The Legal 500
Country Comparative Guides

Nigeria
ENERGY - OIL & GAS

Contributing firm
Miyetti Law

Dr. Jennifer Abubakar-Douglas
Founding Partner | jdouglas@miyettilaw.com

Zada Amede Oputa
Legal Coordinator | zada.oput@miyettilaw.com

Ms Ikiemoye B. Ozoeze
Associate Partner, Head of Practice Management | ikiemoye.ozoeeze@miyettilaw.com

This country-specific Q&A provides an overview of energy - oil & gas laws and regulations applicable in Nigeria.

For a full list of jurisdictional Q&As visit legal500.com/guides
1. Does your jurisdiction have an established upstream oil and gas industry? What are the current production levels and what are the oil and gas reserve levels?

The oil and gas industry is very large and complex and is divided into various sectors. The upstream sector deals with the exploration and production of oil and gas. Some of the major activities covered in this sector include geological and geophysical surveys, acquiring leases and permission from landowners to drill, drilling for the oil and gas, storage, etc. As such, the upstream sector is risky, complex and heavily regulated by the government.

The Nigerian economy is highly dependent on the production and exportation of its oil and gas resources. According to the Organisation of the Petroleum Exporting Countries (OPEC), by the end of 2018, Nigeria produced 1,602,000 barrel per day of oil and 44,251 million cubic meters of gas. The data also states that Nigeria's oil and gas reserves in the same period was at 36,972 million barrels and 5,675 billion cubic meters respectively.

2. How are rights to explore and exploit oil and gas resources granted? Please provide a brief overview of the structure of the regulatory regime for upstream oil and gas. Is the regime the same for both onshore and offshore?

The right to explore and exploit oil and gas are mainly acquired by two major means – Bidding Rounds and the Grant on the application to the Minister of Petroleum.

The Minister of Petroleum Resources has discretion to grant oil exploration, prospecting and mining licence/lease to companies incorporated in Nigeria. The Petroleum (Drilling and Production) Regulations 1969 outlines the application process and requirements for the grant of the relevant licence/lease.

The application must be in writing and addressed to the Minister. The application must be accompanied by the following:

i. Evidence of the financial status and technical competence of the applicant; ii. Details of the proposed work or proposed work programme of the operations; iii. Details of the annual expenditure; iv. The start date of the operations; v. Scheme for recruiting and training Nigerians; vi. Evidence of the licensee’s ability to market any petroleum produced; vii. Annual reports in respect of the applicant’s oil exploration and production activities; viii. Any other information which the Minister may require.

Other procedure for acquiring the rights by grant include:

i. The Applicant pays a non-refundable fee of USD 10,000.00 (Ten Thousand US Dollars) per block ii. The Applicant also pays the annual rent of USD 10.00 per sq. km, and provide the following documents:

a. Certificate of incorporation of the company b. Evidence of financial standing to the tune of USD 10,000,000.00 (Ten Million US Dollars) or N 3,500,000,000.00 (Three Billion Five Hundred Million Naira) c. Evidence of the Applicants’ technical knowledge in oil prospecting. d. Evidence of detailed environmental policies referencing environmental impact assessment analyses e. Evidence of payment of all necessary fees

iii. Where the minister is satisfied with the information provided, it will permit the Department of Petroleum resources to grant the permit. iv. The grant of all licences/leases are published in the Federal Gazette with the name of the licensee or lessee and the situation of the relevant area.

Alternatively, the government also awards exploration and production rights through competitive bidding processes known as licensing rounds. The procedure includes:

i. The Department of Petroleum Resources (DPR) usually advertises available blocks for bidding in the National dailies and magazines, international publications
approved by the government and dedicated websites for bidding rounds. ii. Interested companies submit detailed bids which sets out:

a. Evidence of technical capacity; b. Evidence of financial capacity that must not be less than the USD 10,000,000.00 (Ten Million Dollars)

iii. Interested companies pay the sum of USD 10,000.00 (Ten Thousand US Dollars) as bid processing fee iv. The bidders will be required to provide details of their shareholding structure, names of directors, track record in the oil and gas sector, audited financial statements, partnership or collaborations with indigenous firms and financial resources to bid and pay for oil acreages v. After this stage, investors will pay the USD 15,000.00 (Fifteen Thousand US Dollars) each for data mining fees to enable them to gain access to the relevant data on acreages that will be placed on the offers vi. Investors will also avail information on the size of the fields, seismic surveys and past appraisals conducted among other information. vii. The DPR will commence a technical evaluation on the bids submitted. Investors who fail to meet the criteria, would be dropped while investors who pass the technical evaluation process would be invited to submit their commercial bids in a process that will be opened to the public viii. Finally, oil acreages will be given to the highest bidders who will be given a timeline to pay for the acreages.

Upon the grant of the Oil Prospecting License, there are certain obligations to be performed by the holder of the license, which includes: the holder upon grant is expected to start the geographical investigation within six months of the grant on the area leased; the holder of the OPL license is also required to train Nigerians on the act of drilling and production of crude oil; the holder also has financial obligations to pay rents and royalties as stipulated by the Petroleum Profit Tax Act.

3. What are the key features of the licence/production sharing contract/concession/other pursuant to which oil and gas companies undertake oil and gas exploration and exploitation?

The features of an Oil Exploration Licence include:

i. The licence allows the holder to explore for petroleum; ii. The licensee does not enjoy exclusive rights over the area of the licence. Another oil exploration licence or an oil prospecting licence or oil mining lease may be granted over the same area; iii. The licence is valid for 1 year. It expires on December 31, in the year it was granted; iv. The licence may be renewed annually, where certain conditions have been met; v. The grant of an exploration licence does not guarantee the grant of an oil prospecting licence or oil mining lease.

The features of an Oil Prospecting Licence include:

i. The licence allows the holder to extensively explore and prospect for petroleum ii. The licensee enjoys exclusive rights to explore and prospect over the area of the licence; iii. The licensee may remove or dispose of petroleum discovered while prospecting; iv. The validity of the licence is at the discretion of the Minister of Petroleum Resources, but must not exceed 5 years (including renewal periods); v. The licensee may not assign his rights to another without the consent of the Minister; vi. The licensee may terminate the licence, at any time, by giving the Minister at least 3 months’ notice in writing; vii. The licence may only be granted to a company incorporated in Nigeria; viii. The licence may be revoked by the Minister if the licensee becomes controlled by a foreign entity.

The features of an Oil Mining Lease include:

i. The lease allows the holder to carry out full scale commercial production once oil is discovered in commercial quantities (10,000 barrels per day); ii. The lease may only be granted to the holder of an Oil Prospecting Licence; iii. The lessee enjoys exclusive rights over the area covered by the lease; iv. The lessee may remove, produce, transport, export or otherwise treat petroleum discovered in or under the leased area; v. The lease is valid for 20 years, subject to renewal vi. The lessee must apply to the Minister for renewal, at least 12 months before expiration of the lease; vii. 10 years after the grant of the lease, half of the area of the lease is relinquished; viii. The lessee may not assign his rights to another without the consent of the Minister; ix. The lessee may terminate the lease, at any time, by giving the Minister at least 3 months’ notice in writing; x. The Lessee may farm-out any marginal field which lies within the leased area, with the consent of the President. The farm-out permits a third party to explore, prospect, win, work and carry away any petroleum encountered in a specified area during the validity of the lease; xi. The President may also farm-out any marginal field which has been left unattended for up to 10 years after discovery of petroleum; xii. The lease may be revoked by the Minister if the lessee becomes controlled by a foreign entity.

The features of Production Sharing Contracts include:

i. The contract is entered between the Nigerian National Petroleum Corporation (NNPC) and exploration and production companies (“Contractors”); ii. NNPC is the holder of the Oil Prospecting Licence or Oil Mining Lease;
iii. The Contractor has exclusive rights to carry out exploration and production operations over a period of 30 years; iv. The Contractors bear the cost of petroleum operations within the contract area;

4. Are there any unconventional hydrocarbon resources (such as shale gas) being exploited and is there a separate regulatory regime for unconventional?

Unconventional resources are classified as unconventional because they are either unconventional hydrocarbons (heavy oil or bitumen) trapped in conventional reservoirs (high permeability sandstone or carbonate rocks) or they are conventional hydrocarbons (light oil or gas) trapped in unconventional reservoirs (low permeability sandstone or carbonate rocks). They may also be unconventional hydrocarbons in unconventional reservoirs (immature kerogen i.e. oil shale).

By their nature, they are regarded as difficult or require extra recovery techniques, however, bitumen (asphalt) is currently being exploited by the Nigerian government for the development of roads. In 2017, the Federal Government awarded an oil block license to the Ondo State Government for bitumen exploration in an effort to diversify the economy and improve the country’s foreign exchange. Bitumen and heavy exploration and development are currently regulated by Nigerian Minerals and Mining Act 2007.

The Government has long pledged its intention to systematically remodel the petroleum industry by the introduction of the Petroleum Industry Bill (PIB). However, the bill has suffered legislative delays and limited consideration from the executive, precluding its passage. Despite the intention of this bill, there have been no known provisions for exploration or exploitation of unconventional hydrocarbon resources.

5. Who are the key regulators for the upstream oil and gas industry?

The Government is the key regulator in the upstream oil and gas industry. The Constitution of the Federal Republic of Nigeria vests control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria, in the government of the Federation which is to be managed in the manner prescribed by the National Assembly. The Petroleum Act which is the principal statute, governs petroleum operations, including exploration, production and use. It vests ownership and control of all petroleum exclusively in the government and the exercise of the powers consequent on this title in the Minister of Petroleum Resources, who is the head of the Ministry of Petroleum Resources. The Minister acts primarily through the Department of Petroleum Resources, which carries out routine oversight and compliance monitoring functions.

Other bodies involved in the regulation of oil and gas include:

i. Federal Ministry of Environment; ii. National Environmental Standards and Regulations Enforcement Agency (NESREA), a parastatal of the Ministry of Environment; iii. National Oil Spill Detection and Response Agency (NOSDRA); iv. Federal Inland Revenue Service (FIRS); and v. Nigerian Content Development and Monitoring Board who guide, monitor, coordinate and implement the country’s involvement in the oil and gas industry.

The regulatory body for extracting oil and gas is the Department of Petroleum Resources (DPR). The DPR is an arm of the Ministry of Petroleum Resources. Among other things, the DPR:

i. Monitors the operations of oil companies. ii. Sets and enforces environmental standards. iii. Collects royalty and rents. iv. Supervises and ensures compliance with oil industry regulations. v. Issues licences and permits. vi. Ensures the protection of all oil and gas investments.

6. Is the government directly involved in the upstream oil and gas industry? Is there a government-owned oil and gas company?

The Nigerian National Petroleum Corporation Act establishes the Nigerian National Petroleum Corporation, which participates in petroleum operations on behalf of the Government. The Government of Nigeria is a major driver and facilitator in the oil and gas industry. The Government participates in oil and gas operations through the Nigerian National Petroleum Corporation by adopting various contractual models for the development of oil and gas resources (such as concession agreements, traditional joint ventures agreements, service contracts, production sharing contracts and sole-risk contracts). The NNPC can hold rights to oil and gas by acquiring the interest of another company which already owns these rights (subject to the consent of the Minister of Petroleum Resources).

7. Are there any special requirements for or restrictions on participation in the
upstream oil and gas industry by foreign oil and gas companies?

Certain procedures are prescribed and necessary for participation in the upstream oil and gas industry to the extent of one’s desired area of involvement. In acquiring an interest in a filed, a company/corporation must first obtain an Oil Exploration License (OEL) to explore the concession area. Upon the expiration of the OEL such a company may apply for the OEL to be converted to an Oil Prospecting Licence (OPL), this step is to enable the company go into exploration. In the event that the company discovers oil in large commercial volume, it immediately proceeds to meet the requirement of the Minister of Petroleum Resources. The next step the company will need to fulfill will be to convert the OPL to an oil mining lease. With an oil mining lease, a company can produce and dispose of any petroleum produce discovered.

A few restrictions exist in participation in the upstream oil and gas sector. The most of these restriction bothers on the assignment of licensees or leases without the prior consent of the Minister for Petroleum. A licensee or lessee cannot commence operations or exercise any rights of control in an area within its licence or lease area, if such area is held to be sacred, appropriated or dedicated to public purposes, unless the licensee or lessee obtains consent from the Minister.

8. What are the key features of the environmental and health and safety regime that applies to upstream oil and gas activities?

The Minister of Petroleum Resources is responsible for making regulations on matters relating to upstream oil and gas activities including matters relating to safe working, enquiries into accidents and the prevention of pollution of water courses and the atmosphere. Same can be summarised in the following order in line with legislation which has been enacted:

i. Mineral Oils (Safety) Regulations 1963 – This prescribes standard safety measures and imposes duties relating to safety of operations on holders of OPLs and OMLs. ii. Oil in Navigable Waters Act 1968 – This prohibits polluting the navigable waters of Nigeria with crude oil, fuel oil, lubricating oil, heavy diesel oil and any mixture of oil. It further requires ships and vessels to be fitted with equipment to prevent oil pollution. iii. Oil Pipelines Act – This prohibits a pipeline licensee from constructing any works within fifty yards of any public roads, dam, reservoir or building or over any water course required for domestic or irrigational use. iv.

Environmental Guidelines and Standards for the Petroleum Industry (EGASPIN) – Issued by the Department of Petroleum Resources (DPR), these guidelines and standards set out monitoring programmes and schedules to ensure environmental quality control for the oil and gas industry. v. Petroleum Refining Regulations 1974 – These require measures be taken to prevent and control environmental pollution and to ensure that all on-site personnel have suitable protective clothing, equipment and appliances as approved by the DPR. vi. National Oil Spill Detection and Response Agency (Establishment) Act 2006 – This prescribes regulations for dealing with waste emanating from oil production and exploration and its potential effect on the environment. vii. Environmental Impact Assessment Act – This makes it mandatory for an EIA study to precede every oil and gas project as a safety measure for determining the impact of the project on the environment. viii. Associated Gas Re-Injection Act – It seeks to restrict and regulated the flaring of associate gas. ix. Harmful Waste (Special Criminal Provisions, etc.) Act – prohibits the carrying, depositing and dumping of harmful waste on any land or territorial waters. x. National Environmental Standards & Regulations Enforcement Agency Act generally empowers the NESREA to preserve and maintain public health and welfare and prohibit the discharge of hazardous substances into the air, land and waters of Nigeria.

In addition, the various states have enacted their own environmental protection laws.

9. How does the government derive value from oil and gas resources (royalties/production sharing/taxes)? Are there any special tax deductions or incentives offered?

Value is derived from oil and gas resources through remittances of taxes, royalties and depot fees. The Nigerian Government goes into certain arrangements with different International Oil companies through certain government parastatals i.e. Nigerian National Petroleum Company (NNPC).

The Predominant arrangements entered into between the Government and investors are Joint Venture agreements, Product Sharing Contracts (PSC), Service Contracts and Marginal Field Concessions. Each arrangement has its own modalities for profit and loss sharing.

With respect to tax payable on Oil and gas resources,
the relevant tax rates for exploration and production companies ranges between 65.75% to 85%. The various types of arrangements shortlisted above determines the tax payable. The Government also generates revenue from penalties charged for gas flaring.

The payment of Royalties on Oil and Gas products in Nigeria is imposed and regulated by the Petroleum (Drilling and Production) regulations. These Royalties are however payable at production stage not after sales. For oil products, there isn’t a fixed rate, but it is determinable during each production due to certain factors which include:

i. The API gravity of the crude oil which is the measurement of the quality of the crude oil extracted. ii. The depth of the well iii. The quantity of production iv. Distance of the well from shore.

This means that, Royalties are not charged for deep shore fields of more than 1000metres reservoir depth from the seabed. If the depth of the sea is above 1000M, no royalty is payable. This is however currently being reviewed under the PIGB. The Royalty payable is determined by the quantity of production, royalty rate and the price of crude. This is all calculated, and the figure is then paid to the government.

For gas products, the royalty paid is on sales and it is fixed at 7% for onshore and 5% for offshore plants. It is determined by the Royalty rate and the sales made.

With regard to incentives, there aren’t any specifically. But the Production Sharing Contracts (PSC) arrangement offers a lower tax remittance to be paid to the Government. This is done to support indigenous companies which are called marginal field operators. These organisations go into PSC’s with the NNPC.

Royalties are made at production not after sales.

10. Are there any restrictions on export, local content obligations or domestic supply obligations?

There are primarily no restrictions on exportation of Oil and Gas Producing Companies in Nigeria. However, these companies are mandated by the Domestic Supply Obligation (DSO) Regime, under the National Domestic Gas Supply and Pricing Regulations (2008) to supply a particular amount/ quota to the Nigerian economy before exporting the residue to other countries.

Equally important is that exporters are required to have a petroleum products export clearance permit in line with the stipulated regulatory guidelines before they can export any such product.

The Nigerian Oil and Gas Industry Content Development Act (“NOGICDA”), establishes a framework by which Nigerian content is significant. Nigerian companies and indigenous operators are given first consideration in the award of Oil blocs, licenses and other significant allocations with regards to the Petroleum Industry.

With respect to employment as well, the International Oil Companies (IOCs) have quotas of expatriates they can have at time. This is set in place to control the influx of foreign employees in this sector and to also promote or engage local expertise.

With respect to domestic obligation, i.e. for Gas, Companies are obligated to have some percentage of their gas for domestic supply for crude oil export, we have what is called the technical allowable rate, this is obtained technically through the assessment of the wells by the upstream division. Each company is therefore given a rate which they cannot exceed. because the life of the well is protected so it can last for long. Also note that the technical allowable rate given to companies will sum up to our export quota by OPEC.

11. Does the regulatory regime include any specific decommissioning obligations?

At present, there are no regulatory guidelines for decommissioning of Oil and Gas assets in Nigeria, both onshore and offshore. Consequently, when a well is no longer profitable, the wells are shut down and the facilities decommissioned. Section 8 of the Petroleum Act 1969 provides for the total removal of oil and gas facilities when decommissioning a well, unless same is going to be taken over by the Minister of Petroleum. The Petroleum Act mandates seeking approval from the Department of Petroleum Resources (DPR) before any well is shut down or decommissioning process begins.

The Department of Petroleum resources through the Environmental Guidelines and standards for the Petroleum Industry in Nigeria (EGASPIN) stipulates the guidelines for abandonment and decommissioning of Oil and Gas facilities for both offshore and inland / nearshore areas. Thus, the primary requirements of the DPR on any decommissioning projects are the incorporation of restoration programmes which involves identification of potentially contaminated land/ site, assessment of such site and consideration of what remedial treatment is practically required to fix the contamination.

Also, the Holder of the OML or OPL is responsible for all the decommissioning costs that will be borne.
12. What is the regulatory regime that applies to the construction and operation of offshore and onshore oil and gas pipelines?

The Department of Petroleum Resources regulates the issuance of permits for the construction and operation of oil and gas pipelines. This is enshrined in Section 3 of the Pipelines Act 2004. The section provides for the construction and operation of Pipelines in Nigeria by persons who are holders of an Oil pipeline license or is acting on behalf of the holder and has obtained the consent of the minister to do same under Section 25 of the Act. Worthy of note also is the provisions of Section 3 of the Petroleum Act 1969 which provides for the acquisition of a construction license from the DPR for the operation of a gas processing facility. The Federal Ministry of Environment equally stipulates the issuance of an environmental impact assessment certificate to all facilities that seek to construct and operate any natural gas storage facility.

13. What is the regulatory regime that applies to LNG liquefaction and LNG receiving terminals? Are there any such terminals in your jurisdiction?

The Nigerian Liquefied Natural Gas Company (NLNG) has the sole mandate for production of liquefied natural gas in Nigeria. It drives LNG activities within Nigeria, for the international market. The Company is jointly owned by NNPC, Shell, Total and Eni.

LNG liquefaction and receiving terminals activities are regulated under the Petroleum Act (2004) and its subsidiary regulations, which include the following:


Nigeria has an LNG Terminal in Bonny Island, Rivers State. It owns and operates six liquefaction units (LNG trains) which produces about 22 million metric tonnes per annum (mtpa), with a seventh train in the works. The NLNG also owns a gas transmission and liquefaction infrastructure including several LNG vessels through Bonny Gas Transport Limited (BGT), which is its subsidiary Company. Its customers however, own receiving and liquefaction terminals for LNG supplied by the company.

14. What is the regulatory regime that applies to gas storage (not LNG)? Are there any gas storage facilities in your jurisdiction?

Nigeria possesses the largest natural reserves in Africa and the ninth largest in the world. It is estimated to be about 187 trillion cubic feet (tcf) of natural gas reserves. The natural gas reserves however remain unexploited even though huge quantities of gas are flared in the process of oil production. Gas storage in Nigeria is well regulated as the Federal Government recognised the huge financial loss associated with gas flaring and promulgated the Associated Gas Re-injection Act 2004 and the Associated Gas Re-injection (Amendment) Act 2004 which allowed for oil producing companies to summit detailed plans for gas utilisation and the prohibition of gas flaring without the permission of the Minister of Petroleum Resources.

The National Oil and Gas Policy (NOGP) 2004 included the establishment of a comprehensive National Gas Master Plan (the “NGMP”) to reinforce the development of gas infrastructure, including central processing facilities and transmission pipelines in Nigeria. While the natural gas policy is focused on promoting public-private partnership or a more effective commercialisation of the gas reserves, the Gas masterplan is focused on maximising the value inherent in the country’s gas reserves, with enhancement of increasing domestic usage of gas within the economy, while growing a high-value export market.

Nigeria possesses gas storage facilities comprising of approximately 1,100 km of pipelines, 7 gas systems and 14 compressor stations with an installed capacity of 2.1 bcf per day and 13 export terminals opened by the Nigeria Gas Company Limited (NGC) a wholly owned subsidiary of Nigerian National Petroleum Commission (NNPC). Some multinationals obtain licences and pipelines to supply their individual gas utilisation projects. These pipelines connect the gas fields to the project site or distribution lines for the downstream, from the factory gate to the end users. The gas pipeline infrastructure in Nigeria is situated in the southern part of the country.

15. Is there a gas transmission and distribution system in your jurisdiction? How is gas distribution and transmission infrastructure owned and regulated? Is
there a third party access regime?

Nigeria has a gas transmission and distribution system which is owned by the Nigerian Gas Company (NGC), a subsidiary of the Nigerian National Petroleum Commission (NNPC). The NGC as a sole supplier, owns and controls the transmission lines which comprises of the Escravos-Lagos Pipeline System (ELPS), which is also referred to as the Western Network, and the Alakiri-Obigbo-Ikot Abasi Pipeline, also referred to as the Eastern Network.

As regards a third-party access regime in Nigeria, the Minister of Petroleum Resources has the power to grant permits to survey routes for gas pipelines and can grant licences for the construction, maintenance and operation of gas pipelines. Third-party access is not an automatic right. The NGC however has the power to grant distribution licences and may grant same to third party companies. This third-party company, enters into long term gas sale and purchase agreements (GSPAs) with producers, including franchise arrangement wherein they develop the gas distribution structure and carry on with the distribution of gas. A successful execution of such agreements means that these third-party companies have the discretion to either distribute the NGC-owned gas to the NGC's customers or sell and distribute gas on their own account to their own customers, who may also choose their preferred suppliers.

16. Is there a competitive and privatised downstream gas market or is gas supplied to end-customers by one or more incumbent/government-owned suppliers? Can customers choose their supplier?

Downstream gas sector liberalisation and third-party access which creates, appropriate gas pricing to facilitate efficiency in gas to power whilst maintaining a balance between domestic growth and gas export revenue earnings is covered by the NGMP. The Nigerian downstream gas market is categorized by both government owned suppliers and private companies who have obtained licences as detailed in Question 15.

17. How is the downstream gas market regulated?

Section 1 (1) of the Petroleum Act provides that the entire ownership and control of all petroleum in, under or upon any land to which this Section applies shall be vested in the State (Federal Government of Nigeria) and by virtue of Section 9 (1)(a) of the Act, the Ministry of Petroleum Resources is vested with the Power to make subsidiary regulations subject to the provisions of the Act.

The National Domestic Gas Supply and Pricing Policy (The Policy) is one of the subsidiary legislations enacted pursuant to the Provisions of the Act. The Policy regulates the downstream gas market. Under the Policy, the Federal Government of Nigeria has grouped the entire domestic demand into three broad groupings. This grouping is in recognition of the fact that, the different demand sectors have different strategic benefits to the country and different pricing considerations. The groupings are:

i. Strategic Domestic Sector: which intent to facilitate and ensure low cost gas access to limited set of sectors, that have a significant direct multiplier effect on the economy.

ii. Strategic Industrial Sector: intent to ensure that feed gas price is affordable and predictable, in order to ensure competitiveness of the products in International Markets.

iii. Commercial Sector: Projects in this group are a potential major direct revenue earner for Nigerian gas due to their capacity to bear high gas prices.

The gas pricing framework proposed in the Policy is a transitional pricing arrangement. The Honourable Minister of Energy (Gas), monitors the environment and determines when the domestic market is fully developed, and an alternative pricing approach is required. It is pertinent to state that the pricing framework does not fix prices. It barely sets out a transparent structure for determining the floor price for dry gas for the categories of demand sectors mentioned above. The floor price is the lowest price that gas can be supplied to a particular category of demand sector. The actual price paid is based on an indexation formula, jointly determined during negotiation between the buyer and seller. In essence, the Market actually determines the price by establishing the indexation mechanism.

18. Have there been any significant recent changes in government policy and regulation in relation to the oil and gas industry?

Regulatory advancement in the Petroleum Industry of Nigeria has remained stagnant. This is evidenced by the fact that the Petroleum Industry Bill (PIB), an omnibus law meant to regulate the entire sphere of the oil and gas industry by consolidating and repealing all extant
petroleum legislation, struggled to see the light of the day despite its initial proposal before the National Assembly in 2008.

PIB was eventually fragmented into four Bills: Petroleum Industry Governance Bill (Governance Bill), Petroleum Industry Fiscal Bill (Fiscal Bill), Petroleum Host Community Bill (Host Community Bill) and Petroleum Industry Administration Bill (Administration Bill). Each bill seeks to address a key aspect of the challenges faced in the Nigerian Oil and Gas Industry. The Governance Bill is intended to outline a strategy for the creation of commercially viable petroleum entities, through the creation of efficient governing institutions with clear and distinct roles. The Fiscal Bill proposes the new fiscal package for the oil and gas industry with an exhaustive royalty regime, new tax arrangements and incentives for petroleum processing. The Host Community Bill is intended to enable host communities’ benefit directly from the operations taking place in their communities and the Administration Bill seeks to address the new licensing and regulatory arrangements across the value chain in the oil and gas sector.

On 25 May 2017, the Senate of the National Assembly passed the Governance Bill. However, for the Governance Bill to effectively become Law, it needs to be passed by the House of Representatives and assented to by the President as enshrined in Section 58(3) & (4) of the Constitution of the Federal Republic of Nigeria (1999 as amended). The Constitutional provisions are also applicable to other fragments of the PIB pending before the National Assembly.

19. What key challenges have been identified by the government and/or industry in relation to your jurisdiction’s oil and gas industry? In this context, has the Covid-19 pandemic had an impact on the oil and gas industry and if so, how has the government and/or industry responded to it?

Corruption, crude oil theft (otherwise known as illegal bunkering) and community unrest are the main challenges militating against optimal revenue generation from the Nigerian Oil and Gas Industry.

The oil sector in Nigeria has been marred by excessive corruption and the absence of good governance, thereby militating against the judicious application and utilisation of the proceeds from oil wealth for national development by successive leadership. In 2012, an investigative panel discovered that while the federal government was paying for 59 million litres of refined crude oil daily in 2011, only about 35 million litres of the products were being consumed daily in the country, with subsidy balance for 24 million litres costing an excess payment of Six Hundred Billion Naira stolen.

Another source of concern to policy makers is crude oil theft. The International Energy Agency (2012) stated that organised and large-scale illegal crude oil bunkering results in loss of estimated Seven Billion Dollars (USD) annually by the Federal Government. It has also been argued that illegal crude oil bunkering fuels conflicts and unrest in the host community (Niger Delta Region), thereby creating instability, general insecurity and has substantially affected crude oil production.

As response to myriads of challenges facing the oil and gas industry, two major policy initiatives were established – the transparency initiative (NEITI-2004) championed by the Nigerian Extractive Industries Transparency Initiatives and amnesty initiative (2009) piloted by the Presidential Committee on amnesty programme. These Policies aimed at alleviating the predicaments and improving government revenue from the Oil and Gas Industry.

20. Are there any policies or regulatory requirements relating to the oil and gas industry which reflect/implement the global trend towards the low-carbon energy transition? In particular, are there any (i) requirements for the oil and gas industry to reduce their carbon impact; and/or (ii) strategies or proposals relating to (a) the production of hydrogen; or (b) the development of carbon capture and storage facilities?

There is no nationally recognised institutional framework or champion for the implementation of low-carbon development in Nigeria. Although, the National Assembly has passed a bill to establish a National Climate Change Commission, this has not yet been signed into law. However, since the Oil and Gas Industry is one of the main sources of greenhouse gas (GHG) emissions, the Federal Government of Nigeria (FGN) has some isolated activities which seek to promote low-carbon energy development and prescribe environmental and emission standards applicable to natural gas activities.

They include: the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act (NESREA), the Environmental Impact Assessment Act (EIA) and the Environmental Guidelines and Standards
implementing policies that would reduce gas flaring by stimulating domestic gas utilization. One of the policies is the introduction of the Nigerian Gas Master Plan (NGMP) which introduced the Gas Infrastructure Blueprint, Gas Pricing Policy and Gas Supply Obligation. Articles 282, 335, 404-410 of the Gas Master Plan highlighted the significance of encouraging the use of in domestic markets as well as ending gas flaring.

Contributors

Dr. Jennifer Abubakar-Douglas  
Founding Partner  
jdouglas@miyettilaw.com

Zada Amede Oputa  
Legal Coordinator  
zada.oput@miyettilaw.com

Ms Ikiemoye B. Ozoeze  
Associate Partner, Head of Practice Management  
ikiemoye.ozoeze@miyettilaw.com