL FRAMEWORKS FOR ADR IN THE NIGERIAN ELECTRICITY INDUSTRY.**

The Electricity Act (EA) 2023, is the current legislation governing the electricity market in Nigeria. Preceded by the Electricity Sector Power Reforms Act (ESPRA) 2005, the EA 2023 provides for a private sector driven electricity economy under a liberalised market architecture, by establishing a comprehensive legal and institutional framework that

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<sup>22</sup> Section 234(2) PIA

<sup>23</sup> Section 234(3) PIA

<sup>24</sup> <sup>24</sup> Section 235 PIA

promotes competitiveness<sup>25</sup>. As successor to the ESPRA 2005, the EA 2023, has provided a haven for electricity investment, which can potentially optimize exploitation of the vast renewable energy resources in the country, and promote a functional electricity market, which addresses infrastructural gaps, with prospects for engendering energy security in Nigeria.

The EA provides for a dispute settlement procedure that is predominantly ADR oriented<sup>26</sup>. The ADR mechanisms span arbitration, mediation, settlement, expert determination and conciliation. The National Electricity Regulatory Commission is conferred with vast regulatory powers to oversee the electricity market in Nigeria. Besides its exercise of administrative functions, the commission exercises quasi-judicial powers under the law, in resolving electricity disputes across the value chain of electricity supply in Nigeria. In the exercise of its administrative or quasi-judicial and regulatory functions, the commission is mandated under the law to explore the application of ADR mechanisms spanning arbitration, mediation, conciliation, negotiated settlements or use of expert determination.

The Customer Protection Regulations 2023 (CPR2023) is a subsidiary regulation of the Electricity Act 2023. The CPR2023 deals with issues touching on consumer's protection in Nigeria, and provides for an ADR adorned multilayered dispute mechanism that promotes negotiated settlements, dialogue and mediation in the settlement of disputes within the electricity supply industry. The CPR2023 mandatory obligates distribution companies within the electricity supply chain to resolve complaints within

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<sup>25</sup> Section 1 of the Act

<sup>26</sup> Sections 50, 51, 49,223, 184(5) of the Electricity Act 2023

15 days of receipt, failing which dissatisfied consumers may proceed to the closest forum Office belonging to the commission for redress within 30 days. The final right of appeal lies with the national body of the commission, being the apex regulatory body overseeing Nigeria's electricity supply industry.

In the unlikely but not impossible situations where a consumer is still dissatisfied with the decision delivered by the commission, such a party retains the option of seeking redress in a court of competent jurisdiction. This safeguard empowers consumers to fully exercise their constitutionally guaranteed rights through the judicial system that involves a meticulous review of case facts and presented evidence, guided by established legal principles serving as precedents, and ultimately culminating in a binding judgment with the full weight of law. The emphasis however, is on the growing preference for the application of ADR in the electricity dispute resolution landscape as a first option before parties may resort to litigation. The ADR mechanism is applied by regulatory and administrative establishments alike within the electricity industry. For instance, the Nigerian Electricity Management Services Agency (NEMSA) is established<sup>27</sup> to carry out major regulatory functions within the Nigerian electricity industry. NEMSA has a dispute settlement process that also places emphasis on the application of ADR. The procedure is that in the event of any dispute within the internal organisation of NEMSA, or against any external person or establishment, NEMSA, shall first apply ADR mechanisms such as mediation, negotiation or conciliation before resorting to court<sup>28</sup>. Potential investors and disputants are mandatorily expected

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<sup>27</sup> s 172 of the Electricity Act

<sup>28</sup> s 184(5) of the Electricity Act

under the Act to, as a matter of necessity, explore ADR mechanisms as a first option, before resorting to litigation.

#### **4.0. ADR FRAMEWORKS AND INVESTMENT TRAJECTORY IN THE NIGERIAN ENERGY SECTOR**

Nigeria's energy profile presents a platform of tremendous investment opportunities<sup>29</sup>. The country has proven crude oil reserves estimated at 36,967 million barrels and robust natural gas reserves estimated at 5,913 billion cubic meters<sup>30</sup>. Nigeria exports 1.38 million barrels of crude oil per day and 32,190 million cubic meters of natural gas, valued at \$53.46 million. The upstream sector of the petroleum industry involves majorly, the exploration and production aspects, in extracting crude oil and natural gas from the earth surface; that also includes geological surveys to trace hydrocarbons, exploration and drilling. This is basically the initial stage of extracting raw materials through the application of advanced technological infrastructures including the application of artificial intelligence, automated and digitalized technology to achieve optimum exploration and production benefits. Gas exploration also define activities at the upstream. With an estimated gas reserve deposit of 5.91 trillion cubic metrics as at 2022,<sup>31</sup> worth over 803.4tillion US dollars as at 2023<sup>32</sup>, Nigeria possesses some of Africa's largest proven oil and gas reserves and a strong foundation for investment.

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<sup>29</sup> National Planning Commission (NPC) “Report of the Vision 2020 national technical working group on energy sector” (2009) at 89.

<sup>30</sup> Okah Elumah, L., N Isah, S., and Sopelola, T. A., Exploring Financing Strategies in Oil and Gas Industry: Lessons from Nigeria, Petroleum Business Review, Vol. 9, No. 1, p. 1–12, 2025. DOI: 10.22050/pbr.2025.502211.1380

<sup>31</sup> <https://www.statista.com/statistics/1387331/proved-natural-gas-reserves-in-nigeria/>; last visited on the 24<sup>th</sup> of February, 2024.

<sup>32</sup> <https://punchng.com/nigerias-proven-gas-reserves-worth-over-803-4tn-fg/>. Last visited on the 24<sup>th</sup> of February, 2024.

Investments in Nigeria's midstream sector in 2025 were primarily driven by natural gas projects, strategic government funding, and the operational start of the Dangote Refinery. The Petroleum Industry Act (PIA) provides a legal and fiscal framework that has created new avenues for private and public sector midstream investments<sup>33</sup>. One of such initiatives is the Midstream and Downstream Gas Infrastructure Fund (MDGIF), where the federal government has released a total of N122 billion to six gas infrastructure companies, by way of committing public and private sectors to transform the domestic gas value chain.

The funding is intended to aid the development of Liquefied Natural Gas (LNG), Compressed Natural Gas (CNG), and Liquefied Petroleum Gas (LPG) projects. Furthermore, the Nigerian Gas Association reported over \$5 billion in new investments for the gas sector as of early 2024<sup>34</sup>, citing increased global confidence orchestrated by policy reforms in the industry. The Presidential Compressed Natural Gas Initiative (PCNGI) is another key policy initiative in the industry that has attracted over \$500 million in investments intended to boost the use of CNG to address transport fuel needs in Nigeria.<sup>35</sup>

The downstream sector is engaged in refining and distribution of petroleum products to final consumers within the production value chain in the hydrocarbon industry. With deregulation that allows for private ownership, there are prospects for investment in both large-scale and modular refineries. The Dangote refinery demonstrates the viability of large private

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<sup>33</sup> Ibid.

<sup>34</sup> Ibid

<sup>35</sup> Ibid

refineries that aims to reduce Nigeria's reliance on imported petroleum products.

The electricity sector also has potential for investment with increasing attention towards renewable energy. The Nigerian renewable profile is robust with hydropower potential put at 10,000 megawatt and abundant solar radiation potential estimated at 3.5–7.0 kilowatt-hours per square meter per day<sup>36</sup>. The restructured market architecture in Nigeria has prospects for encouraging investment in renewable energy resources, given the prevailing market dynamics that promote collaboration and cost reflective efficiency under a competitive economy, which underpins innovative allocation of resources, thereby enhancing economies of scale.

These projected energy investments across the hydrocarbon and petroleum value chain are anchored on a functional market economy that is predicated on efficient dispute mechanism. The petroleum Industry Act 2021 and Electricity Act 2023 are the major regulatory frameworks on energy governance in Nigeria, with an ambitious dispute mechanism framework that is significantly anchored on the application of ADR. This mechanism is been explored by relevant institutions across the upstream and downstream value chain of the hydrocarbon industry. The establishment of the ADRC by the Nigerian Upstream Petroleum Regulatory Commission as the centralised agency for resolving upstream petroleum disputes leveraging ADR mechanisms; the enunciation Of ADR Regulations with strong emphasis on the use of ADR mechanisms in resolving midstream and downstream petroleum disputes by the Nigerian Midstream and

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<sup>36</sup> Id at 20.

Downstream Regulatory Authority, all attest to the growing preference of ADR.

Within the electricity sector, the Nigerian National Electricity Regulatory Commission (NERC) also leverages on ADR mechanisms in the resolution of disputes involving investors. The premium accorded this dispute resolution method is reflected in the emphasis placed on the application of ADR with regards to complaints from consumers, such that the regulatory commission is mandated to provide detailed guidelines on ADR which must be necessarily followed as a first option in resolving disputes within the electricity industry. This method has proved over time to prevent the escalation of disputes that would otherwise be flooding the courts which are already overstretched.

The National Policy on Arbitration and ADR 2024<sup>37</sup> has further elevated ADR practice in Nigeria in manner that is relevant to the electricity market by providing for small claims arbitration designed for disputes under five million Naira disputes. This framework is designed for little disputes involving metering and billing. Decisions from these proceedings are expected to be reached within 60 days. Additionally, the policy also encourages the inclusion of Multi-Tiered Dispute Resolution Clauses in investment and licensing Contracts spanning negotiation, mediation and arbitration as first options before resorting to litigation, with specified timelines for the determination of ADR options. Furthermore, the policy provides for mandatory judicial support for ADR, by among other things, upholding the arbitrability of electricity contracts.

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<sup>37</sup> Footnote 13

ADR therefore presents a flexible multilayer dispute resolution mechanism that provides cost reflective, speedy and expert driven solution in the resolution of either contractual, regulatory or administrative disputes within the Nigerian energy landscape. Given that energy markets function optimally under effective dispute resolution architecture<sup>38</sup>, the ADR mechanisms therefore have potential for promoting a functional energy economy that drives market competitiveness, and facilitating the optimum exploitation and exploration of the vast energy resources in Nigeria. This has implication for promoting energy sovereignty and orchestrating the realisation of energy security, with implication for redefining the economic trajectory in Nigeria.

### **5.0. Conclusions and Recommendations.**

Global trends indicate that the dispute resolution landscape is increasingly being dominated by the application of ADR mechanisms, spanning arbitration, mediation, conciliation, negotiated settlement and use of expert determination. The dynamics of ADR provides speedy, cost reflective and expert determination of disputes which are compatible with modern ways of doing business. The Nigerian energy sector is the main stay of the national economy. This has influenced the introduction of regulatory frameworks aimed at providing a governance architecture that would promote robust investments across the hydrocarbon and electricity value chain in the energy sector.

In the contest of the impact of dispute mechanism in promoting a functional market within a critical sector like energy, the study has explored the

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<sup>38</sup> Ondale Akor, “Energy Arbitration and Investment Prospects in Nigeria under a Liberalised Market Economy”. *Journal of Commercial and Property Law*, Vol. 10 (2024) Nnamdi Azikiwe University Nigeria

regulatory and institutional frameworks governing the dispute landscape and the impact on the energy economy. The Nigerian energy governance architecture, under the aegis of the Petroleum Industry Act 2021 and the Electricity Act 2023, respectively, have established a liberalised energy economy in Nigeria under an envisioned market that is predominantly shaped by the application of ADR mechanisms in resolving energy disputes in Nigeria.

Key regulatory institutions like the Nigerian Upstream Regulatory Commission, Midstream and Downstream Regulatory Authority, the Nigerian National Electricity Regulatory Commission (NERC) and Nigerian Electricity Management Services Agency (NEMSA) respectively, exercise regulatory authority and oversee operational activities across the value chain in the petroleum and electricity sectors within the energy industry. These institutions leverage the ADR in resolving administrative, regulatory and contractual disputes within the energy market. The application of ADR mechanisms in resolving energy disputes has significantly promoted stability and investment in the Nigerian energy market. It has prospects for addressing myriad of problems under a technologically driven energy economy and facilitating the exploitation of the vast energy potential in Nigeria.

A functional energy market predicated on an efficient dispute resolution landscape can promote a robust investment and positively impact on the Nigerian economy. The Nigerian energy governance architecture provides an effective ADR shaped dispute resolution landscape that can engender the optimal exploitation of energy potential, promote investment and guarantee energy sovereignty and security in the country. What the study recommends is the need for an established energy court that would provide a more

sustainable court oriented and connected ADR dispute resolution system,  
as a sure way of entrenching a functional energy investment economy in  
Nigeria