Nigeria’s practice and experience in its domestic licensing regimes and views on the implementation of Article 82 with regard to its offshore oil and gas activities

By

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The Ministry of Petroleum Resources is responsible for petroleum affairs, in respect of which it co-ordinates all related policies, manages the petroleum resources, and administers the relevant laws and regulations.

The Ministry, in addition, supervises the activities of all the executive organs of the public sector of the oil industry, the government’s interests and investments in the industry, as well as co-operating with other relevant government ministries in an advisory capacity.
Within the Ministry of Petroleum Resources, technical issues of policy nature, regulatory control of the industry, revenues, royalties and fiscal provisions, and licensing of operations under the Petroleum Act are handled by the Department of Petroleum Resources, whose responsibilities and functions can be broadly summarised to include:
(i) Advising on policy matters affecting the management of petroleum resources.

(ii) Initiating petroleum policies.

(iii) Ensuring compliance with legislations on petroleum matters, and

(iv) Regulating and monitoring the activities of companies operating within the oil industry.
PETROLEUM EXPLORATION AND DEVELOPMENT POLICY
The prevailing government policy permits the involvement of private and public interests, in the exploration/development of petroleum resources, whether indigenous or foreign.

Recent modifications to the modalities for the acquisition of concessions in Nigeria now allows the grant of oil prospecting licenses and oil mining leases, where appropriate, to interested parties, seeking their own sole operations.
The broad objectives of that policy are to:

(i) Expand the scope of participation in Nigeria’s oil industry and diversify the sources of investment and the inflow of funds.

(ii) Increase the oil and gas reserves base through aggressive exploration.

(iii) Promote indigenous participation in the oil industry thereby fostering technological transfer.

(iv) Ensure that periodic open competitive bidding for acreages are carried out and that allottees do not hawk these blocks in the open market to third parties.
LEGISLATION
The major legislations guiding the petroleum industry in Nigeria, particularly the oil exploration and production activities are:


(v) Oil Pipeline Act 1956, as amended in 1965.


(ix) Deep Water Block Allocations to companies (Back-in-Rights) Regulations 2003

(x) Oil Prospecting Licenses (Conversion to Oil Mining Leases etc) Regulations 2003
Relevant issues such as fees, terms and conditions of operations within the petroleum industry, the technical and safety standards, as well as the broad specifications of the equipment/installations to be used and the requirements in respect of environmental and health protection are addressed in these legislations.

License and permit types, as well as the obligations and rights of the concessionaire, are included in the provisions to guide new entrants and all other existing operating companies.
RIGHT OF THE STATE
(i) All the petroleum in Nigeria is vested in the Federal Government, whose sole responsibility it is to control the resources and only permit their exploitation under license, in accordance with the Petroleum Act 1969.

(ii) The State allocates acreages (licenses) to operators in any such areas deemed to have potential for petroleum accumulation at the discretion of the Minister of Petroleum Resources.

(iii) The State reserves the right to participate in the operations of any block and to determine the type of contractual arrangements between the allottee(s) and the Government.

(iv) The State reserves the right to recommend local content providers to participate in any block for the purpose of implementing the local content policy of Government.
PARTICIPATION IN THE PETROLEUM EXPLORATION AND PRODUCTION OPERATIONS IN NIGERIA

- Only the holder of a concession or assignee or their accredited contractors can engage in petroleum exploration and production operations in Nigeria.

- These concessions will be allocated to operators based on Open Competitive Bidding.

- Concessions or licenses may be granted only to a company incorporated in Nigeria under the Petroleum Act or any corresponding Law without prejudice and the company must be registered solely for Petroleum business.
The approval of the Hon. Minister of Petroleum Resources is required for the granting of an Oil Prospecting License (OPL).
APPLICABLE FEES FOR PARTICIPATION

Application form shall be provided by the Department of Petroleum Resources (DPR) and the non refundable chargeable fees shall be as follows:

- **Application Fee** - $10,000.00 per block.
- **Bid Processing Fee** - US $10,000.00 per block.
- **Data Prying Fee** - $25,000.00 per block.
- **Data leasing:**
  - Seismic US $50,000
  - Wells and Reports US $50,000
PRE-QUALIFICATION
The basic criteria for the qualification of applications in order to qualify for participation in the Bid Round are as follows:

(i) Evidence of Registration
The company must be registered solely for Exploration and Production business.
The following documents must be attached to the application:
(a) Certificate of Incorporation
(b) Articles and Memorandum of Association

(ii) Evidence of Financial Resources
For companies intending to obtain operator status there should be a letter from a bank indicating that the company is worth at least US $10,000,000.00 or N1,000,000,000.00 (One Billion Naira) or in the case of a Nigerian company with technical partner, they must have joint evidence of same amount. There must be evidence also that the company has maintained an account balance of at least One Billion Naira or Ten Million United States Dollars for at least six months prior to the date of application.
(iii) Evidence of the Company’s Technical Capability
Evidence of company’s technical capacity, capability and track record with emphasis on experience and expertise in exploration, development and production.

(iv) Environmental Policies of applicant
Detailed environmental policies of the company should be stated with particular reference to environmental impact analyses.

(v) Local Content
Government intends to make local content a compulsory item in the Bid Round. Local content refers to those activities (or part of them) in the proposed work programme which the applicant would mandate to the local content partner proposed by applicant and approved by Government.

(vi) Evidence of Payments
This will include the payment of the application, bid processing, prying and data leasing fees.
METHOD OF ASSESSMENT OF APPLICATIONS

(i) The technical qualification will be based on the assessment criteria outlined by the DPR.

(ii) The Ministry is not obliged to grant any license on the basis of the application received.

(iii) There shall be no restriction on the number of blocks that a company could apply for as long as the application fees are paid for all blocks in respect of which interest is shown.

(iv) An open, computer based competitive bidding process shall be employed in evaluating all bids and awarding all the blocks in the Bid Round.
Bidding will occur in the following three phases:

(1) **Companies Registration:** – The objective of this phase is to enroll companies that are interested to participate in the Bid Round. The participating companies will provide all required company technical, legal and financial information.

(2) **Technical Evaluation:** - The objective of this phase is to analyze and issue the technical classification of the companies. A company may be qualified as operator classified in three categories:
   a. Class (a) operator: companies qualified to operate in the deep offshore and frontier inland basins;
   b. Class (b) operator: companies classified to operate in blocks located in Niger Delta shallow waters or onshore and Inland basins; and
   c. Class (c) operator: company qualified to operate in Niger Delta shallow waters or onshore only.

(3) **Commercial Evaluation:** – The objective of this phase is to obtain a fair value for the State and determine the companies to be designated operators on the basis of the commercial package offered by the companies.
LICENSES AND LEASES
(i) Oil Prospecting License (OPL) Rights and Obligations
This confers exclusive rights of surface and subsurface exploration for the production of petroleum in an area not more than 2590 sq. km. (1000 sq. miles) in size. The OPL shall be granted in inland basins for an initial period of three (3) years with the option of renewal for a maximum period of two (2) years. For the deep water blocks and frontier basins the exploration period is ten (10) years, broken into two five year periods which automatically roll over unless otherwise withdrawn due to nonperformance.

(ii) Oil Mining Lease (OML)
A licensee who has fulfilled the work commitment according to Paragraph 30 (b) and 31 of the Petroleum (Drilling and Production) Regulations of 1969 and the conditions otherwise applicable to the individual license may request that the license be converted to an OML. An OML is granted upon confirmation of potential for economic production of petroleum from the license. The OML grants exclusive rights to explore, win, produce and carry away petroleum from the relevant area. The regulation size is 50% of the OPL, the other 50% of which shall revert to DPR(unless less than 250 sq. km in area) and the specified duration is 20 years. Only the holder of an OPL is entitled to apply for conversion of Oil Prospecting License to an Oil Mining lease, through the Department of Petroleum Resources (DPR) for approval.
(i) Fees
The prescribed statutory application fees payable are as follows:
(a) Application for Oil Prospecting License US $ 10,000.00
(b) Application for Oil Mining Lease US $ 500,000.00
(c) Application for Renewal of Oil Mining Lease US$ 1,000,000.00
(d) Application to assign sublet or contract an Oil Prospecting License or Oil Mining Lease N500,000.00

(ii) Rents
(a) For an Oil Prospecting License (OPL) – an annual rent of US $10 per sq. km. or part thereof.
(b) For an Oil Mining Lease (OML) – an annual rent of US $ 20 per sq. km or part thereof per annum for the first ten (10) years; thereafter, a rent of US $15 per sq. km or part thereof per annum until the expiration of the lease and on renewal
The Blocks on offer (2007 Bid Round)
## Blocks on Offer

<table>
<thead>
<tr>
<th>Area</th>
<th>Blocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anambra</td>
<td>5</td>
</tr>
<tr>
<td>Benue</td>
<td>3</td>
</tr>
<tr>
<td>Chad</td>
<td>3</td>
</tr>
<tr>
<td>Niger delta Continental shelf</td>
<td>11</td>
</tr>
<tr>
<td>Onshore Niger delta</td>
<td>12</td>
</tr>
<tr>
<td>Deep offshore</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>45</strong></td>
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Nigeria has not started exploration of oil and gas beyond the 200 nautical miles.
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FOR
YOUR ATTENTION