

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CS/1324/2024

BETWEEN:

**DANGOTE PETROLEUM REFINERY AND
PETROCHEMICALS FZE** **PLAINTIFF**

AND

- 1. NIGERIA MIDSTREAM AND DOWNSTREAM
PETROLEUM REGULATORY AUTHORITY (NMDPRA)**
 - 2. NIGERIA NATIONAL PETROLEUM CORPORATION
LIMITED (NNPC)**
 - 3. AYM SHAFI LIMITED**
 - 4. A. A. RANO LIMITED**
 - 5. T. TIME PETROLEUM LIMITED**
 - 6. 2015 PETROLEUM LIMITED**
 - 7. MATRIX PETROLEUM SERVICES LIMITED**
- DEFENDANTS**

FEDERAL HIGH COURT
ABUJA
05 NOV 2024
PAID
Sign: [Signature]
301145385745

**3RD, 4TH AND 7TH DEFENDANTS' COUNTER AFFIDAVIT IN OPPOSITION TO THE
PLAINTIFFS' ORIGINATING SUMMONS**

I, **Ali Ibrahim Abiodun**, Male, Adult, Muslim, Accountant and Nigerian citizen of 62 Lake Chad Crescent, Maitama, Abuja, do hereby make oath and state as follows:

1. That I am the Acting Managing Director of the 3rd Defendant, by virtue of which I am conversant with the facts of this case.
2. That I have read the Affidavit in support of the Originating Summons, and I understand the purport thereof.

3. That I depose to this Counter Affidavit from facts within my personal knowledge, except where otherwise stated.
4. That I have the consent and authority of the 3rd, 4th and 7th Defendants (*hereinafter in this process and the accompanying written address, referred to as "the Defendants"*) to swear to this Counter affidavit.
5. That the business of the Defendants is to supply petroleum products in Nigeria at competitive prices, and is neither to take over the business of the Plaintiff nor to challenge the Plaintiff in its refining business.
6. That the Defendants are capable and qualified to be licenced as importers of refined petroleum products within the meaning of Section 317(9) of the Petroleum Industry Act and their licences to import the said products were lawfully and validly issued to them by the appropriate authority (the 1st Defendant).
7. That the businesses of the Defendants do not in any way hamper, disturb or destroy the business of the Plaintiff; rather, what the Plaintiff seeks is to have monopoly of the petroleum industry in Nigeria where only it can supply and distribute the product, and dictate who gets what and at what price in the country.
8. That all over the world, every country ensures energy security. Even countries with much higher oil reserves than Nigeria and with higher petroleum refining capacity still import and store petroleum products to guard against eventualities and to ensure steady supplies in the event of unforeseen circumstances, thereby entrenching energy security.
9. That examples of countries with higher petroleum output and refining capacities than Nigeria that still import petroleum products till date are:
 - a. **The United States of America** –From verifiable report on www.eia.gov (United States Energy Information Administration), the United States of

America has a capacity of production of 26.691 million barrels per day (b/d) which includes crude oil of 12.933million b/d.

- b. Report from www.statista.com (the website that monitors oil refineries and production worldwide) shows that the United States of America has domestic 132 oil refineries as at January, 2024.
- c. The United States Energy Information Administration on March 29, 2024, published on its website (www.eia.gov) that the United States in 2023, imported 8.51 million b/d of refined petroleum products from 86 countries.
- d. Report published in science.howstuffworks.com indicates that the United States of America in its efforts to ensure energy security, stores over 700 million barrels of petroleum products.
- e. Another example of a country with higher oil production and higher refining capacity than Nigeria that imports refined petroleum products is Saudi Arabia. Saudi Arabia which is one of the biggest oil producing countries in the world has five refineries, with a total daily refining capacity of 2.90 million b/d (www.ceicdata.com), yet Saudi Arabia imports and stores refined petroleum products, also aimed at ensuring energy security. From report published in www.oec.world (a Saudi oil reporting institution), Saudi Arabia in 2023, imported refined petroleum products worth \$4.87 billion. Same is reported in www.bloomberg.com which reveals that Saudi Arabia imports refined petroleum from Netherlands, United States and Qatar. *Attached herewith and marked Exhibits and B are copies of the aforesaid Reports together with a Certificate of Compliance.*

f. Similarly, other major oil producing countries, including but not limited to **UAE, Bahrain, Qatar, Oman** and a host of others also import petroleum products and store same for their energy security.

10. That with respect to the 3rd Defendant:

- i. That the objects of the 3rd Defendant, amongst others, include marketing, sales, importation, distribution, storage, haulage and retail of petroleum products. As part of efficient storage and distribution of petroleum products in Nigeria, the 3rd Defendant owns a petroleum storage facility in Ifie-Kporo, Warri South Local Government Area of Delta State.
- ii. That the 3rd Defendant has a fleet of petroleum tank trucks of 1,011, owns and operates 155 filling stations all over the States of the Federal Republic of Nigeria.
- iii. That granting the orders sought by the Plaintiff will lead to massive retrenchment of the entire staff of the 3rd Defendant and closure of its businesses with grave consequences to the Nigerian populace and the economy.
- iv. That the 3rd Defendant is designated by the 1st Defendant as a major oil and gas company in Nigeria and is licenced by the 1st Defendant as an importer of petroleum products in Nigeria to enhance energy security and ensure availability of products all over Nigeria.
- v. That since the Plaintiff started refining petroleum products, the 3rd Defendant has been massively patronizing the Plaintiff and has made purchases from the Plaintiff worth about 116,000,000 litres of Automotive Gas Oil (AGO) and hundreds of metric tons of Premium Motor Spirit notwithstanding that the Plaintiff lacks the capacity to meet the order placed to it by the 3rd Defendant.

vi. That it takes average of two months for the Plaintiff to supply products ordered from it, and indeed hardly ever meets the demand, as trucks wait for months to be loaded at the Plaintiff's refinery, whereas it takes about three weeks to import petroleum products from offshore refiners.

11. That during a meeting with officials of the 4th Defendant which held in the office of the lead Counsel to the Defendants at No. 10, Santana Close, off Malakal Drive, Off Oda Crescent, off Dar-Es-Salam street, Wuse 2, Abuja, at about 4pm on the 1st day of November, 2024, Mr. Usman Jalo, the Head of Trade and Finance of the 4th Defendant, informed me of the following facts which I verily believe to be true:

- i. That the 4th Defendant is an oil marketing company designated by the 1st Defendant as a major oil and gas company in Nigeria and is licenced by the 1st Defendant as an importer of petroleum products in Nigeria because of its pedigree and huge investment spread/reach in the Nigerian oil industry to enhance energy security and ensure availability of petroleum products in Nigeria at affordable prices.
- ii. That the 4th Defendant owns the A. A. Rano oil depot situate at Ijegun-Egba in Lagos with a holding capacity of 55,000,000 litres and loading capacity of about 200 trucks per 24 hours. It also has about 220 fully owned filling stations and another 85 affiliate and leased filling stations strategically located in various states of Nigeria.
- iii. That the 4th Defendant also owns about 900 tanker trucks and another 402 belonging to third parties that lift and freight products for it.
- iv. That the 4th Defendant owns and operates its own vessel (oil tanker) which takes petroleum products from refineries and mother vessels to its oil depot at Ijegun Egba, Lagos and other leased depots.

- v. That the 4th Defendant's trade with the Plaintiff started immediately the Plaintiff began operations in April, 2024.
- vi. That the 4th Defendant was one of first off takers to off-take Automotive Gas Oil (AGO) from the Plaintiff's refinery, loading its first 20,000 MT on or about 16th of April, 2024, and it has since bought and loaded other cargos totalling about 190, 000, 000 litres; a feat that would suffice for any foreign refinery or supplier to list the 4th Defendant as a valued and treasured customer.
- vii. That the 4th Defendant alone has, by the Plaintiff's own chart and statistics, off-taken 24% of the total AGO produced by the Plaintiff since the Plaintiff's commencement of operations.
- viii. That despite the huge patronage from the 4th Defendant, the Plaintiff keeps placing one obstacle or the other on the 4th Defendant's parts thus making it difficult for the 4th Defendant's purchase products from the Plaintiff.
- ix. That oil in its crude and refined form is an international commodity that is traded internationally and therefore has its universally accepted trade practices and trading platforms that ensure fairness and sanctity of contract in the industry.
- x. That the plaintiff prefers to operate outside the internationally accepted and applicable trade practices and norms obtainable at Intercontinental Continental Exchange (ICE), Plats and Argus (herein after referred to collectively as the platforms), the same practices the Plaintiff employs when buying crude from its suppliers.
- xi. That the internationally accepted oil trading options on these platforms are premium, flat and discount which allow buyers to trigger prices at either premium, flat or discount which bind both the buyer and the

seller once it is triggered thus locking the price as triggered. This practice protects both the buyer and the seller from price fluctuations and increases.

- xii. That the plaintiff has jettisoned this fair practice and introduced an oppressive trade practice which requires a buyer to deposit 110% in Letters of Credit (LC) of whatever quantity it wants to off-take and the off-taker is told of the actual price it would pay for what it has off-taken 5 days from the date of the LC date (i.e. after loading the product from the Plaintiff's refinery.
- xiii. That the buyer therefore does know at what price it is buying until it has taken delivery and is most probably already selling to its customers at a price below its cost price.
- xiv. That this practice leaves the marketers, the final consumer and Nigeria at the mercy and whims of the plaintiff.
- xv. That the landing costs of imported products with all the shipping, insurance and custom charges, are cheaper than the whole sale price (if any) being offered by the Plaintiff for its products that has no custom duties and are cheaper to freight to our depots.
- xvi. That the Plaintiff charges and collects 0.5% levy due to the 1st Defendants on purchases made from it.
- xvii. That if Nigeria puts all her energy eggs in one basket by stopping importation of petroleum products and allowing the Plaintiff to be the sole producer and supplier of petroleum products in Nigeria, with liberty to determine the prices at which it supplies the products, the prices of petroleum products in Nigeria will continue to rise and energy security will elude Nigeria.

- xviii. That in the event of any breakdown in or obstruction to the production chain of the plaintiff which stops it from producing, Nigeria will be thrown into energy crises as Nigeria does not have the reserves that would last it for the at least 30 days that it would need to order, pay for, freight and import refined products into tanks in Nigeria.
12. That the Defendants have a total staff strength of **over 19,535 employees**, majority of whom are Nigerians who earn a living from their remunerations and other fringe benefits accruing to them from the Defendants.
13. That the bulk of the employees of the Plaintiff are foreigners (Indians).
14. That withdrawing the import licences lawfully and validly issued to the Defendants or denying them further issuance of import licences will not only cripple the lawful businesses of the Defendants which contribute immensely to Nigeria's Gross Domestic Products (GDP), but will inescapably result in mass unemployment in the Country, as the Defendants will be constrained to retrench majority of their employees due to loss of business and earnings for the companies.
15. That the Plaintiff's refinery does not produce adequate Premium Motor Spirit for the daily use/consumption of Nigerians, and there is nothing before this honourable Court to the contrary.
16. That in light of the foregoing, the Defendants are well qualified and entitled to be issued import licence by the 1st Defendant to import petroleum products in Nigeria within the meaning of Section 317(9) of the Petroleum Industry Act.
17. That vesting the Plaintiff with the power of monopoly in Nigeria's petroleum industry as it seeks vide the instant suit, will kill competitive pricing of petroleum products in the country, further deteriorate Nigeria's critically ailing economy and unleash untold hardship on Nigerians, all of which constitute a recipe for disaster in the polity.

18. That from the facts deposed to in the preceding paragraphs of this Counter Affidavit, the Defendants are companies/entities with proven track record of international crude oil and petroleum products trading or marketing within the purview, contemplation and meaning of Section 317(9) of the Petroleum Industry Act, 2021.
19. That the Defendants specifically deny Paragraphs 4, 5, 6, 9, 10, 14 and 15 of the Counter Affidavit in support of the Originating Summons, and put the Plaintiff to the strictest proof thereof.
20. That the Defendants specifically deny Paragraph 13 of the Affidavit in support of the Originating Summons, and put the Plaintiff to the strictest proof thereof.
21. That the Defendants specifically deny Paragraphs 16, 17, 18, 19 and 20 of the Affidavit in support of the Originating Summons, and put the Plaintiff to the strictest proof thereof. In further answer thereto and contrary to same, the Defendants state:
 - a. That Nigeria remains the most populous black nation in the whole world with a population of over **234 million** people.
 - b. That there is no credible and verifiable forensic material before this Honourable Court showing that the local consumption rate of Automotive Gas Oil (AGO) in Nigeria per day is 14 million litres or that the Plaintiff produces 15 million litres per day.
 - c. That there is no credible and verifiable forensic material before this Honourable Court showing that the local consumption rate of Jet fuel (Jet A-1) in Nigeria is 2.5 million litres per day or that the Plaintiff produces 7.5 million litres of Jet fuel (Jet A-1) per day.
 - d. That again, no credible and verifiable forensic piece of evidence is before this noble Court showing that the Plaintiff has the capacity to

- produce uninterruptedly 35 million litres of Automotive Gas Oil (AGO) and 9 million Jet A-1 products per day.
- e. That in light of the above, there is nothing before this Honourable Court showing that the Plaintiff is refining and supplying adequate petroleum products for the daily use/consumption of Nigerians.
 - f. That without the Defendants and others importing petroleum products into Nigeria, there will no doubt be a huge shortfall in petroleum products supply in the country, which will gravely hurt Nigeria's economy and further inflict excruciating pains and hardship on Nigerians.
 - g. That allowing the Plaintiff to be the sole supplier of refined petroleum products to Nigerians is a clear design to make the Plaintiff a monopolist in Nigeria's petroleum sector which sector is the backbone of Nigeria's economy and very crucial to energy security.
 - h. That no country all over the world develops, has ever developed and will ever develop by encouraging monopoly in any of the key sectors of its economy or at all.
 - i. That monopoly is against the Nigerian laws and is not in the interest of the country.
 - j. That healthy competition in businesses, trade and investment is the hallmark of a progressive, developing and developed economy.
 - k. That amidst the glaring absence of any credible and demonstrable proof that the Plaintiff refines and supplies adequate petroleum products for the daily use/consumption of Nigerians, giving the Plaintiff judicial imprimatur to be the sole supplier of refined petroleum products to Nigerians, thereby encouraging monopoly in a

major aspect of Nigeria's oil industry, is a recipe for disaster in Nigeria's energy sector.

1. That granting the reliefs sought by the Plaintiff which solely aim at making the Plaintiff a monopolist in Nigeria's petroleum sector is a design to leave Nigeria and Nigerians at the mercy of the Plaintiff with respect to availability and cost of purchasing petroleum products in the Country.
 - m. That in further answer to Paragraph 20 of the Affidavit in support of the Originating Summons and contrary to same, the Defendants have proven track records of international crude oil and petroleum products trading, in consequence of which they are eligible and eminently qualified to be issued import licences by the 1st Defendant.
22. That contrary to Paragraphs 21 and 22 of the Affidavit in support of the Originating Summons:
- a. The Defendants are fully qualified for the issuance of the import licences issued to them by the 1st Defendant, as they duly met all the legal requirements for the issuance of such import licences, before same were issued to them.
 - b. The import licences lawfully and validly issued to the Defendants did not in any way whatsoever, cripple the Plaintiff's business or its refinery.
 - c. I am aware that the import licences issued to the Defendants by the 1st Defendant are in line with the provisions of Petroleum Industry Act, 2021, the Federal Competition and Consumer Protection Act, 2018 and other relevant laws.

d. That as the Plaintiff itself put it in Paragraph 22 of the Affidavit in support of the Originating Summons, one of the foundational purposes of establishing Free Zones is “to foster competition.”

23. That contrary to Paragraph 23 of the Affidavit in support of the Originating Summons, Defendants have never engaged in and do not engage in any activity capable of preventing the Plaintiff's refinery or any other domestic refinery from surviving.
24. That contrary to Paragraph 24 of the Affidavit in support of the Originating Summons, Defendants are very happy that the Plaintiff is refining crude oil domestically which accounts for the huge patronage by the 3rd and 4th Defendants of the Plaintiff's refined products as shown in Paragraph 11 above, despite the enormous obstacles placed by the Plaintiff on the Defendants which make it difficult for them to continue to patronise the Plaintiff.
25. That further to the above, the Defendants do not know of any conspiracy against the Plaintiff, and are not part of and will never be part of any conspiracy by International Oil Companies or any other interest or at all against the Plaintiff.
26. That contrary to Paragraph 25 of the Affidavit in support of the Originating Summons, Defendants have never and will never do anything to sabotage the operations of the Plaintiff. The Defendants have never sponsored or in any way whatsoever engaged in any form of media campaign against the Plaintiff. Again, the Defendants neither know any David Hundeyin nor offered him or any person by whatever name called any sum of money or other inducements to publish any damaging article or say anything against the Plaintiff.
27. That since in **Exhibit D²** attached to the Originating Summons, the Plaintiff claimed that it has been importing crude oil to Nigeria, nothing stops it from exporting its products.

28. That during a meeting with the lead Counsel to the Defendants in this case, (Mr. Ahmed Raji, SAN), in his office at No. 10, Santana Close, off Malakal Drive, Off Oda Crescent, off Dar-Es-Salam street, Wuse 2, Abuja, on the 1st day of November, 2024 at about 4pm, he informed me of the following facts which I verily believe to be true:

- i. That no leave of this Honourable Court was obtained by the Plaintiff before the commencement of this action which is more or less a judicial review of administrative action of the 1st Defendant.
- ii. That the licences issued to the Defendants by the 1st Defendant for importation of petroleum products in Nigeria are lawful, valid and ought not to be revoked under the circumstances sought by the Plaintiff or at all.
- iii. That the import licences being issued to the Defendants by the 1st Defendant are for importation of petroleum products aimed at obviating monopoly in the country's petroleum industry, ensuring competitive pricing and supply of petroleum products for the good health of Nigeria's economy and for the benefit of Nigerians, and also for the overall and fundamental purpose of ensuring energy security for the country.
- iv. That the licences being issued to the Defendants by the 1st Defendant do not in any way or manner contravene the provisions of the Petroleum Industry Act, 2021. That on the contrary, any refusal by the 1st Defendant to issue import licences to the Defendants who are well qualified to be issued such licences upon their applications for same in the prescribed manner, thereby vesting the Plaintiff with monopoly in Nigeria's oil industry will be a contravention of the extant Federal Competition and Consumer Protection Act, 2018 and other relevant laws.
- v. That the enormous patronage by the 3rd and 4th Defendants of the Plaintiff's refined products in huge sums of U.S Dollars as shown in the preceding

paragraphs of this Counter Affidavit shows that the 1st Defendant has been encouraging investment in the Plaintiff's refinery, as enjoined by the provision of Section 317(8) of the Petroleum Industry Act. 2021.

- vi. That in any event, the provision of Section 317(8) of the Petroleum Industry Act. 2021 which intentionally used the word "*may*" does not impose a mandatory duty/obligation on the 1st Defendant, contrary to Paragraph 26(d) of the Affidavit in support of the Originating Summons.
- vii. That contrary to Paragraph 27 of the Affidavit in support of the Originating Summons, any distress or business/investment jeopardy experienced by the Plaintiff is/are not attributable to any action or inaction of the Defendants, but are indeed self-inflicted by the Plaintiff, especially in light of the depositions contained in Paragraph 11 of this Counter Affidavit.
- viii. That the Defendants, unlike the Plaintiff who, by its admission, operates from a "tax Heaven", are reputable tax payers who are contributing to the tax revenue of the country which revenue is being used to improve infrastructures such as the road to the Plaintiff refinery.
- ix. That Nigeria is a member of World Trade Organisation (WTO) which is currently headed by a Nigerian in the person of Dr. Ngozi Okonjo-Iweala.
- x. That Nigeria is a signatory to some of the Protocols under the WTO which make it mandatory for Nigeria to promote competition in key sectors.
- xi. That as a member of WTO and a signatory to some of the Organisation's protocols, Nigeria is not even supposed to promote State monopoly not to talk of private monopoly.

29. That contrary to Paragraph 29 of the Affidavit in support of the Originating Summons:

- a. The Defendants have never obtained or derived any favour/advantage from the 1st Defendant arising from violation of any statutory provision or breach of any law by the 1st Defendant.
- b. The Defendants have never obtained or derived any favour/advantage from the 1st Defendant arising from any action or inaction of the 1st Defendant aimed at causing any disadvantage or disfavour to the Plaintiff.

30. That contrary to Paragraphs 30 and 31 of the Affidavit in support of the Originating Summons:

- a. It is in the interest of justice and the best interest of the Federal Republic of Nigeria, that the reliefs sought in the Plaintiff's Originating Summons are refused and the action dismissed with substantial cost.
- b. That in light of the facts deposed to in this Counter Affidavit, granting the reliefs sought by the Plaintiff will sit Nigeria on a keg of gun powder waiting to explode.
- c. That the Affidavit in support of the Originating Summons was not deposed to in good faith and in accordance with the Oaths Act, as the facts contained therein are false and the Plaintiff's action brought in bad faith with the sole aim of constituting itself a monopoly in Nigeria's petroleum industry to the grievous disadvantage of Nigeria and Nigerians.

31. That I depose to this Counter Affidavit in good faith, conscientiously believing its contents to be true and correct in accordance with the Oaths Act.



DEPONENT

Sworn to at the Registry of the Federal High Court, Abuja.

This *5th* Day of *Nov*, 2024.

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATHS

POLITICS NIGERIA



EXH. A

Frequently Asked Questions (FAQs)

How much petroleum does the United States import and export?

Crude oil imports of about 6.48 million b/d accounted for about 77% of U.S. total gross petroleum imports.

In 2023, the United States exported about 10.15 million b/d of petroleum to 173 countries and 3 U.S. territories (American Samoa, Puerto Rico, and U.S. Virgin Islands). Crude oil exports of about 4.06 million b/d accounted for 40% of total U.S. gross petroleum exports. The resulting total net petroleum imports (imports minus exports) were about -1.64 million b/d, which means that the United States was a net petroleum exporter of 1.64 million b/d in 2023.

The top five source countries of U.S. gross petroleum imports in 2023 were Canada, Mexico, Saudi Arabia, Iraq, and Brazil.

Top sources and amounts of U.S. petroleum imports (percentage share of total), respective exports, and net imports, 2023
million barrels per day

Import sources	Gross Imports	Exports	Net imports
Total, all countries	8.51	10.15	-1.64
OPEC countries	1.34 (16%)	0.03	1.31
Persian Gulf countries	0.86 (10%)	0.01	0.86
Top five countries¹			
Canada	4.42 (52%)	0.80	3.62
Mexico	0.91 (11%)	1.17	-0.26
Saudi Arabia	0.44 (5%)	0.00	0.44
Iraq	0.32 (4%)	0.00	0.32
Brazil	0.26 (3%)	0.24	0.02

Data source: U.S. Energy Information Administration, *Petroleum Supply Monthly*, February 2024

Note: Ranking in the table is based on gross imports by country of origin. Net import volumes in the table may not equal gross imports minus exports because of independent rounding of data.

The top five destination countries of U.S. total petroleum exports by export volume and percentage share of U.S. total petroleum exports in 2023 are:

- Mexico—1.17 million b/d—11%
- China—0.98 million b/d—10%
- The Netherlands—0.86 million b/d—9%
- Canada—0.80 million b/d—8%
- Japan—0.62 million b/d—6%

Learn more:
 Detailed historical data on U.S. petroleum imports and exports
 U.S. petroleum imports by country of origin
 U.S. petroleum exports by destination
 U.S. net petroleum imports by country
 Stay in Energy articles on oil/petroleum
 See Week In Petroleum articles

Last updated: March 29, 2024; preliminary data.

Other FAQs about Oil/Petroleum

- When was the last refinery built in the United States?
- Does EIA have data on the movement (transport) of crude oil, biofuels, petroleum products, and propane by rail?
- What do I pay for in a gallon of gasoline and diesel fuel?
- How much coal, natural gas, or petroleum is used to generate a kilowatt-hour of electricity?
- What is the outlook for home heating fuel prices this winter?
- Does EIA have data on U.S. oil refineries and their locations?
- Does EIA have information on U.S. natural gas and oil pipelines?
- How much oil is consumed in the United States?
- How much oil is used to make plastic?
- What types and amounts of energy are produced in each state?
- How much shale (tight) oil is produced in the United States?
- What is the difference between crude oil, petroleum products, and petroleum?
- What are petroleum products, and what is petroleum used for?
- How many gallons of gasoline and diesel fuel are made from one barrel of oil?
- Does EIA have forecasts or projections for energy production, consumption, and prices for individual states?
- What is U.S. electricity generation by energy source?
- Does EIA have data on the type or quality of crude oil?
- What countries are the top producers and consumers of oil?
- How much oil consumed by the United States comes from foreign countries?
- Does EIA have county-level energy production data?
- How much petroleum does the United States import and export?
- What other motor gasoline consumption data sources are available?
- Does EIA have information on unplanned disruptions or outages of U.S. energy infrastructure?
- How much of the crude oil produced in the United States is consumed in the United States?
- Does the world have enough oil to meet our future needs?
- What is the difference in product supplied among EIA publications?
- How do we calculate product supplied?

On This Page:

- Coal
- Conversion & Equivalents
- Diesel
- Electricity
- Environment
- Gasoline
- General Energy
- Natural Gas
- Nuclear
- Oil/Petroleum
- Prices
- Renewables

[Full list of upcoming reports](#)

[Sign up for email notifications](#)

[Get the What's New RSS feed](#)

Didn't find the answer to your question?

Ask an energy expert

POLITICS NIGERIA



Oil and petroleum products explained

Oil imports and exports



BASICS

The United States became a total petroleum net exporter in 2020

In 2020, the United States became a net exporter of petroleum for the first time since at least 1949.¹ In 2022, total petroleum exports were about 9.52 million barrels per day (b/d) and total petroleum imports were about 8.33 million b/d, making the United States an annual *net total petroleum exporter* for the third year in a row. Total petroleum net exports were about 1.19 million b/d in 2022. Also in 2022, the United States produced² about 20.08 million b/d of petroleum and consumed³ about 20.01 million b/d. Although U.S. annual total petroleum exports were greater than total petroleum imports in 2020, 2021, and 2022, the United States still imported some crude oil and petroleum products from other countries to help to supply domestic demand for petroleum and to supply international markets.

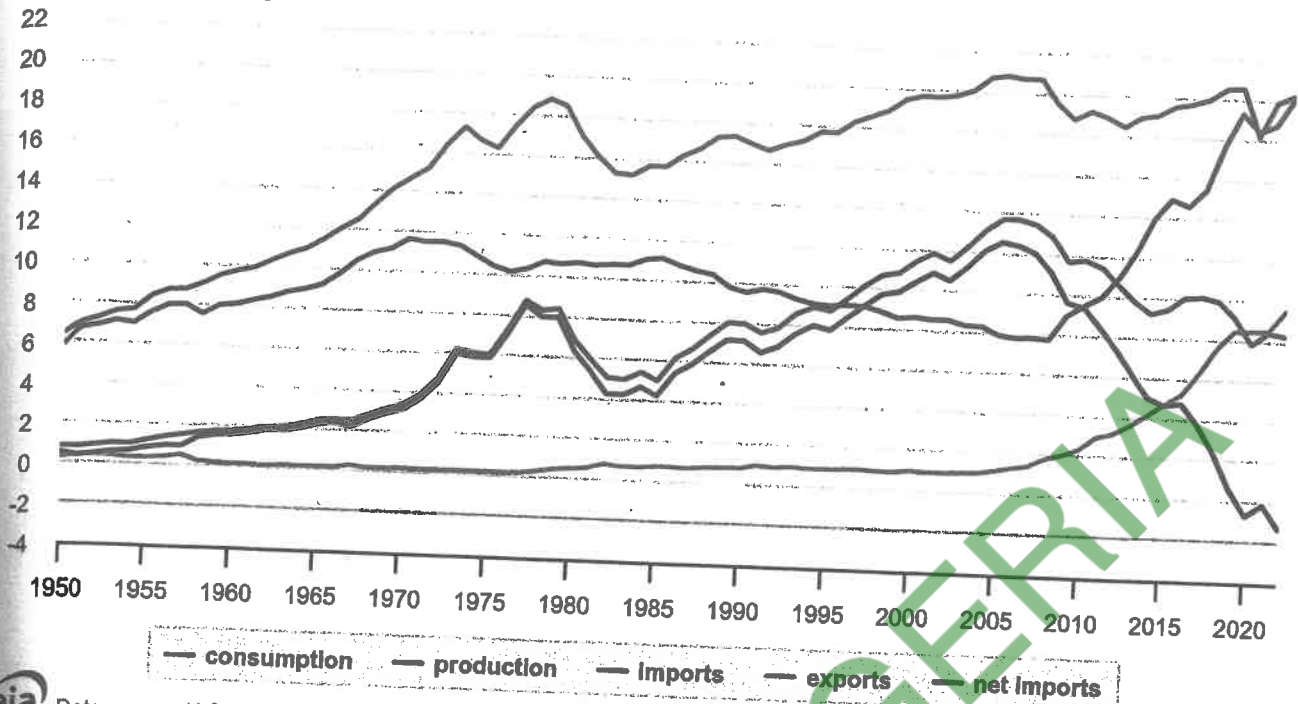
The United States remained a net crude oil importer in 2022, importing about 6.28 million b/d of crude oil and exporting about 3.58 million b/d. Some of the crude oil that the U.S. imports is refined by U.S. refineries into petroleum products—such as gasoline, heating oil, diesel fuel, and jet fuel—that the U.S. later exports. Also, some of imported petroleum may be stored and later exported.

U.S. petroleum imports peaked in 2005

After generally increasing every year from 1954 through 2005, U.S. gross and net total petroleum imports peaked in 2005. Since 2005, increased domestic petroleum production and increased petroleum exports have helped to reduce annual total petroleum net imports.

U.S. petroleum consumption, production, imports, exports, and net imports, 1950-2022

million barrels per day



Data source: U.S. Energy Information Administration, *Monthly Energy Review*, Table 3.1, September 2023

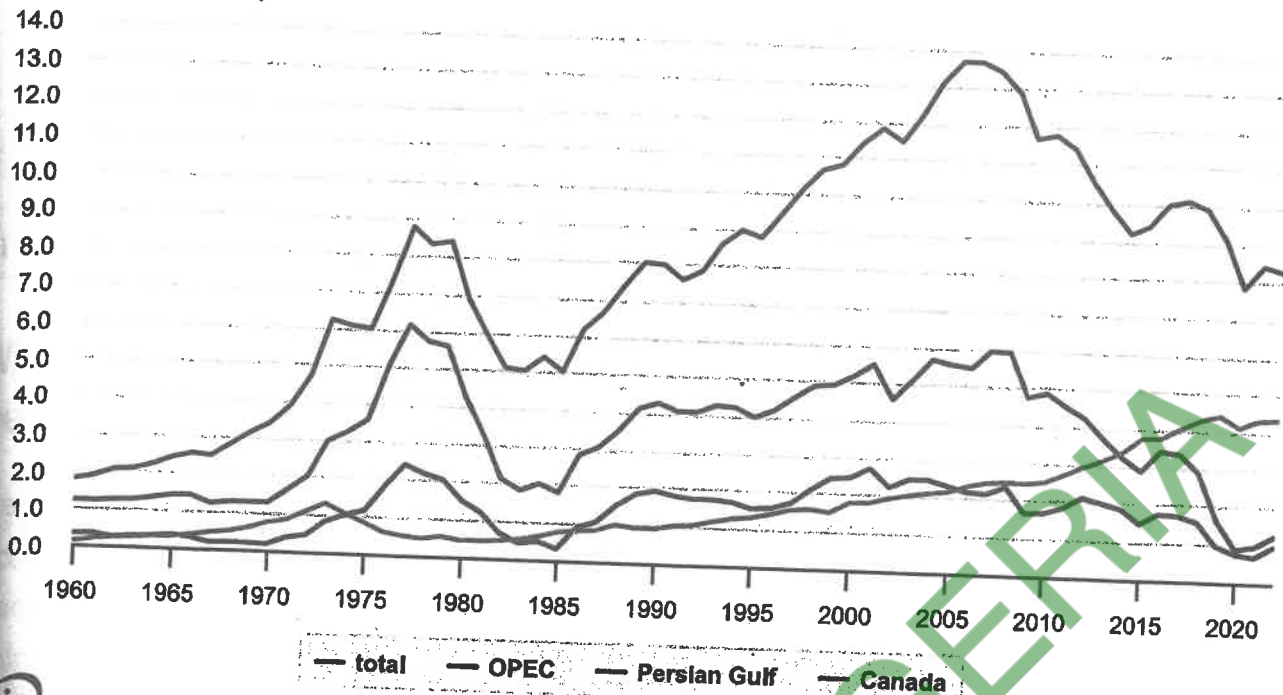
Shares of U.S. petroleum imports from OPEC and Persian Gulf countries have declined, and the share of imports from Canada has increased

U.S. petroleum imports rose sharply in the 1970s, especially from members of OPEC. In 1977, when the United States exported relatively small amounts of petroleum, OPEC nations were the source of 70% of U.S. total petroleum imports and the source of 85% of U.S. crude oil imports.

Since 1977, the percentage shares of U.S. total petroleum and crude oil imports from OPEC countries have generally declined. Saudi Arabia, the largest OPEC petroleum exporter to the United States, was the source of 7% of U.S. total petroleum imports and 7% of U.S. crude oil imports. Saudi Arabia is also the greatest source of U.S. petroleum imports from Persian Gulf countries. About 12% of U.S. total petroleum imports and 12% of U.S. crude oil imports were from Persian Gulf countries in 2022.

U.S. petroleum imports: total, and from OPEC, Persian Gulf, and Canada, 1960-2022

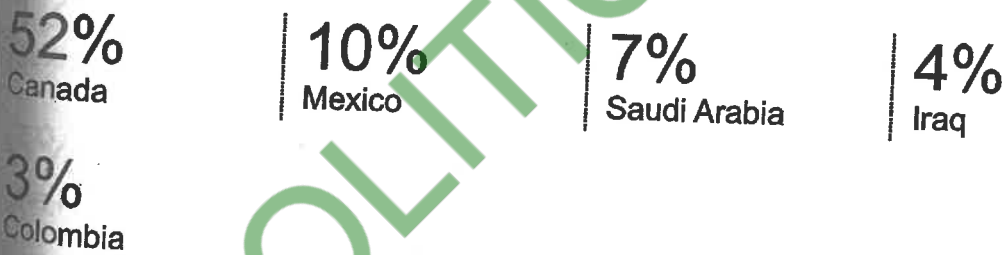
million barrels per day



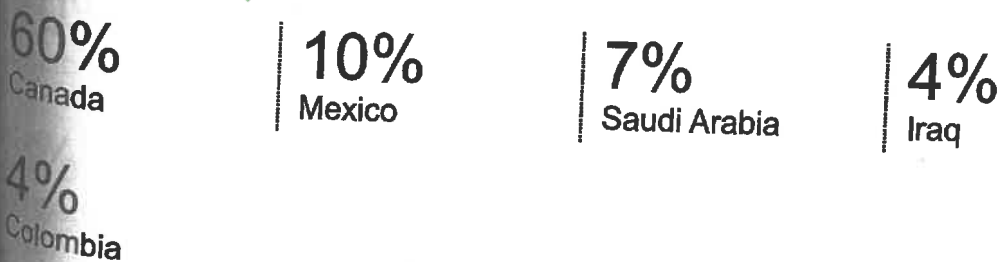
eia Data source: U.S. Energy Information Administration, *Monthly Energy Review*, Tables 3.3a, 3.3c, and 3.3d, September 2023

Petroleum imports from Canada have increased significantly since the 1990s, and Canada is now the largest single source of U.S. total petroleum and crude oil imports. In 2022, Canada was the source of 52% of U.S. gross total petroleum imports and 60% of gross crude oil imports.

The top five sources of U.S. total petroleum (including crude oil) imports by percentage share of total petroleum imports in 2022 were:



The top five sources of U.S. crude oil imports by percentage share of U.S. total crude oil imports in 2022 were:



did you know?

OPEC and Persian Gulf countries are not the same.

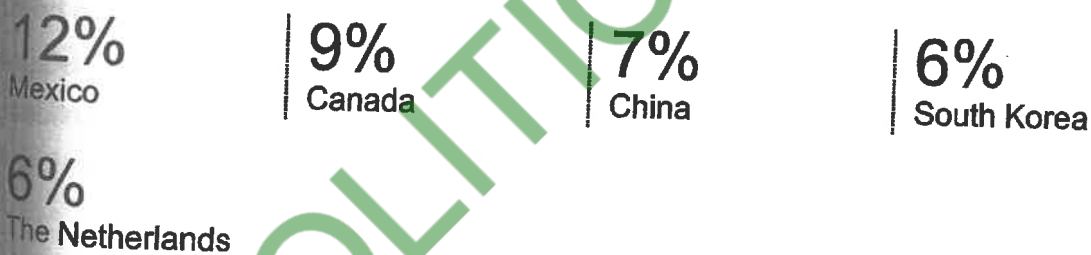
Of the 13 members of OPEC as of January 1, 2023, Iran, Iraq, Kuwait, Saudi Arabia, and the United Arab Emirates are Persian Gulf countries.

Most U.S. total petroleum exports are petroleum liquids and refined petroleum products

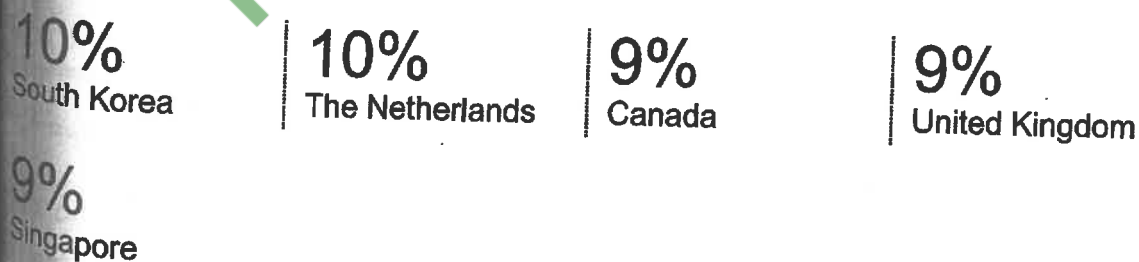
Because of logistical, regulatory, and quality considerations, exporting some petroleum is the most economical way to meet the market's needs. For example, refiners in the U.S. Gulf Coast region frequently find that it makes economic sense to export some of their gasoline to Mexico rather than shipping it to the U.S. East Coast because lower-cost gasoline imports from Europe may be available to the East Coast.

Petroleum liquids include hydrocarbon gas liquids (HGLs). HGL exports, mainly propane, have increased substantially since 2008, and in 2022, were about 25% of total U.S. total petroleum gross exports.

The top five destinations of U.S. total petroleum exports (including crude oil) by percentage share of U.S. total gross petroleum exports in 2022 were:

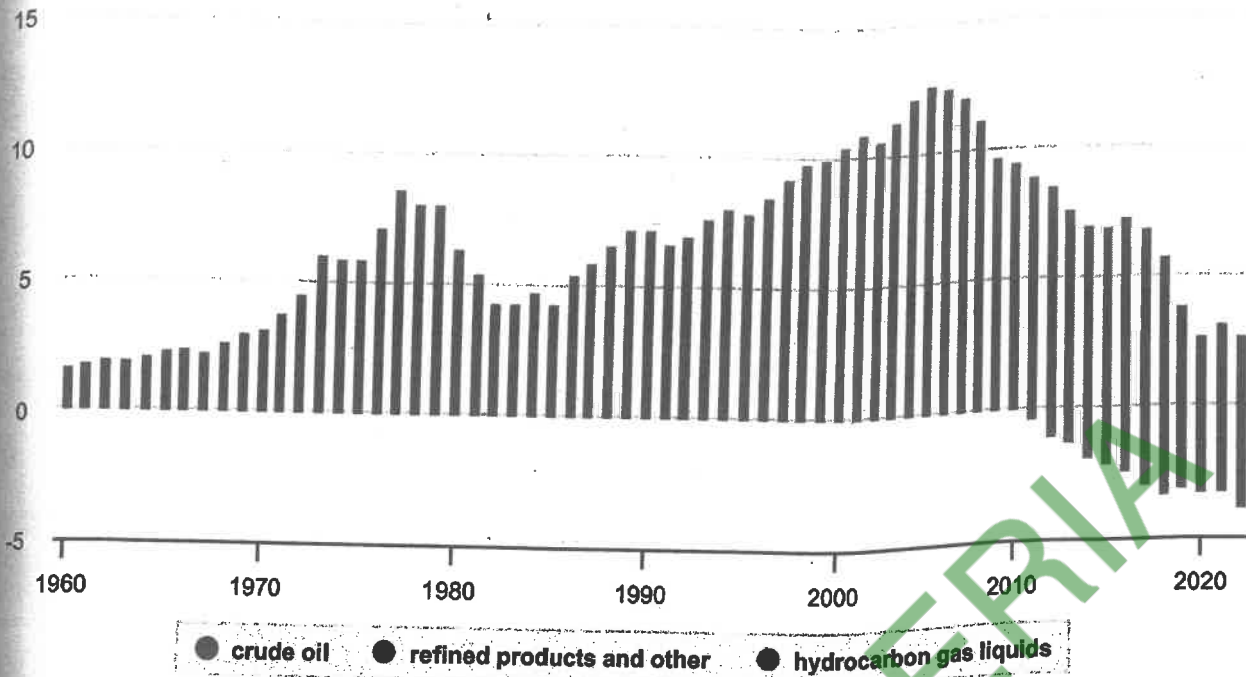


The top five destinations of U.S. crude oil exports by percentage share of U.S. total crude oil exports in 2022 were:



U.S. net petroleum imports by type, 1960-2022

million barrels per day



Data source: U.S. Energy Information Administration, *Monthly Energy Review*, Tables 3.3b and 3.3e, September 2023
 Note: Crude oil includes lease condensate.

Some companies purchase imported crude oil and gasoline

Although we cannot identify which companies sell imported gasoline or gasoline refined from imported oil, we publish data on the companies that import petroleum into the United States. A company that imports crude oil does not necessarily use those imports to produce the gasoline sold as that company's brand of gasoline. Gasoline from different refineries and import terminals is often combined when shipped by pipeline. Different companies owning service stations in the same area may be purchasing gasoline at the same bulk terminal, which may or may not include imported gasoline or gasoline refined from imported oil.

¹ Petroleum is a broadly defined class of liquid hydrocarbon mixtures that include crude oil, lease condensate, unfinished oils, and products produced from refining crude oil and from processing natural gas plant liquids, including hydrocarbon gas liquids. Volumes of finished petroleum products include non-hydrocarbon compounds, such as fuel ethanol, biodiesel, additives, and detergents, that are blended into the products.

² U.S. domestic petroleum production includes field production of crude oil and natural gas liquids, renewable fuels and oxygenate plant net production, and refinery processing gain.

Consumption is represented by product supplied.

Last updated: January 19, 2024, with data from the *Petroleum Supply Annual*, August 2023, and *Monthly Energy Review*, September 2023.



Saudi Arabia



2022
ECONOMIC COMPLEXITY
TRADE

0.78

RANK 35 OF 133

2021
ECONOMIC COMPLEXITY
TECHNOLOGY

0.60

2022
ECONOMIC COMPLEXITY
RESEARCH

-0.45

RANK 80 OF 135

2022
PRODUCT
EXPORTS | IMPORTS

\$362B | \$169B

23 OF 226 | 32 OF 226

2022
PER CAPITA PRODUCT
EXPORTS | IMPORTS

\$9.93K | \$4.65K

41 OF 220 | 86 OF 220

POLITICS NIGERIA

Overview In 2022, Saudi Arabia was the number 17 economy in the world in terms of GDP (current US\$), the number 23 in total exports, the number 32 in total imports, the number 37 economy in terms of GDP per capita (current US\$) and the number 35 most complex economy according to the Economic Complexity Index (ECI).

Exports The top exports of Saudi Arabia are Crude Petroleum (\$236B), Refined Petroleum (\$45.3B), Ethylene Polymers (\$13.1B), Propylene Polymers (\$6.4B), and Acyclic Alcohols (\$6.19B), exporting mostly to China (\$68B), India (\$46.2B), Japan (\$36.5B), South Korea (\$36B), and United States (\$23.9B).

In 2022, Saudi Arabia was the world's biggest exporter of Crude Petroleum (\$236B), Propylene Polymers (\$6.4B),

Acyclic Alcohols (\$6.19B), and Alkylbenzenes and Alkyl-naphthalenes (\$563M).

Imports The top imports of Saudi Arabia are Cars (\$13.2B), Broadcasting Equipment (\$5.43B), Gold (\$5.22B), Refined Petroleum (\$4.87B), and Packaged Medicaments (\$3.08B), importing mostly from China (\$36.5B), United Arab Emirates (\$27.8B), United States (\$11B), India (\$10.1B), and Germany (\$7.1B).

In 2022, Saudi Arabia was the world's biggest importer of Tanks and Armored vehicles (\$674M) and Travel Kits (\$72.7M)

Location Saudi Arabia borders Iraq, Jordan, Kuwait, Oman, Qatar, United Arab Emirates, and Yemen by land and Bahrain, Egypt, Eritrea, Iran, and Sudan by sea.

LATEST TRENDS

JULY, 2024

OVERVIEW

In July 2024 Saudi Arabia exported SAR93.9B and imported SAR72.9B, resulting in a positive trade balance of SAR21.1B. Between July 2023 and July 2024 the exports of Saudi Arabia have increased by SAR3.15B (3.47%) from SAR90.8B to SAR93.9B, while imports increased by SAR6.04B (9.03%) from SAR66.9B to SAR72.9B.

TRADE

In July 2024, the top exports of Saudi Arabia were Mineral Products (SAR69.6B), Chemical Products (SAR6.54B), Plastics and Rubbers (SAR6.51B), Machines (SAR3.27B), and Transportation (SAR2.21B). In July 2024 the top imports of Saudi Arabia were Machines (SAR19.9B), Transportation (SAR11B), Metals (SAR7.67B), Chemical Products (SAR7.59B), and Mineral Products (SAR4.32B).

DESTINATIONS

In July 2024, Saudi Arabia exported mostly to China (SAR13.2B), South Korea (SAR9.69B), Japan (SAR9.33B), India (SAR8.21B), and United Arab Emirates (SAR7.13B), and imported mostly from China (SAR19.1B), United States (SAR5.44B), Germany (SAR3.83B), United Arab Emirates (SAR3.63B), and India (SAR3.57B).

GROWTH

In July 2024, the increase in Saudi Arabia's year-by-year exports was explained primarily by an increase in exports to United Arab Emirates (SAR2.59B or 57%), United States (SAR1.38B or 36.4%), and Poland (SAR1.17B or 50.3%), and product exports increase in Machines (SAR1.34B or 69.4%), Transportation (SAR733M or 49.6%), and Precious Metals (SAR431M or 55.3%). In July 2024, the increase in Saudi Arabia's year-by-year imports was explained primarily by an increase in imports from China (SAR5.19B or 37.3%), Norway (SAR1.38B or 1.46k%), and Germany (SAR966M or 33.7%), and product imports increase in Machines (SAR5.18B or 35%), Metals (SAR2.05B or 36.4%), and Chemical Products (SAR1.09B or 16.8%).

Year

Quarter

Month

FLOW

Exports

Imports

COLOR

Value

Growth

Growth (%)

EXPORT GROWTH (July 2023 - July 2024)

SAR3.15B

(3.47%)

IMPORT GROWTH (July 2023 - July 2024)

SAR6.04B

(9.03%)

MAIN DESTINATION (July 2024)

China

SAR13.2B

This section shows exports and imports data at subnational level for Saudi Arabia. Click any date in the line plot, or any product, destination or origin country to explore the exports or imports behavior of Saudi Arabia over time.

For full datasets download visit Bulk Download page.

Go to Bulk Download

OEC
PRO

Subscribe today to
OEC pro and access
the latest data

OEC
PRO

Subscribe today to
OEC pro and access
the latest data

Sign Up

HISTORICAL DATA

Yearly Trade

FLOW

Exports

Imports

COLOR

Trade Value

Growth

Growth (%)

DEPTH

2022

Top Export (2022)

Crude Petroleum

\$236B

Top Destination (2022)

China

\$68B

In 2022, Saudi Arabia exported a total of \$362B, making it the number 23 exporter in the world. During the last five reported years the exports of Saudi Arabia have changed by \$152B from \$209B in 2017 to \$362B in 2022.

The most recent exports are led by Crude Petroleum (\$236B), Refined Petroleum (\$45.3B), Ethylene Polymers (\$13.1B), Propylene Polymers (\$6.4B), and Acyclic Alcohols (\$6.19B). The most common destination for the exports of Saudi Arabia are China (\$68B), India (\$46.2B), Japan (\$36.5B), South Korea (\$36B), and United States (\$23.9B).

Explore visualizations

Exports (2022)
[Click to Select a Product]



POLITICS NIGERIA

Destinations (2022)
[Click to Select a Country]



POLITICS NIGERIA

Market Growth

FLOW

Exports

Imports

VIEW

Geomap

Treemap

GROWTH

Growth

Growth (%)

PERIOD



FASTEST GROWING EXPORT MARKETS (2021 - 2022)

FASTEST GROWING IMPORT MARKETS (2021 - 2022)

China

\$19B (+ 38.9%)

India

\$18.3B (+ 65.9%)

South Korea

\$14.4B (+ 66.8%)

China

\$7.75B (+ 26.9%)

United Arab Emirates

\$5.71B (+ 25.8%)

Switzerland

\$2.44B (+ 94.4%)

Total Export Growth by Market (2021 - 2022)



POLITICS NIGERIA

POTENTIAL EXPORTS

Potential Exports

TYPE



MINERAL PRODUCTS

FLOW

Exports

Imports

DEPTH

Section

HS2

HS4

VIEW

Top 10

Top 15

Top 20

SORT BY

Highest Potential

Most Saturated



Subscribe today to OEC pro and access the latest data

Sign Up

POLITIC NIGERIA

SERVICE TRADE



2018

IMPORT YEAR

2018

Saudi Arabia Exports Services (2018)

\$19.7B

Saudi Arabia Imports Services (2018)

\$83.8B

In 2018, Saudi Arabia exported \$19.7B worth of services. The top services exported by Saudi Arabia in 2018 were Travel (\$13.8B), Transportation (\$4.51B), Government services, n.i.e. (\$678M), Financial services (\$298M), and Computer and information services (\$282M).

The top services imported by Saudi Arabia in 2018 were Government services, n.i.e. (\$28.8B), Travel (\$16.6B), Transportation (\$15.7B), Other business services (\$10.4B), and Construction services (\$6.41B).

Service Exports (2018)



ECONOMIC COMPLEXITY

Overview



ECONOMIC COMPLEXITY (TRADE)

0.78

Rank 35 Of 133



ECONOMIC COMPLEXITY (TECHNOLOGY)

0.98

Rank 23 Of 96



ECONOMIC COMPLEXITY (RESEARCH)

-0.45

Rank 80 Of 135

Most Specialized Products by RCA Index



Most Complex Products by PCI

The highest complexity exports of Saudi Arabia according to the product complexity index (PCI) are Epoxides, epoxyalcohols, epoxyphenols and epoxyethers; with a three-membered ring and their halogenated... (1.51), Phenols; monophenols, polyphenols, and phenol-alcohols (1.48), Ketones and quinones; whether or not with other oxygen function, and their... (1.32), Acids; unsaturated acyclic monocarboxylic, cyclic monocarboxylic, their anhydrides, halides, peroxides and peroxyacids... (1.27), and Nitrogen-function compounds, n.e.c. in chapter 29 (1.25). PCI measures the knowledge intensity of a product by considering the knowledge intensity of its exporters.



Export Opportunities by Relatedness

The top export opportunities for Saudi Arabia according to the relatedness index, were Petroleum Gas (0.069), Typewriters (0.069), Cobalt Oxides and Hydroxides (0.066), Iron Reductions (0.061), and Photographic Chemicals (0.061). Relatedness measures the distance between a country's current exports and each product. The barchart show only products that Saudi Arabia is not specialized in.





Product Space

YEAR

2022



SPECIALIZATION

RCA > 1



The product space is a network connecting products that are likely to be co-exported. The product space can be used to predict future exports, since countries are more likely to start exporting products that are related to current exports. Relatedness measures the distance between a product, and all of the products a country currently specializes in.



POLITICS NIGERIA

YEAR

2022



This network shows the products most related to the production structure of Saudi Arabia. These are products that tend to be co-exported with the products that Saudi Arabia exports. Higher relatedness values indicate greater knowledge, which predicts a greater probability of exporting that product in the future.

Relatedness Space (2022)



POLITICS NIGERIA

Diversification Frontier

FILTER

All

RCA ≤ 1

RCA > 1

The Complexity-Relatedness diagram compares the risk vs strategic value of a country's potential export opportunities. Relatedness is predictive of the probability that a country increases its exports in a product. Complexity, is associated with higher levels of income, economic growth, less income inequality, and lower greenhouse emissions.

Diversification Frontier



POLITICS NIGERIA

Economic Complexity Ranking

METHODOLOGY

Trade

Technology

Research

SCALE

Ranking

Value



During the last 20 years Saudi Arabia's economy has become relatively more complex, moving from the 40th to the 35th position in the ECI rank.

These economic complexity rankings use 6 digit exports classified according to the HS96 classification. We consider only countries with population of at least 1 million and exports of at least \$1 billion, and products with world trade over \$500 million. To explore different rankings and vary these parameters visit the custom rankings section.



ECI (Trade) Ranking by Country



POLITICS NIGERIA

Keep Exploring



Palestine

Qatar

Singapore

Syria

Have questions, comments, or concerns?

Send us an e-mail: support@oec.world

Follow @OECtoday on   

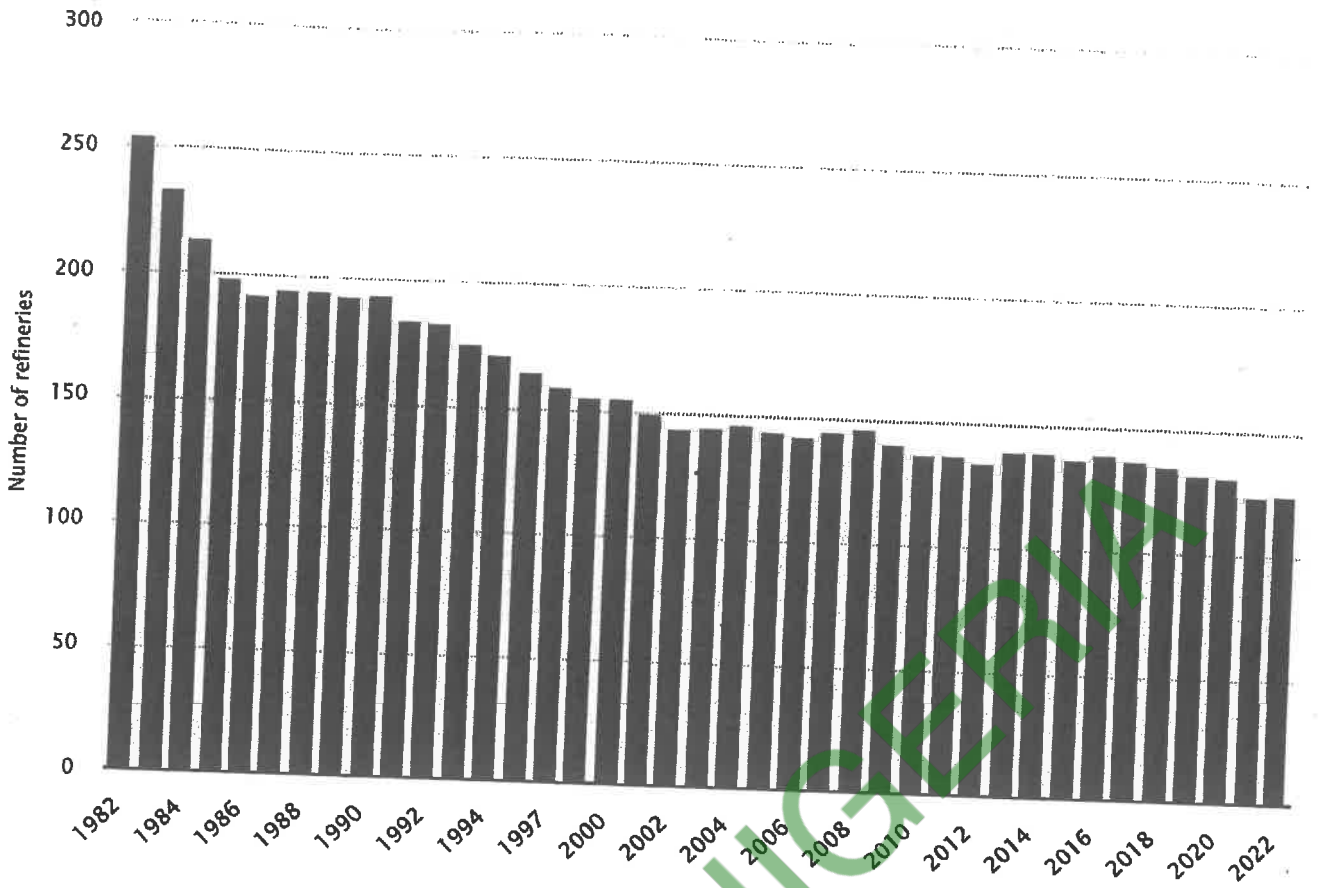
Created, Designed,
and Developed by:

In collaboration
with

 Datawheel

 Center for
Collective
Learning

POLITICS NIGERIA



Additional Information

© Statista 2024

Show source

Source

- Show sources information
- Show publisher information
- Use Ask Statista Research Service

Release date

2024

Region

United States

Survey time period

1982 to 2024

Special properties

Figures refer to January, 1 of each year

Supplementary notes

Data not available for 1996 and 1998.

Citation formats

→ View options

Number of oil refineries in the U.S. 1982-2024

Published by [Statista Research Department](#), Jun 25, 2024

There were 132 active oil refineries in the United States as of January 1, 2024. This was an increase when compared to the previous year. Figures have fallen from a peak of 254 refining plants in 1982.

POLITICS NIGERIA

Source: <https://www.statista.com/statistics/1447051/operative-oil-refineries-in-the-us/>

Number of active petroleum refineries in the United States in selected years from 1982 to 2024

POLITICS NIGERIA

...store cookies on your computer. These cookies are used to collect information about how you interact with our website and allow us to remember you. We use this information in order to improve and customize your browsing experience and for analytics and metrics about our visitors both on this website and other media. To find out more about cookies we use, see our

...decline, your information won't be tracked when you visit this website. A single cookie can be used in your browser to remember your preference not to be tracked.

Accept

2024

This records a decrease from the previous number of 8,992.000 Barrel/Day th for Aug 2024

Saudi Arabia Crude Oil: Production data is updated monthly, averaging 9,428.000 Barrel/Day th from Jan 2002 to Sep 2024, with 273 observations

The data reached an all-time high of 11,642.000 Barrel/Day th in Apr 2020 and a record low of 7,121.000 Barrel/Day th in Feb 2002

Saudi Arabia Crude Oil: Production data remains active status in CEIC and is reported by Organization of the Petroleum Exporting Countries

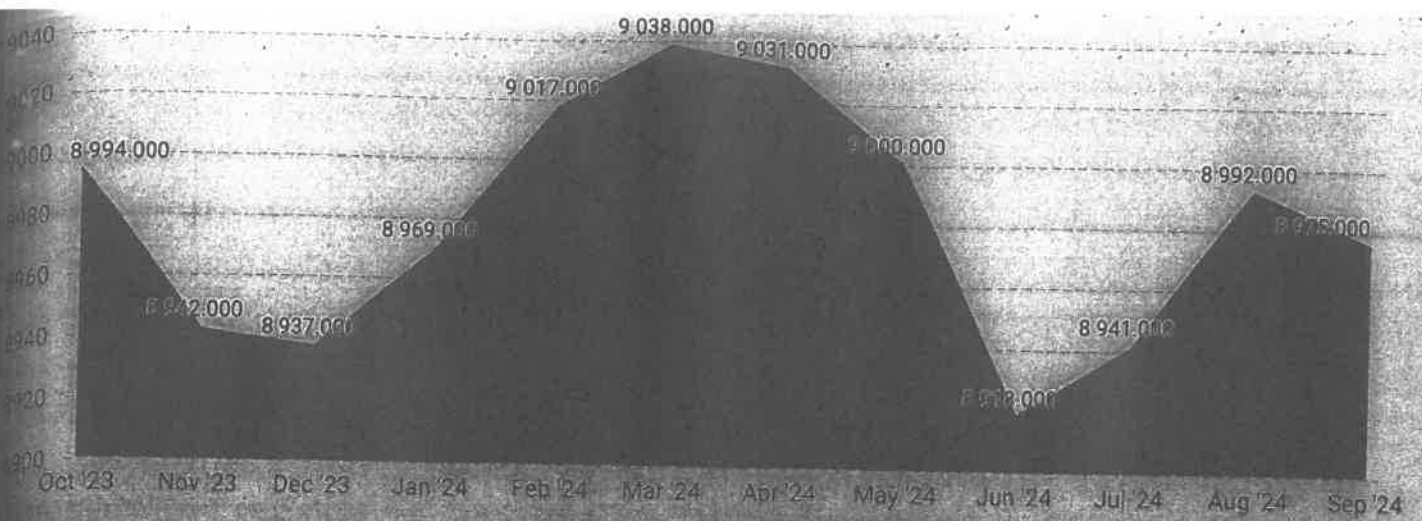
The data is categorized under World Trend Plus's Association: Energy Sector – Table RB.OPEC.CO: Crude Oil Production: OPEC Members: Monthly

[COVID-19-IMPACT]

View Saudi Arabia's Crude Oil: Production from Jan 2002 to Sep 2024 in the chart:

max 1y 5y 10y bar 2023-10-01 2024-09-01

Apply Get this data



■ NN: OPEC: Crude Oil Production: Secondary Sources: Saudi Arabia

SOURCE: WWW.EICADATA.COM | Organization of the Petroleum Exporting Countries

What was Saudi Arabia's Crude Oil Production in Sep 2024?

LAST	PREVIOUS	MIN	MAX	UNIT	FREQUENCY	RANGE
8,975,000 Sep 2024	▲ 8,992,000 Aug 2024	7,121,000 Feb 2002	11,642,000 Apr 2020	Barrel/Day th	monthly	Jan 2002 - Sep 2024

Crude Oil: Production by Country Comparison

Load more

Accurate Macro & Micro Economic Data You Can Trust

Explore the most complete set of 6.5 million time series covering more than 200

economies, 20 industries and 15 macroeconomic sectors.

▶ Learn more about what we do

Saudi Arabia Key Series

Load more

More Indicators for Saudi Arabia

Production

[Agricultural Production Index](#)

[Animal Production](#)

[Electricity Statistics](#)

[Energy Production](#)

[Environmental: Energy Production and Consumption](#)

[Production Index: Annual](#)

[Refining Capacities: Saudi Aramco](#)

[Agricultural Production and Consumption](#)

[Agricultural Sown Area: by Region](#)

[Cement Production](#)

[Energy Consumption](#)

[Energy Production and Consumption](#)

[Industrial Production](#)

[Production Index: Quarterly](#)

E I C

ountries

icators

oducts

ntact us

nsights

out

© 2015 E I C. All rights reserved. Saudi Arabia

Home

Indicators

Privacy

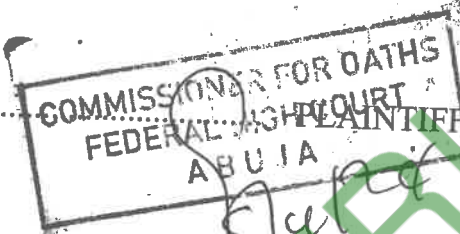
EXH-B

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CS/1324/2024

BETWEEN:

DANGOTE PETROLEUM REFINERY AND
PETROCHEMICALS FZE



AND

1. NIGERIA MIDSTREAM AND DOWNSTREAM
PETROLEUM REGULATORY AUTHORITY (NMDPRA)
2. NIGERIA NATIONAL PETROLEUM CORPORATION
LIMITED (NNPC)
3. AYM SHAFI LIMITED
4. A. A. RANO LIMITED
5. T. TIME PETROLEUM LIMITED
6. 2015 PETROLEUM LIMITED
7. MATRIX PETROLEUM SERVICES LIMITED

DEFENDANTS

**SWORN CERTIFICATE OF COMPLIANCE WITH SECTION 84 OF THE
EVIDENCE ACT, 2011**

Ali Ibrahim Abiodun, Male, Adult, Muslim, Accountant and Nigerian citizen of 62
Chad Crescent, Maitama, Abuja, do hereby make oath and state as follows:

1. That I am the Acting Managing Director of the 3rd Defendant, by virtue of
which I am conversant with the facts of this case.
2. That the printed copies of the-

- i. EIA U.S. Energy Information Administration; Frequently Asked Questions on “How much Petroleum does the United States Import and Export”.
 - ii. EIA U.S. Energy Information Administration’s analysis on “Oil and Petroleum products explained; Oil Imports and Exports”.
 - iii. The Observatory of Economic Complexities’ data report on “Saudi Arabia (SAU) Exports, Imports and Trade Partners”,
 - iv. Statista’s report on “Operative Oil Refineries in the U.S.” and
 - v. CEIC Data report on “Saudi Arabia’s Crude Oil Production”,
attached to the 3rd, 4th and 7th Counter Affidavit in opposition to the Originating Summons, and marked as *Exhibit B*, were retrieved from the internet and printed by me on 1st November, 2024 via, a HP Monitor – HP Model L1710 (17-inch LCD Colour Monitor) belonging to *me*, running on Microsoft Windows 7 (Product No: Vwo72EA#ACO) with C.P.U. Serial No. 3CB0112850.
3. That the documents referred to in Paragraph 2 above, were retrieved and printed, during a period over which the devices were used regularly to store or process information for the purposes of activities regularly carried on over that period in my office.
 4. That the said computer and printer are not used for profit making purposes but solely for personal use in the office.
 5. That over that period, there was regularly supplied to the devices mentioned in Paragraph 2 above, in the ordinary course of those activities, information of the kind contained in the documents referred to in Paragraph 2.
 6. That throughout the material part of that period, the devices were operating properly and the documents referred to in Paragraph 2 were derived from information supplied to the devices in the ordinary course of those activities.

7. That after printing out the documents referred to in paragraphs 2 above, I certified them and explained to Mr. Usman Jalo, the Head of Trade and Finance of the 4th Defendant, and Mr. Ahmed Raji, SAN, lead Counsel to the 3rd, 4th and 7th Defendants in this case, the facts and circumstances under which I produced the documents.
8. That I make this certificate in good faith, believing its content to be true and in accordance with Section 84 of the Evidence Act, 2011 and the provisions of the Oaths Act.


.....
DEPONENT

Sworn to at the Registry of the Federal High Court, Abuja.

This Day of, 2024.

BEFORE ME

COMMISSIONER FOR OATHS

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CS/1324/2024

BETWEEN:

**DANGOTE PETROLEUM REFINERY AND
PETROCHEMICALS FZE PLAINTIFF**

AND

- | | |
|--|---------------------|
| 1. NIGERIA MIDSTREAM AND DOWNSTREAM
PETROLEUM REGULATORY AUTHORITY (NMDPRA) | } DEFENDANTS |
| 2. NIGERIA NATIONAL PETROLEUM CORPORATION
LIMITED (NNPC) | |
| 3. AYM SHAFI LIMITED | |
| 4. A. A. RANO LIMITED | |
| 5. T. TIME PETROLEUM LIMITED | |
| 6. 2015 PETROLEUM LIMITED | |
| 7. MATRIX PETROLEUM SERVICES LIMITED | |

**3RD, 4TH AND 7TH DEFENDANTS' WRITTEN ADDRESS IN OPPOSITION
TO THE ORIGINATING SUMMONS**

1.0. INTRODUCTION

1.1. By an Originating Summons filed the 6th day of September, 2024, and supported by a 31 Paragraph Affidavit, deposed to by one Ahmed Hashem, the Plaintiff seeks the resolution of several questions and sought several declaratory and injunctive reliefs against the Defendants. In opposition to the

Plaintiff's Originating Summons, the Defendants filed a Counter Affidavit which was filed contemporaneously with this Written Address.

1.2. **ISSUES FOR DETERMINATION**

1. Being a challenge to the administrative decision of the 1st Defendant, whether the instant Suit is properly initiated.
2. Whether in view of the facts deposed to in the Counter Affidavit in opposition to the Originating Summons, the Plaintiff is entitled to the grant of the reliefs sought in the Originating Summons.

1.3. **LEGAL ARGUMENTS**

1.4. In the following lines, we present succinct arguments to demonstrate the compelling need why the Reliefs sought in the Originating Summons ought to be refused and this suit dismissed in its entirety.

1.5. **ARGUMENTS ON ISSUE 1**

1.6. There is no gainsaying that by the instant Suit, the Plaintiff is questioning the administrative decision of the 1st Defendant in two ways. One, it is the Plaintiff's case that the import licences issued by the 1st Defendant to the 3rd, 4th and 7th Defendants are products of a wrong administrative decision and therefore illegal. Two, it is also the Plaintiff's case that this Honourable Court should, by judicial fiat, stop/prohibit the 1st Defendant from further issuing licences to the 3rd, 4th and 7th Defendants to import petroleum products into Nigeria. To make its intention crystal clear, the Plaintiff consequently sought several *declaratory* reliefs to nullify the aforesaid administrative decision of the 1st Defendant, and also sought several *injunctive* reliefs to restrain the 1st

Defendant from further issuing import licenses to the 3rd, 4th and 7th Defendants.

- 1.7. Accordingly, this Suit being an invitation by the Plaintiff for this noble Court to review the administrative decision of the 1st Defendant, we submit that the Plaintiff ought to have commenced this suit by way of **judicial review** for an order of **certiorari and prohibition**, as required by the provisions of **Order 34 of the Federal High Court Civil Procedure Rules, 2019**. However, as presently constituted, the instant Suit was not commenced by way of an application for judicial review, contrary to the clear purport of the Plaintiff's claims. On the basis of judicial review, the Supreme Court in **KOREA NATIONAL OIL CORP. v. O.P.S. (NIG.) LTD. (2018) 2 NWLR (Pt. 1604) 394 at Pp. 454-460, paras. E-D**, held as follows:

“Judicial review is based on the basic principle that powers can only be validly exercised within their true limits. Thus, it is a mechanism for keeping public authorities within due bounds and for upholding the rule of law. In effect, instead of substituting its decision for that of some other body, as happens on appeal, the court on reviewing the decision, is concerned only with the question whether the act or order being challenged should be allowed to stand or not. In other words, the court is concerned with the legality and not the merits of the decision or the acts of the public authority. Amadi v. Acho (2005) 12 NWLR (Pt. 939) 386; A.C.B. Plc v. Nwaigwe (2011) 7 NWLR (Pt. 1246) 380; Head of State v. Governor, Mid-Western State of Nigeria; ex-parte Obiyan (1973) 12 SC 23; C.I.C., Armed Forces v. Public Service Commission, Mid-Western State (1974) 9 NSCC 509”

- 1.8. See also the Supreme Court's decisions in GYANG v. C.O.P, LAGOS STATE (2014) 3 NWLR (Pt. 1395) 547 at P. 559, paras. D-E; 564, paras. F-A; ABDULKARIM v. INCAR (NIG.) LTD. (1992) 7 NWLR (Pt. 251) 1 at Pp.17-18, paras. H-B. Similarly, in R. NORTHUMBERLAND COMPENSATION APPEAL TRIBUNAL, EX PARTE SHAW (1952) 1 K.B 338, Denning L.J of the English Court Appeal, while affirming the decision of Goddard C.J of the Divisional Court, held that the object of judicial review by way of certiorari is to investigate the decision of an inferior tribunal or an administrative body/authority, so that if the decision does not pass the test of legality, it will be quashed, that is, declared completely invalid. See further, AYIDA v. TOWN PLANNING AUTHORITY (2013) 10 NWLR (Pt. 1362) 226 at P. 273, paras. C-F; R v. IMMIGRATION APPEAL TRIBUNAL, EX PARTE ALEXANDER (1982) 1 WLR 430.
- 1.9. It is also trite that the discretionary remedy of prohibition, like certiorari, is a mechanism of judicial control both of inferior tribunal and of administrative authorities, such as the 1st Defendant herein. See MTN Comm. v. HANSON (2017) 18 NWLR (Pt. 1598) 394 at Pp. 425-426, paras. G-B. See also the decision of Atkin L.J in R. v. ELECTRICITY COMMISSIONERS EX PARTE LONDON ELECTRICITY JOINT COMMITTEE CO. (1920) LTD. (1924) 1 KB 17 at 206; MIITARY ADMINISTRATOR, IMO STATE v. NWAUWA (1997) 2 NWLR (Pt. 490) 675.
- 2.1. Having shown that the Plaintiff's case falls within the ambit of judicial review vide the prerogative remedies of certiorari and prohibition, it is submitted that the Plaintiff is bound to first seek and obtain the leave of this Honourable Court pursuant to Order 34 Rules (2), (3) and (4) of the Federal High Court (Civil Procedure) Rules, 2019, before filing the instant Suit. Not

having sought and obtained the leave of this Honourable Court prior to the institution of this Suit, we submit that the Plaintiff's case has not been brought by due process of law and upon the fulfilment of requisite conditions precedent for the exercise of this Court's jurisdiction. See GABRIEL MADUKOLU & ORS. v JOHNSON NKEMDILIM (1962) 2 ALL NLR 587 at 595; (1962) 2 SCNLR 341 at 343, paras. C-D, per Bairamian, F.J. Thus, the Supreme Court, in DREXEL ENERGY AND NATURAL RESOURCES LTD. v. TRANS INTERNATIONAL BANK LTD. (2008) 18 NWLR Pt. 1119) 388 at P. 431, Paras. D-E, emphatically re-stated the law that where a pre-condition for initiating a legal process is laid down, any Suit initiated in contravention of the pre-condition is incompetent and a Court of law lacks jurisdiction to entertain the same. See also BENIN RUBER PRODUCERS CO-OPERATIVE MARKETING UNION LTD. v. OJO & ANOR. (1997) 9 NWLR (Pt. 521) 388, 403 paras. E-F wherein the Supreme Court *per* Iguh, J.S.C held as follows:

"...Where some statutory conditions precedents are prescribed before a particular relief or remedy is claimed by court action, the aggrieved party must comply with and exhaust the prescribed conditions before the institution of a court action in respect of such relief or remedy."

See further, INAKOJU v. ADELEKE (2007) 4 NWLR (Pt. 1025) P. 423.

2.1.1. Accordingly, my noble lord is humbly urged to decline jurisdiction in this matter.

2.2. ARGUMENTS ON ISSUE 2

2.2.1. Being a Court of first instance, your lordship is urged to consider the Defendants' second issue in respect of which arguments are hereunder canvassed.

2.3. Your lordship will find that in a failed bid to prove its case against the Defendants, the only documentary evidence relied upon by the Plaintiff are **newspaper publications**. It is submitted that the newspaper publications attached to the Affidavit in support of the Originating Summons **are hearsay evidence and inadmissible** by this Honourable Court. We rely on the decision of the Supreme Court in **OJUKWU v. YAR'ADUA (2009) ALL FWLR (Pt. 482) P. 1065**, wherein the Appellant, like the present Plaintiff, sought to rely on Newspaper reports of alleged electoral malpractices in some parts of the country to prove his case. That attempt failed abysmally with a retort by Tobi, J.S.C in his lead judgment at **Page 1118, paragraph G**, thus:

“What is the evidential value of a newspaper report? I do not see any and there is none in law.”

We submit that if newspaper publications were held to be hearsay evidence and inadmissible in an election matter as in **Ojukwu v. Yar'adua (supra)**, the evidential consequences of reliance on newspaper publications in general civil proceedings as the case at hand are more fatal.

2.4. We also refer your lordship to **Pages 50 and 1356 of Volume 1 of Sakar's Law of Evidence in India, Parkistan**, among other jurisdictions, wherein the renowned author of great erudition had this to say, first at **Page 50**:

“A newspaper report has no evidential value as it is inadmissible in evidence. G.K BAJPAYEE v. STATE OF

UTAH PRADESH AIR 2005 ALL 65 (71); 2005 Cr1 LJ 1985; 2005 (1) ALL WC 379.”

And at Page 1356:

“Newspaper report is inadmissible... The newspaper report cannot be the basis of filling petition; the statement of facts contained in newspaper is merely hearsay and inadmissible in evidence. R. BAGARI v. STATE OF RAJASTAN, AIR (2002) Raj 27 (28); 2001 (4) Raj LW 355.”

2.5. We further place reliance on the decisions of Uwaifo, J.CA (as he then was) in ROYAL NETHERLANDS v. SAMA (1991) 12 NWLR (Pt.171) 64 at 77, wherein relying on Halsbury’s Laws of England, 4th Ed. Vol. 17, paragraph 223, page 158, his lordship held that a newspaper report is not generally admissible as evidence of the facts recorded in it. The situation is different when what is being sought to be done is to show that there was a newspaper publication..., *but not as evidence of the occurrence of the event reported therein.* For the avoidance of doubt, the full portion of Halsbury’s Laws of England quoted by Uwaifo J.C.A in ROYAL NETHERLANDS v. SAMA (supra) are as follows:

“A witness may refer to a newspaper report to refresh his memory, if he read the report at the time when he had a recollection of the statement contained in it and knew them to be true; but a newspaper report is not generally admissible evidence of the fact recorded in it.”

See also OLLY v. TUNJI (2012) ALL FWLR (Pt. 654) P. 39 at P. 67, para. H, wherein Ogunwumiju, J.C.A (as he then was), reiterated that:

“There is no doubt in my mind that this Court cannot rely on newspaper publications etc which the 1st Defendant relied on among other evidence. It is a non-issue to consider photocopies of newspaper publications as having any probative value since they have no such value...”

See further, ABEGUNDE v. ONDO STATE HOUSE OF ASSEMBLY (2014) LPELR-23683(CA).

- 2.6. We urge your lordship to so hold and discountenance **Exhibits B1 to B3** which are newspaper publications attached to the Plaintiff's Originating Summons. Similarly, we submit that **Exhibit E**, the alleged online publication by one David Hundeyin attached to the Affidavit in support of the Originating Summons also suffers the same fate, being hearsay evidence and thus inadmissible.
- 2.7. It is further submitted that the said newspaper publications relied upon by the Plaintiff are public documents under **Section 102 of the Evidence Act, 2011**, By the combined provisions of **Section 89(e), 90(c) and 104 of the Evidence Act, 2011**, only the originals or Certified True Copies of secondary evidence of the newspaper publications are admissible in evidence and can be acted upon by this noble Court. In the case at hand, it is glaring that none of the newspaper publications attached to the Affidavit in support of the Originating Summons is either the originals or certified in compliance with the above provisions of the Evidence Act, 2011. In consequence, we urge your lordship to discountenance the said newspaper publications as being inadmissible. See PDP v INEC & ORS. (2014) LPELR-23808(SC); ITEOGU v. LPDC (2009) 17 NWLR (Pt. 1171) 614 at 631. per Onnoghen, J.S.C.

2.8. Nevertheless, the said newspaper publications attached to the Affidavit in support of the Originating Summons are computer generated evidence within the meaning of **Section 84 of Evidence Act, 2011**. No Certificate of Compliance pursuant to Section 84(4) of the Evidence Act accompanied the same newspaper publications which all of which were generated online by the Plaintiff. In consequence, the said newspaper publications are inadmissible for failure to meet the mandatory requirements of Section 84 of the Evidence Act, 2011. See **DICKSON v. SYLVA & ORS. (2016) LPELR-41257(SC)**, per Aka'ahs, J.S.C, at Pp. 67-69, Paras. E-E; **KUBOR v. DICKSON (2013) All FWLR (Pt. 676) 392 at 429**; **G. E. T. I. LTD & ORS. v. WITT BUSH LTD. (2011) LPELR 1333 (SC)**; **EZUDYEMOIH v. TURKISH AIRLINES LTD. (2023) LPELR-60297(CA)**, Per Shuaibu, J.C.A at Pp. 18-19 Paras C-A; **AROCOM GLOBAL INVESTMENT LTD. v. UNITED PARCEL SERVICE LTD. (2021) LPELR-52891(CA)**.

We submit further that, **Exhibit E** attached to the Affidavit in support of the Originating Summons, (i.e the alleged online publication by one David Hundeyin) unaccompanied by a certificate pursuant to Section 84 of the Evidence also is also liable to be discountenanced by this Honourable Court as devoid of any evidential value. See **LANLEHIN v. AKANBI & ORS. (2015) LPELR - 42147 (CA.)**; **ROSE-HILL LTD. v. GTB PLC. (2016) LPELR - 41665 (CA)**.

2.9. From the foregoing submissions, the inescapable result is that the Plaintiff's Originating Summons is devoid of any shred of evidence to prove its case against the Defendants on balance of probabilities. See **Sections 133(1) and 134 of the Evidence Act, 2011**; **SULE & ORS. v. ORISAJIMI (2019)**

LPELR-47039(SC); ODOFIN & ANOR. v. ONI (2001) LPELR-2226(SC);
MAGAJI v. ODOFIN (1978) 4 SC 91.

- 3.1. The evidential deficiencies in the Plaintiff's case and the consequence in law is aptly explained per Udoma, J.S.C in ALHAJI ADEBOLA OLAKUNLE ELIAS v. CHIEF TIMOTHY OMOBARE (1982) All NLR (Pt. 1) 70, at Pages 87-88, in the following immaculate words:

"If there was ever a ... case completely starved of evidence, this is certainly one. This case clearly cries to high Heavens in vain to be fed with relevant and admissible evidence. The appellant woefully failed to realise that Judges do not act like the oracle at Ife, which is often engaged in crystal gazing and thereafter would proclaim a new Oba in succession to a deceased Oba. Judges cannot perform miracles in the handling of civil claims, and least of all manufacture evidence for the purpose of assisting a Plaintiff to win his case. Civil cases, as is well known, are decided on a preponderance of evidence. This is even more so in a case where a plaintiff seeks to be awarded the discretionary relief of a declaration... The burden in such a case which rests squarely on the plaintiff is a heavy one. The plaintiff must rely on the strength of his own case and not on the weakness of the case of the defendant whose duty is merely to defend. If the onus of proof is not discharged, the weakness of the defendant's case will not help him and the proper judgment is for the defendant. It is therefore strange that despite the several deficiencies in the evidence of the plaintiff in this case, the learned Judge accepted and acted on such evidence, flimsy and scrappy as such evidence is."

- 3.2. Further to the above submissions, from the questions submitted by the Plaintiff for determination, the reliefs sought in the Originating Summons as well as the depositions contained in the supporting Affidavit, it is very glaring that the sole objective of the Plaintiff in bringing this action is to seek judicial stamp of this Honourable Court, pronouncing it as a **monopolist** in Nigeria's oil industry, especially with respect to the supply and distribution of petroleum products in Nigeria. It is submitted that vesting the Plaintiff with the power of monopoly in Nigeria's petroleum industry as it seeks vide the instant suit, will kill competitive pricing of petroleum products in the country, further deteriorate Nigeria's ailing economy and unleash untold hardship on Nigerians, all of which effects constitute a recipe for disaster in the polity.
- 3.3. A cursory look at the Plaintiff's Originating Summons reveals without any ado that contrary to the contentions of the Plaintiff, there is no credible and verifiable forensic material before this Honourable Court showing that the local consumption rate of Automotive Gas Oil (AGO) in Nigeria per day is 14 million litres or that the Plaintiff produces 15 million litres per day. There is also no credible and verifiable forensic material before this Honourable Court showing that the local consumption rate of Jet fuel (Jet A-1) in Nigeria is 2.5 million litres per day or that the Plaintiff produces 7.5 million litres of Jet fuel (Jet A-1) per day. Again, the Plaintiff failed to adduce any credible and verifiable forensic piece of evidence showing that the Plaintiff has the capacity to produce 35 million litres of Automotive Gas Oil (AGO) and 9 million Jet A-1 products per day. In the circumstance, we submit that the provisions of **Section 317(8) and (9) of the Petroleum Industry Act, 2021** are unhelpful to the Plaintiff, and its contentions relying on those provisions are untenable. For ease of reference and consideration, Section 317(8) and

(9) of the Petroleum Industry Act, 2021 (hereinafter referred to as "P.I.A") provide as follows:

317(8)

"The authority may apply the Backward Integration Policy in the downstream petroleum sector to encourage investment in local refining."

(9) "Pursuant to subsection (8), licence to import any product shortfalls may be assigned to companies with active local refining licences or proven track records of international crude oil and petroleum products trading."

3.4. On the above statutory provisions which are clear and unambiguous, we urge your lordship to apply the literal rule of construction with a view to arriving at a proper interpretation of the provisions. See **FIDELITY BANK PLC. v. MONYE** (2012) 10 NWLR (Pt. 1307) Pg. 1 at 31, Para. C; **IBRAHIM v. OJOMO** (2004) 4 NWLR (Pt. 862) 89, per Edozie, J.S.C. See also **NIGERIA PORTS AUTHORITY PLC. v. LOTUS PLASTICS LTD.** (2005) 19 NWLR (Pt. 959) 158, wherein Mohammed, J.S.C, while quoting Obaseki, J.S.C with approval, in **Toriola v. Williams** (1982) 7 S.C 27 at 47-48, had this to say:

"The wording of the Section seems to me clear and unambiguous and one does not have to search hard or strain one's imaginative and intellectual powers to get at the meaning and intention of the section. I must therefore construe the words of the section according to the ordinary canon of construction, that is to say by giving them

their ordinary meaning in the English language as applied to such a subject-matter in Nigeria..."

See further, SKY BANK PLC. v. IWU (2017) 16 NWLR (Pt. 1590) 24 at 132 – 133, wherein Ogunbiyi, J.S.C held thus:

"The law is also well established that interpretation of statutes should always be given its ordinary meaning. Where however it is clear, unambiguous and to the point, any addition or subtraction will be sequel to introducing an illegal backdoor amendment."

3.5. Thus, with respect to the provisions of Section 317(8) of P.I.A above, your lordship will find that the enormous patronage by the 3rd and 4th Defendants of the Plaintiff's refined petroleum products amounting to huge sums of U.S Dollars as shown in Paragraph 11 of the Counter Affidavit in opposition to the Originating Summons, shows that the 1st Defendant has been encouraging investment in the Plaintiff's refinery, as enjoined by the provision of Section 317(8) of the P.I.A. In any event, it is submitted that the provision of Section 317(8) of the P.I.A which intentionally used the word "may" does not impose a mandatory duty/obligation on the 1st Defendant, contrary to the misconceived contention of the Plaintiff. See NSANAM v. FRN (2024) LPELR-61928 at (Pp. 39 – 39, Paras. D - F), wherein it was held as follows:

"Lastly, the word 'May' in Section 17(2) does not indicate mandatoriness as regard compliance with the provisions. It is trite, when the word "may" is used in a statute, it indicates permissiveness and exercise of discretion. See Nigerian Navy & Ors v. Labinjo (2012) 17 NWLR (Pt. 1328) 56; Obong v. Government of Akwa Ibom State (2014) LPELR 24259 (CA)."

See also PDP v. SHERIFF & ORS. 2017 LPELR-42736(SC).

3.6. On the provision of Section 317(9) of the P.I.A, it must be noted and we so submit that the only person and appropriate authority vested with statutory powers and the prerogative to determine when and if there is petroleum products shortfall in Nigeria is the 1st Defendant in conjunction with the 2nd Defendant. The Plaintiff therefore lacks the *vires* at all times to determine when or if there is petroleum product shortfall in Nigeria. It is against this backdrop that the contention of the Plaintiff that there is no shortfall in the availability of petroleum products in Nigeria fails to convince. Thus, your lordship will find that from the bare and unsubstantiated facts deposed to in the Affidavit in support of the Originating Summons, the unassailable facts deposed to in the Defendants' Counter Affidavit and in the absence of any confirmation/corroborations from the 1st and 2nd Defendants, it is glaring that the Plaintiff does not produce adequate and the needed quantity/volume of petroleum products for the daily use/consumption of Nigerians and Nigeria, regard being had to the incontrovertible fact that Nigeria is the most populous black nation in the world with a verifiable population of over 234 million people. Thus, the provision of Section 317(9) of the P.I.A which used the disjunctive word "or" puts it beyond conjecture that, apart from the Plaintiff, other companies/entities with proven track record of international crude oil and petroleum products trading are eligible and qualified to be issued licences to import petroleum products in Nigeria. See the Supreme Court's decision in MANGAI v. STATE (1993) 3 NWLR (Pt. 279) 108 at 116-117, paras. H-A, wherein it was held that the word 'or' in a sentence or statute prima facie creates an alternative situation, and that in the absence of a restraining context, it is to be read as disjunctive. In this

regard, it is not in dispute that the Defendants are “*companies with proven track records of international crude oil and petroleum products trading*” within the purview, contemplation and meaning of Section 317(9) of the Petroleum Industry Act, 2021. Consequently, we submit that the Defendants are very qualified and entitled to be issued licences by the 1st Defendant for importation of petroleum products in Nigeria. The corollary is that the licences already issued to the Defendants by the 1st Defendant for importation of petroleum products in Nigeria are lawful, valid and ought not to be revoked under the circumstances sought by the Plaintiff or at all.

3.7. It is further submitted that the import licences being issued to the Defendants by the 1st Defendant are for importation of already existing shortfalls in petroleum products in Nigeria and aimed at obviating monopoly in the country’s petroleum industry, ensuring competitive pricing and supply of petroleum products for the good health of Nigeria’s economy, for the benefit of Nigerians, and for the overall and fundamental purpose of ensuring energy security for the country.

3.8. Flowing from the above, we submit that vesting the Plaintiff with monopoly in Nigeria’s oil industry will be a contravention of the extant **Federal Competition and Consumer Protection Act, 2018** and other relevant laws. In this regard and for the avoidance of any scintilla of doubt, **Sections 1, 2, 59, 70, 72, 77 and 167** of the Federal Competition and Consumer Protection Act, 2018 provide as follows:

1. “**The objectives of this Act are to-**

- (a) **promote and maintain competitive markets in the Nigerian economy;**
- (b) **promote economic efficiency;**

- (c) protect and promote the interests and welfare of consumers by providing consumers with wider variety of quality products at competitive prices;
- (d) prohibit restrictive or unfair business practices which prevent, restrict or distort competition or constitute an abuse of a dominant position of market power in Nigeria; and
- (e) contribute to the sustainable development of the Nigerian economy.
- 2 (1) Except as may be indicated otherwise, this Act applies to all undertakings and all commercial activities within, or having effect within, Nigeria.
- (2) This Act also applies to and is binding upon -
- (a) a body corporate or agency of the Government of the Federation or a body corporate or agency of a subdivision of the Federation, if the body corporate or agency engages in commercial activities;
- (b) a body corporate in which a Government of the Federation or government of a State or a body corporate or agency of Government of the Federation or any State or Local Government has a controlling interest where such a body corporate engages in economic activities, and
- (c) all commercial activities aimed at making profit and geared towards the satisfaction of demand from the public.
- 59 (1) Any agreement among undertakings or a decision of an association of undertakings that has the purpose of actual or likely

effect of preventing, restricting or distorting competition in any market is unlawful and, subject to section 61 of this Act, void and of no legal effect.

(2) The prohibited acts under subsection (1) include, in particular –

(c) limiting or controlling production or distribution of any goods or services, markets, technical development or investment.

70 (1) For the purpose of this Act, an undertaking is to be in a dominant position if it is able to act without taking account of the reaction of its customers, or competitors.

(2) A dominant position in a relevant market exists where an undertaking enjoys a position of economic strength enabling it to prevent effective competition being maintained on the relevant market and having the power to behave to an appreciable extent independently of its competitors, customers and ultimately consumers.

72 (1) Subject to the provisions of subsection (3), any abuse by one or more undertakings of a dominant position in a market is prohibited.

(3) An undertaking shall not be treated as abusing a dominant position if its conduct-

(a) contributes to the Improvement of production or distribution of goods or services or the promotion of technological or economic progress, while allowing consumers a fair share of the resulting benefit;

(b) is indispensable to the attainment of the objectives referred to in paragraph (a); and

(c) does not afford the undertaking the possibility of eliminating competition in respect of a substantial part of the goods or services concerned.

(4) An undertaking may be considered as abusing its dominant position with regard to subsection (3) (c) of this section if the Commission is satisfied that its activities -

(a) have the effect of unreasonably lessening competition in a market; and

(b) impede the transfer or dissemination of technology.

77 For the purposes of this Part, a monopoly situation shall be taken to exist in relation to the

(a) supply of goods or services of any description; or

(b) import and export of goods and services of any description from Nigeria, to the extent it has an effect on competition in a market in Nigeria, as may be prescribed in regulations made by the Commission.

167 “Undertaking” includes any person involved in the production of, or the trade in goods, or the provision of services.”

3.9. My noble lord, we have taken the pains to reproduce *in extenso*, the above salient provisions of the Federal Competition and Consumer Protection Act, 2018 with a view to bringing to your lordship’s attention, the gross illegality with which the Plaintiff’s suit is fraught and the grave danger to Nigeria’s

economy and the Nigerian public inherent in the reliefs sought by the Plaintiff.

4.1. From the above lucid provisions of the Federal Competition and Consumer Protection Act, it is crystal clear that the Plaintiff is an “Undertaking” within the meaning of **Section 167** of the Act and qualifies as “body corporate” within the purview of **Section 2(2)** thereof. The corollary is that the Plaintiff is bound by the above provisions of the Federal Competition and Consumer Protection Act, and reliefs sought in the Originating Summons are in complete contravention of the above mandatory provisions of the Act. We urge your lordship to so hold and dismiss this suit substantial cost. See **INAKOJU v. ADELEKE** (2007) 4 NWLR (Pt. 1025) P. 423, wherein the Supreme Court held that:

“The courts are bound to enforce the mandatory provisions of a substantive law including the constitution. It is the duty of all courts to give effect to legislation. Therefore, parties cannot by consent or acquiescence or failure to object, nullify the effect of a statute or Constitution. In other words, it is the duty of a court to enforce mandatory provisions of an enactment.”

See also **MAKO v. UMOH** (2010) 8 NWLR (Pt. 1195) P. 82 at Pp. 107-108, paras. ‘H’-‘B’, wherein the Court of Appeal warned that:

“A Court of law which ignores the mandatory or obligatory provisions of statutes and tows the line of justice has not done justice. Courts of law can only do so in the absence of a mandatory or obligatory provision of a statute. In other words, where the provisions of a statute are mandatory or obligatory, courts of law

cannot legitimately brush the provisions aside just because they want to do justice in a matter.”

See further, C.C.C.T.C.S LTD. v. EKPO (2008) 6 NWLR (Pt. 1083) 363.

- 4.2. Premised on the above authorities and the foregoing elaborate provisions of the Federal Competition and Consumer Protection Act which forbid monopoly and abuse of dominant positions by businesses, corporate bodies and undertakings such as the Plaintiff in Nigeria, and impose a mandatory duty on this noble Court to render decisions that encourage competition in the country's markets, including with respect to importation of goods and services vide Section 77 of the Act, we submit that the instant suit is frivolous and destitute of any iota of merit. Your lordship is humbly urged to so hold.
- 4.3. Interestingly, the Plaintiff conceded this point in **Paragraph 22** of the Affidavit in support of the Originating Summons, wherein it was deposed that one of the foundational purposes of establishing Free Zones is “to foster competition.” We submit that the Plaintiff's position in this regard constitutes an admission against interest. It is thus trite that facts admitted need no further proof. See **Section 123 of the Evidence Act, 2011**. See also EDOKPOLO & CO. v. OHEHEN (1994) 7 NWLR (Pt.385) 511. The situation highlighted above informed the decision of the Supreme Court in ODUTOLA v. PAPERSACK(NIG.) LTD. (2006) NWLR (Pt. 1012) 470 that:

“An admission by a party against his interest is the best evidence in favour of his adversary in the suit.”

Similarly, in SKYMIT MOTORS LTD. v. UBA PLC. (2020) LPELR-52457(SC), the Supreme Court restated the law thus:

“The law is quite trite; facts admitted need no further proof. An admission is the best evidence before the Court. It is perverse, if in its judgment the Court neglects and refuses to act on or advert to an admitted fact on a material issue.”

- 4.4. It is also submitted that the competition envisaged by the Free Zone is to enable an entity like the Plaintiff to compete favourably with other petroleum products from outside Nigeria. This is so in view of Nigeria’s Competition law and World Trade Organisation’s Protocols to which Nigeria is a signatory and which forbid monopoly. It therefore follows that the grant of the reliefs sought by the Plaintiff will be contrary to and constitute a breach of Nigeria’s international obligations under the World Trade Organisation, the Protocols made pursuant thereto and a host of other international Treaties, as Nigeria is not an Island to itself.
- 4.5. What is more? The Defendants are tax payers who are contributing immensely to Nigeria’s revenue portfolio, unlike the Plaintiff who, in its own words, is in a “tax Heaven”, hence paying no tax. Notwithstanding the Plaintiff’s acclaimed status of being tax exempt, it is worrisome that the Plaintiff does not want competition in any form with tax payers, thereby denying the government of revenue from the Defendants and a vibrant segment of the petroleum sector. Again, your lordship is invited pursuant to **Section 124 of the Evidence Act, 2011**, to take into account, the fact and common knowledge that there are refineries in Nigeria, other than the Plaintiff, and those other refineries are not seeking the kind of reliefs the Plaintiff is seeking vide the instant case. This leads one to the pertinent questions: Is Nigeria’s oil sector meant to serve the interest of the Plaintiff ONLY? The answer is in the Negative. In the event that the Plaintiff decides to close its refinery at any

time or shuts down for any reason, what becomes of Nigeria's energy sector? The answer is better imagined than allowed to manifest in reality, as such event will simply shut down the economy and the entire country, a situation which a dismissal of the instant suit will completely avert.

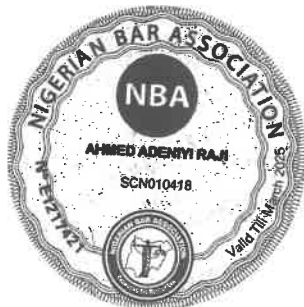
5.1. **CONCLUSION**

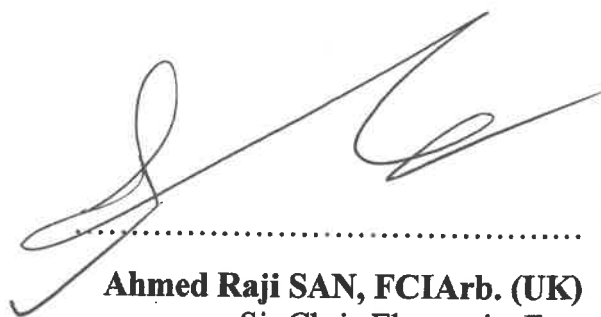
5.2. Premised on the foregoing submissions, we urge your lordship to resolve all the questions for determination in the Originating Summons as well as all the issues raised in the Plaintiff's Written Address against the Plaintiff, resolve the two issues for determination in this Written Address in favour of the Defendants and dismiss this suit in its entirety.

5.3. In view of the foregoing, the honourable Court is also urged to prohibit the 1st Defendant from reviewing licences issued to import petroleum products and/or stop issuing same, in the interest of energy security and promotion of healthy competition in our system.

We are most obliged.

Dated this ^{5th}..... day of ^{October}....., 2024.





Ahmed Raji SAN, FCI Arb. (UK)
Sir Chris Ekemezie, Esq.
Mohammad Usman Oloje, Esq.
M.S. Danmusa, Esq.
Aisha M.A. Abubakar, Esq.
Anone A. Usman, Esq.
Peter Nwatu, Esq.
Michael Olawole, Esq.

Deborah Opete, Esq.
M.O. Ediawe, Esq.
S. I. Amodu, Esq.
N. A. Bayero, Esq.
B.T. Oguntuase, Esq.
I.O. Afen, Esq.
(Counsel to the 3rd, 4th and 7th Defendants)

Ahmed Raji & Co.
C. Chris Ekemezie & Associates
U. O. Mohammad & Co.
No. 10, Santana Close
Off Malakal Drive, off Oda Crescent
Off Dar Es Salam Street
Wuse 2, Abuja.
peterwatu@nigerianbnar.ng
ahmedraji.solicitors@yahoo.com
08066637291

FOR SERVICE ON:

1. THE PLAINTIFF

Dangote Petroleum Refinery and Petrochemicals FZE.

c/o their Counsel

Dr. Ogwu James Onoja

M. A. Ebute, SAN

George Ibrahim, Esq.

DR. O. J. ONOJA, SAN & ASSOCIATES.

Bar and Bench House,

Plot 598, Ogwu James Onoja Crescent,

Beside Family Worship Center,

Wuye District, Abuja.

2. THE 1ST DEFENDANT

Nigeria Midstream and Downstream Petroleum

Regulatory Authority (NMDPR)

Plot 1012, Cadastral Zone,

Central Business District, Abuja.

3. THE 2ND DEFENDANT

Nigeria National Petroleum Corporation Limited

NNPC Towers,

Herbert Macaulay Way,

Central Business District, Abuja.

4. THE 5TH DEFENDANT

T. Time Petroleum Limited,
Plot 336, 21 Road,
Y-close, Festac, Lagos.

5. THE 6TH DEFENDANT

2015 Petroleum and Investment LTD,
No 26, Ikudaisi Street,
Off Warehouse Road,
Coconut, Apapa, Lagos.

POLITICS NIGERIA