Domestic market overview

Production

What is the extent of oil and gas production in your jurisdiction?

The Nigerian National Petroleum Corporation (NNPC) places Nigeria as the largest oil and gas producer in Africa and the sixth largest in the world, while the Organisation of the Petroleum Exporting Countries ranked it as the 13th largest global producer in 2015.

According to the NNPC, Nigeria has estimated petroleum reserves of 28.2 billion barrels of crude oil and 165 trillion standard cubic feet (scf) of gas (including 75.4 trillion scf of non-associated gas). Further, its average production capacity is 2 million barrels of crude oil per day (bpd) and 7.6 billion scf per day of gas.

Consumption

How does domestic energy consumption break down with respect to oil and gas, as well as imports and exports?

According to the NNPC’s July 2016 financial and operations report, an average of 1.7 million bpd of crude oil was lifted in June 2016. Of this amount, an average of:
- 298,624 bpd of crude oil were allotted for domestic consumption;
- 252,390 bpd were traded for refined petroleum products under the NNPC’s direct sales-direct purchase scheme; and
- 46,234 bpd were processed in domestic refineries.

The report also states that, of an average gas production of 3.6 billion scf per day in July 2016:
- 655 million scf per day was supplied to the domestic market (61.93% of the total quantity was supplied to the power sector); and
- 3.05 billion scf per day was supplied for export.

Nigeria does not import crude oil or gas; its demands for both are met from domestic production.

The National Bureau of Statistics’ Petroleum Products Imports Statistics indicate that in 2015 Nigeria imported refined petroleum products comprising approximately:
- 19 billion litres of premium motor spirit;
- 3.9 billion litres of diesel; and
- 1.7 billion litres of household kerosene.

Trends

What are the current trends and future prospects for oil and gas supply and demand in your jurisdiction, and what policies has the government adopted to address these?
Crude prices plunged to a 13-year low of approximately $30 per barrel in the first quarter of 2016. The NNPC’s report indicates a dip in crude oil production from an average of 2.1 million bpd in July 2015 to 1.7 million bpd in June 2016, whereas the 2016 national budget is premised on expectations of 2.2 million bpd and benchmark pricing of $38 per barrel. With consecutive negative gross domestic product growth reported in the first and second quarters of 2016, the National Bureau of Statistics is reported to have confirmed that Nigeria is in recession.

Recent public statements suggest that the government is considering selling oil and gas assets, including NNPC interests in Nigeria LNG Limited, four refining companies and certain upstream joint venture assets to boost revenue and fund budget deficits.

A new Petroleum Industry Governance Bill, promoted by the executive, focuses on restructuring the NNPC and the functions of the minister of petroleum resources and the Department of Petroleum Resources. The bill passed its second reading by the Senate on November 2 2016.

The Ministry of Petroleum Resources also recently released a roadmap of short and medium-term priorities for the Nigerian petroleum sector in a policy document known as the 7 Big Wins. A key focus area of the roadmap is oil and gas policy and regulation and, to this end, the ministry and other stakeholders are tasked with developing a new Petroleum Industry Reform Bill. At present, it is unclear whether the Petroleum Industry Reform Bill is the same as the Petroleum Industry Governance Bill, which is before the National Assembly.

To address the NNPC’s challenges in meeting its joint venture funding obligations, it initiated an accelerated upstream financing programme with Chevron Nigeria Limited in September 2015. The programme proposes to establish a $1.2 billion multi-year drilling financing arrangement for 36 wells as part of the NNPC-Chevron joint venture, and is expected to result in the production of 41,000 bpd of crude oil and a projected peak incremental production of 127 million scf of gas per day. The NNPC has announced its plans to resume oil exploration activities in the Gongola and Chad Basins in northern Nigeria.

What are the primary laws and regulations governing the oil and gas industry in your jurisdiction?

The Constitution vests in the government control of all minerals, mineral oils and gas in, under or on any land in Nigeria and its territorial waters and exclusive economic zone, to be managed in the manner prescribed by the National Assembly.

The Petroleum Act is the principal statute that 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. Qualified persons wishing to carry out any form of petroleum operations can do so only on the basis of authorisation granted by the minister. The Petroleum Act and its subsidiary legislation, including the Petroleum (Drilling and Production) Regulations, the Petroleum Regulations and the Petroleum Refining Regulations, govern petroleum operations in Nigeria including, but not limited to, exploration, development, production, storage, transportation, refining and marketing.

The Oil Pipelines Act and the Oil and Gas Pipelines Regulations provide the legal and regulatory framework for the establishment, operation and maintenance of pipelines that are incidental and supplementary to oil and gas operations in Nigeria.

The Deep Offshore and Inland Basin Production Sharing Contracts Act prescribes fiscal incentives for companies operating in the deep offshore and inland basin areas of Nigeria under production sharing contracts.

The Nigerian National Petroleum Corporation Act establishes the Nigerian National Petroleum Corporation, which participates in petroleum operations on behalf of the government.

The Nigerian Oil and Gas Industry Content Development Act aims to enhance the development of indigenous capacity across the Nigerian oil and gas industry. It sets minimum Nigerian content prescriptions for various services and requires that first consideration be provided to companies incorporated in Nigeria (ie, with 51% of equity owned by Nigerian parties) in the award of oil blocks and licences. Nigerian companies with the relevant equipment and capacity to execute work on land and swamp-operating areas must be given exclusive consideration to bid for work in such areas.
What government bodies are charged with regulating the oil and gas industry and what are the extent of their powers?

The Ministry of Petroleum Resources (headed by the minister of petroleum resources) is:

- responsible for policy formulation and regulating the Nigerian petroleum industry; and
- empowered to authorise petroleum activities (eg, leases, licences and permits).

The minister acts primarily through the Department of Petroleum Resources, which carries out routine oversight and compliance monitoring functions.

The Nigerian Content Development and Monitoring Board, established by the Nigerian Oil and Gas Industry Content Development Act, supervises, coordinates, administers and monitors the implementation and development of Nigerian involvement in the oil and gas industry.

Other agencies involved in the regulation of the oil and gas industry include the Federal Ministry of Environment and the National Oil Spill Detection and Response Agency.

Exploration and production

Rights

Who holds the rights to oil and gas reserves in your jurisdiction?

The Constitution, the Petroleum Act and the Exclusive Economic Zone Act grant the rights to, as well as the control of, all minerals, mineral oils and gas in Nigeria and its territorial waters and exclusive economic zone in the federal government.

Is there a distinction between surface and subsurface rights?

The ownership of surface rights does not automatically confer subsurface title rights, which are vested in the government. Likewise, exploration and production rights are granted only in connection with the resources located within sub-surface regions. The Petroleum (Drilling and Production) Regulations prohibit the occupation or exercise of any concession rights in areas designated as sacred by state authorities.

Ministerial permission is required to obtain and exercise surface rights in certain areas (eg, those set aside for public purposes or occupied for government purposes).

For privately owned land, ministerial permission is required subject to payment of compensation to lawful occupiers of such land.

What rules and procedures govern the grant of rights for exploration and production purposes (eg, through licences, leases, concessions, service contracts, production sharing agreements)?
Exploration and production companies conduct petroleum operations through the following concessions:

- An oil exploration licence – this licence is non-exclusive and granted in respect of areas of unproven reserves for the exploration of petroleum. It expires on December 31 in the year that it was granted.
- An oil prospecting licence – this licence is an exclusive licence, granted for any period determined by the minister of petroleum resources of up to five years for onshore areas and shallow waters and up to 10 years for deep offshore and inland basins. The oil prospecting licence permits the licensee to conduct more extensive exploration activities and remove and dispose of petroleum discovered while prospecting.
- An oil mining lease – this licence allows full-scale commercial production in a lease area. It is granted to oil prospecting licence holders on the discovery of oil in commercial quantities (at least 10,000 barrels per day). It grants the lessee an exclusive right to prospect, explore, produce and undertake marketing activities in connection with the specified acreage for a period of 20 years. An oil mining lease may be renewed subject to the fulfilment of certain conditions.
- Farm out – the Petroleum Act empowers the president to farm out a marginal field that has been left unattended for at least 10 years from its first discovery to a third party (farmee). The farmee enters into a farm-out agreement with the holder of the oil mining lease, which permits the farmee to explore, prospect, win, work and remove petroleum during the validity of the lease.
- Production sharing contract – the Nigerian National Petroleum Corporation (NNPC) enters into production sharing contracts (as the proprietary holder of oil prospecting licences or oil mining leases) with exploration and production companies as contractors to the NNPC. Under production sharing contract arrangements, the NNPC’s contractors bear the cost of petroleum operations within the contract area and, in return, can recoup costs (after defraying royalty) and realise profit (after allocating tax oil).

What criteria are considered in awarding exploration and production rights (eg, are there any restrictions on the participation of foreign investors/companies)?

The minister of petroleum has absolute discretion under the Petroleum Act to grant oil exploration, prospecting and mining licences to companies incorporated in Nigeria.

The Petroleum (Drilling and Production) Regulations outline the application process and submission requirements, including evidence of the licensee’s financial status and technical competence and details of:

- the proposed work programme of the operations;
- the annual expenditure;
- the start date of the operations;
- the schemes for recruiting and training Nigerians;
- the licensee’s capacity to market petroleum;
- annual reports on the licensee’s exploration and production activities; and
- any other information that the minister of petroleum may require.

The government has awarded exploration and production rights (including marginal field and production sharing contract awards) through competitive bidding processes known as licensing rounds. Criteria for such awards vary, but are published by the ministry in pre-licensing round guidance notes and include:

- evidence of financial and technical capacity;
- the applicable premium (ie, signature, prospectivity and production bonuses); and
- evidence of the commitment to projects of strategic national interest and minimum work programme commitments.

In addition to the above, the Nigerian Oil and Gas Industry Content Development Act entrenches the principle of according first consideration to Nigerian operators in the award of oil blocks, oil field licences, oil lifting licences and contracts for the execution of projects in the Nigerian oil and gas industry.

Are there any special legal provisions applicable to joint ventures?

In addition to the above, the Nigerian Oil and Gas Industry Content Development Act entrenches the principle of according first consideration to Nigerian operators in the award of oil blocks, oil field licences, oil lifting licences and contracts for the execution of projects in the Nigerian oil and gas industry.
According to the Department of Petroleum Resources’ Guidelines and Procedures for Obtaining the Minister’s Consent for the Assignment of Interests in Oil and Gas Assets, where an assignor of interests is the operator of an asset to which the Nigerian National Petroleum Corporation is a joint venture partner or concessionaire, the assignor is prohibited from transferring the right of operatorship to an assignee and will not make the right of operatorship part of the commercial consideration in such a transaction.

The Petroleum Act and its subsidiary legislation are drafted from a single operator (licensee-lessee) perspective. Therefore, the applicable law applies jointly and severally to joint venture partners.

Otherwise, joint ventures in Nigeria are regulated by the terms of the respective joint operating agreements.

Can exploration and production rights be transferred to third parties?

Oil prospecting licence and oil mining lease holders are prohibited from assigning their licences or leases, or any right, power or interest therein, without the prior consent of the minister of petroleum. Further, the Petroleum (Drilling and Production) Regulations require that the takeover of an oil prospecting licence or oil mining lease is subject to the minister of petroleum’s consent.

This was confirmed by the Federal High Court in *Moni Pulo Limited v Brass Exploration Unlimited*, where the court confirmed that an indirect transfer of interest in an oil mining lease (by way of the sale of shares of a lessee resulting in a change of control) requires ministerial consent.

The Department of Petroleum Resources’ Guidelines and Procedures for Obtaining the Minister’s Consent for the Assignment of Interests in Oil and Gas Assets, aim to include (albeit not exhaustively) descriptions of transactions that constitute assignments requiring ministerial consent, including:

- assignments by way of an exchange or transfer of shares;
- share listings;
- mergers or acquisitions to directly or indirectly take over or acquire the whole rights or interests in an underlying petroleum asset.

Is hydraulic fracturing (‘fracking’) permitted in your jurisdiction?

There are no specific laws and regulations on fracking in Nigeria. However, the Petroleum (Drilling and Production) Regulations require licensees and lessees to use Department of Petroleum Resources-approved methods and practices for the production of crude oil or gas from any pool or reservoir.

What is the general legal framework governing the transportation and storage of oil and gas resources in your jurisdiction?
Oil and gas resources are primarily transported via pipeline networks that connect several fields and lead to storage tank farms, refining-petrochemical facilities or oil terminals for onward shipping.

The Oil Pipelines Act and Oil and Gas Pipelines Regulation govern the operation of petroleum pipelines. The grant of a licence is preceded by a survey of the proposed pipeline route, which is conducted with the minister of petroleum’s permission.

The Petroleum (Drilling and Production) Regulations require licensees and lessees to use approved methods and practices for the storage of petroleum obtained from relevant areas of operations.

In order to determine fiscal obligations, licensees or lessees are required by the Petroleum (Drilling and Production) Regulations to act in accordance with the Department of Petroleum Resources’ Procedure Guide for the Determination of the Quantity and Quality of Petroleum and Petroleum Products in Nigeria. The guide describes methods to be used and standards to be complied with in carrying out quantity and quality measurements for liquid petroleum and petroleum products at designated facilities, as well as procedures for the calibration and certification of measuring equipment.

The Oil Terminal Dues Act is relevant to the export of crude oil. It provides for the levying and payment of terminal dues by vessels evacuating crude oil at terminals in Nigeria. The act also prohibits the installation and operation of oil terminals, except with the written approval of the minister of petroleum, among other requirements.

Crude oil is evacuated at oil terminals by ocean tankers that must comply with the Crude (Transportation and Shipment) Regulations which, among other things, require all declarations regarding the capacity of a vessel in which crude oil is carried to be verified by the appropriate government authority.

### Construction and infrastructure

**How are the construction and operation of pipelines, storage facilities and related infrastructure regulated?**

Please see above.

Further, the Coastal and Inland Shipping (Cabotage) Act restricts the use of foreign vessels for the carriage of goods within coastal territorial inland waters, or any point within the waters of Nigeria’s exclusive economic zone. The act also restricts vessels, tugs or barges that are not beneficially owned by a Nigerian citizen from the carriage of materials or supply services to and from oil rigs, platforms and installations, whether offshore or onshore or within any ports in Nigerian waters.
The Oil Pipelines Act empowers the minister of petroleum to grant permits to survey routes for pipelines and, thereafter, issue licences to construct, maintain and operate such pipelines, together with any ancillary installations necessary for the operation of oil pipelines, including storage tanks, pumping stations and loading terminals.

The Oil and Gas Pipelines Regulations and the Department of Petroleum Resources’ Guidelines and Procedures for Construction Operation and Maintenance of Oil and Gas Pipelines prescribe, at length, standards to be adhered to in the design, construction, operation, maintenance and upgrade of petroleum pipelines in Nigeria.


Other notable legislation includes the Mineral Oils (Safety) Regulations and the Environmental Impact Assessment Act.

What rules govern third-party access to pipelines and related infrastructure?

The Oil Pipelines Act provides for the grant of third-party access rights subject to ministerial approval. Any party that requires access to a pipeline can apply to the minister of petroleum, who considers such applications in consultation with the applicants and pipeline owners. Where satisfied that the pipeline can be operated efficiently, the minister will approve the application and the parties will agree conditions for use of the pipeline, failing which, the minister may determine such conditions.

Crude oil trading is primarily determined by contract. A joint operating agreement, or any other related agreement, prescribes the terms for the valuation, allocation, lifting and marketing of crude oil produced from a licensed area.

The sale of the Nigerian National Petroleum Corporation’s (NNPC) crude entitlements involves bids for crude oil sale and purchase term contracts by potential off-takers, which may be:

- refiners with retail outlets;
- trading subsidiaries of upstream companies operating in Nigeria;
- established large-volume crude traders; or
- indigenous companies engaged in the Nigerian downstream sector.

The NNPC sets pre-qualification requirements for prospective off-takers, including:

- the requirement to demonstrate significant annual turnover;
- the ability to establish significant lines of credit;
- compliance with the Nigerian Oil and Gas Industry Content Development Act; and
- commitment to develop other sectors of the economy.

The trading regime for gas in Nigeria is similar to the regime for crude oil, which is subject to domestic gas supply obligations imposed by the Ministry of Petroleum, pursuant to the National Domestic Gas Supply and Pricing Regulations. Operators are prohibited from exporting gas until they fulfil their domestic gas supply obligations.
Is oil and gas pricing regulated in your jurisdiction?

The price of the dominant Nigerian crude oil grade (Bonny Light) is benchmarked alongside other prominent marker crude oils, the price of which is determined by various factors, including:

- the global demand for crude oil;
- the cost of transportation; and
- the chemical characteristics of the crude oil.

The government, pursuant to the National Domestic Gas Supply and Pricing Policy, developed a gas pricing strategy for gas sales to the:

- strategic domestic sector (ie, the power sector);
- strategic industrial sector (ie, gas-based industries utilising gas as feedstock, such as fertilizer projects); and
- commercial sectors that use gas as fuel (eg, the cement and steel sectors).

The federal government revised the price of gas sold to the power sector to $2.5/million standard cubic feet with effect from January 1 2015.

Occupational health and safety and labour issues

What health and safety regulations and procedures apply to oil and gas operations (upstream, midstream and downstream)?

The Petroleum Act empowers the minister of petroleum to make regulations for safe working conditions and accident reporting and inquiries. Various regulations made pursuant to the act also establish health and safety provisions for operations in the petroleum sector.

The Mineral Oils (Safety) Regulations contain extensive provisions for handling and utilising equipment (including derricks, hooks for hoisting drill pipes, boilers and oil treaters and fuel storage tanks) in oil and gas operations. The regulations also provide that where there are lacunae in regulations on drilling, production and other operations necessary for the production and handling of crude oil and gas, such activities will conform with good oil field practice, pursuant to the prevailing Institute of Petroleum Safety codes, American Petroleum Institute codes and American Society of Mechanical Engineers codes.

Under the Petroleum (Drilling and Production) Regulations, licensees and lessees must maintain all apparatus and appliances used in their operations, boreholes and wells capable of producing petroleum in good repair and condition. Operations must also be conducted in a proper in accordance with methods and practices acceptable to the Department of Petroleum Resources as good oil field practice.

The Petroleum Refining Regulations provide for the health and safety of persons involved in petroleum refining operations. The regulations govern:

- the use of safety clothing and appliances;
- the provision of medical and first aid facilities; and
- the taking of precautions with dangerous parts of machinery and training of inexperienced workers.

The Petroleum Regulations deal primarily with downstream petroleum operations and prescribe safety standards for the transportation, storage, importation and handling of petroleum products.

The department has developed an offshore safety permit personnel accountability system to monitor health, safety and environment performance and ensure proper accountability of persons working offshore. It requires operators to obtain renewable annual offshore safety permits for all personnel operating in onshore and offshore locations, following the conclusion of basic safety and survival training for such personnel.
Are there any labour law provisions with specific relevance to the oil and gas industry (eg, with regard to use of native and foreign personnel)?

Labour Act and applicability of common law
Generally, there are two broad categories of employee in Nigeria. Under the Labour Act, 'workers' are defined as persons who perform manual or clerical work. Other employees who exercise administrative, executive, technical or professional functions are defined as 'non-workers'. Workers' terms of employment are governed by the Labour Act, while non-workers are subject to their respective employment contracts.

The Local Content Act requires an operator's Nigerian content plan to indicate how Nigerians will be given prior consideration for training and employment opportunities. The Nigerian Oil and Gas Industry Content Development Act also prescribes minimum Nigerian content thresholds, expressed as man-hour percentages, which must be deployed on certain projects. Further, operators must have a succession plan for expatriate positions and provide for Nigerians to understudy each expatriate worker with the aim of making the position available to Nigerian nationals. The Nigerian Oil and Gas Industry Content Development Act further provides that only Nigerians will be employed in junior and intermediary cadres of employment and that a maximum of 5% of management positions, as may be approved by the Nigerian Content Development and Monitoring Board, may be retained as expatriate positions to take care of investor interest.

The Petroleum Act requires oil mining lease holders to ensure that, within 10 years from the grant of the lease, the number of Nigerians employed in managerial, professional and supervisory grades is at least 75%, and that Nigerians in any category represent no less than 60% of the workforce. All skilled, semi-skilled and unskilled workers must be Nigerians.

The Petroleum (Drilling and Production) Regulations require licensees and lessees to submit a detailed programme for the recruitment and training of Nigerians for minister of petroleum approval.

Under Guidelines 1 of 2015 for the Release of Staff in the Nigerian Oil and Gas Industry, every employer must obtain ministerial consent before the release of any Nigerian national from employment, whether as a result of resignation, retirement or otherwise.

What is the state of collective bargaining/organised labour in your jurisdiction’s oil and gas industry?

In Nigeria, collective bargaining agreements entered into between employers and organised labour form part of each employee’s employment contract and are enforceable by the National Industrial Court of Nigeria.

Under the Nigerian Oil and Gas Industry Content Development Act, the requirement that an operator’s Nigerian content plan ensures that Nigerian nationals are considered first for training and employment opportunities must also be reflected in any collective bargaining agreements.

Environmental protection

What preliminary environmental authorisations are required before commencing oil and gas-related activities?

The Environmental Impact Assessment Act requires all project proponents that intend to embark on an activity which could impact the environment to prepare an environmental impact assessment report setting out the activity’s potential environmental impact and plans for preventing or mitigating this impact. Reports must be approved by the Federal
Ministry of Environment. The Environmental Guidelines and Standards for the Petroleum Industry in Nigeria also require operators embarking on petroleum projects to produce environmental impact assessment reports on their proposed activities for Department of Petroleum Resources approval.

Requirements

What environmental protection requirements apply to the operation of oil and gas facilities?

Under the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria, operators must obtain permits for all aspects of oil-related effluent discharges from all point sources (i.e., gaseous, liquid and solid) and oil-related project development.

In relation to gas operations, the Associated Gas Re-injection Act requires operators to obtain the minister of petroleum’s permission before flaring gas produced in association with oil.

The Oil and Gas Pipelines Regulations require a pipeline licensee to implement emergency plans to ensure prompt and remedial action for protecting the environment.

The Petroleum (Drilling and Production) Regulations require licensees and lessees to adopt precautions to prevent pollution and dispose of waste from petroleum operations in accordance with applicable regulations, as may be approved by the Department of Petroleum Resources.

Consequences

What are the consequences of failure to adhere to the relevant environmental regulations and to what extent can operators be held liable for environmental damage?

Some of the consequences for breaches of key environmental laws are as follows:

- Under the Oil in Navigable Waters Act, it is a finable offence for any person to discharge oil from a ship. It is also a criminal offence, punishable by life imprisonment under the Harmful Wastes (Special Criminal Provisions) Act, for any person to dump harmful waste in Nigerian territory. Any device used to commit the offence will also be forfeited to the government. Where the offence is committed by a corporate body, its officers could be found severally guilty of the offence.

- Any party that fails to comply with the provisions of the Environmental Impact Assessment Act is liable on conviction to:
  - a fine of N100,000 or five years’ imprisonment in the case of an individual; and
  - a fine of between N50,000 and N1,000,000 in the case of a corporation.

Under the National Oil Spill Detection and Response Agency Act, a party that fails to report an oil spillage to the National Oil Spill Detection and Response Agency within 24 hours is liable to a daily penalty of N500,000. Further, failure to clean up the impacted site can result in a penalty of N1,000,000.

The minister of petroleum has powers to revoke an authorisation for failure to comply with applicable laws, including environmental regulations. The Environmental Guidelines and Standards for the Petroleum Industry in Nigeria also impose fines for various environmental infractions and the obligation to pay compensation to affected persons and remediate any environmental damage.

In addition to applicable federal legislation, a number of Nigerian states have enacted environmental laws that impose penalties on erring operators.

Nigerian courts have also awarded special, exemplary and general damages in actions arising from environmental pollution. These actions are brought under the common law principles of the torts of nuisance, trespass, negligence and strict liability.
What taxes (direct and indirect) and/or royalties apply to oil and gas activities in your jurisdiction (including upstream, midstream and downstream activities)?

**Petroleum profits tax**
Exploration and production companies, by virtue of the Petroleum Profit Tax Act, are generally subject to petroleum profits tax at a rate of 85% of their chargeable profits, unless they engage in activities which are not “incidental to the winning or obtaining and transportation of petroleum or chargeable oil”. However, the Petroleum Profit Tax Act provides for a reduced tax rate of 65.75%, payable within the first five years of operations, allowing for the amortisation of all pre-production capitalised expenses.

Companies engaged in deep offshore operations, specifically under production sharing contracts, as defined in the Production Sharing Contracts Act, are taxed at the rate of 50% of their chargeable profits for the duration of their contracts.

**Companies income tax**
Profits of companies engaged in midstream and downstream activities are subject to tax under the Companies Income Tax Act, as amended, at a rate of 30%. Service contractors, such as drilling and engineering contractors, that do not fall within the ambit of “winning or obtaining and transportation of petroleum or chargeable oil” are also taxed in accordance with the act.

Other applicable taxes and levies include:

- a 2% education tax on assessable profits;
- a 3% Niger-Delta development levy on total annual profits; and
- a Nigerian content development levy of 1% on every contract sum awarded in the upstream sector, which is payable to the Nigerian Content Development Fund.

**Rents**
The following rents are payable to the federal government under the Petroleum (Drilling and Production) Regulations:

- N500 for each calendar year or part thereof in which an oil exploration licence is in force;
- $10 for each square mile or part thereof of an oil prospect licence; and
- $20 for each square kilometre or part thereof for a producing oil mining licence for the first 10 years and $15 for each square kilometre or part thereof until the expiration of the lease and on renewal.

**Royalties**
Royalties are levied at a percentage rate on the quantum of oil and gas produced and sold. The Petroleum (Drilling and Production) Regulations prescribe the following royalty rates for crude oil and casing-head petroleum spirit produced from oil prospecting licences and oil mining licences:

- 20% for onshore areas;
- 18.5% for areas up to 100 metres water depth (mwd);
- 16.5% for areas up to 200 mwd;
- 12.5% for areas between 201 to 500 mwd;
- 8% for areas between 501 to 800 mwd;
- 4% from areas between 801 to 1000 mwd; and
- 0% for areas in water depth beyond 1000 mwd.

With respect to upstream gas production, the holder of an oil prospecting licence or oil mining licence is required to pay royalties of 7% for onshore areas and 5% for offshore areas.

With respect to production from onshore production sharing contracts, the following royalties are applicable:

- 5% for production below 2,000 barrels per day (bpd);
- 7.5% for production between 2,000 and 5000 bpd;
- 15% for production between 5000 to 10,000 bpd; and
- 20% for production above 10,000 bpd.

With respect to production from offshore production sharing contracts of up to 100 mwd, the following royalties are applicable:

- 2.5% for production below 5,000 bpd;
- 7.5% for production between 5,000 and 10,000 bpd;
- 12.5% for production between 10,000 bpd and 15,000 bpd; and
- 18.5% for production above 15,000 bpd.
With respect to production from offshore production sharing contracts between water depths of 100 metres to 200 metres, the following royalties are applicable:

- 1.5% for production below 5,000 bpd;
- 3% for production between 5,000 and 10,000 bpd;
- 5% for production between 10,000 and 15,000 bpd;
- 10% for production between 15,000 and 25,000 bpd; and
- 16.67% for production above 25,000 bpd.

A different set of royalty rates, governed by the Production Sharing Contracts Act, is applicable to deep offshore and inland basin acreages:

- 12% for areas of 201 to 500 mwd;
- 8% for areas of 501 to 800 mwd;
- 4% for areas of 801 to 1,000 mwd;
- 0% for areas in excess of 1,000 mwd; and
- 10% for inland basins.

The Marginal Fields Operations (Fiscal Regime) Regulations specify the following royalty rates as applicable to marginal field operations:

- 2.5% for production below 5,000 bpd;
- 7.5% for production between 5000 and 10,000 bpd;
- 12.5% for production between 10,000 and 15,000 bpd; and
- 18.5% for production between 15,000 and 25,000 bpd.

**Imports and exports**

**What taxes and duties apply to oil and gas imports and exports?**

**Nigeria**

A Nigerian Export Supervision Scheme administrative charge of 0.15% of the free on board (FOB) value of the intended oil or gas export is payable by the exporter. However, importers of petroleum products pay an administrative charge of 1% of the FOB value of all imports.

Under the Common External Tariff scheme implemented by the Customs Service, importers of petroleum products pay between 0% and 10% of the relevant import’s value as import duty.

**Decommissioning**

**How is the decommissioning of oil and gas facilities regulated?**

**Nigeria**

The decommissioning of oil and gas facilities is regulated through legislation, applicable international conventions and contractual obligations on decommissioning.

Under the Petroleum (Drilling and Production) Regulations, operators must seek Department of Petroleum Resources permission before abandoning operations or resuming abandoned operations. A licensee or lessee must plug abandoned boreholes and wells securely and comply with a pre-approved abandonment programme in this regard. On licence termination, the relevant operator must deliver productive wells to the minister of petroleum, fill up excavations and restore surface areas to their original condition.

Under the Oil and Gas Pipelines Regulations, a licensee must also make an application to the department where it intends to discontinue the operation of, abandon or remove a pipeline. In the event of a removal, the licensee is required to develop a programme and restore the pipeline route to perfect condition.

The Environmental Guidelines and Standards for the Petroleum Industry in Nigeria, which – among other things – prescribe requirements for offshore decommissioning, are also relevant.
Nigeria is also a party to international conventions, some of which impose decommissioning obligations on the country with respect to installations and platforms located within the country’s exclusive economic zone and continental shelf.

Further, contracts involving the Nigerian National Petroleum Corporation – such as production sharing contracts with contractors, farm-out agreements regarding marginal fields and joint-operating agreements – also place decommissioning-related obligations on parties, including the requirement to maintain funds for such operations.

Dispute resolution

**How are oil and gas disputes typically resolved in your jurisdiction?**

*Nigeria*

Traditionally, oil and gas disputes are resolved by recourse to the courts. The Federal High Court, by virtue of the Constitution, has exclusive original jurisdiction regarding all disputes relating to mines and minerals (including oil fields, oil mining, geological surveys and gas).

However, oil and gas disputes are increasingly resolved via alternative dispute resolution, particularly arbitration. It is increasingly common for oil and gas contracts in Nigeria to contain dispute resolution clauses which provide that disputes shall be resolved by arbitration.

Notwithstanding the above, the Petroleum Act provides that where by any provision of the act or any regulations made pursuant to the act a dispute is to be settled by arbitration, it will be settled according to the law relating to arbitration in the appropriate state of the federation and the provision of law will be treated as a submission to arbitration.

Anti-corruption measures

**What regulations and procedures are in place to combat bribery, fraud, collusion and other dishonest practices in the oil and gas sector in your jurisdiction?**

*Nigeria*

Key legislation in this regard includes:

- the Corrupt Practices and Other Related Offences Act;
- the Criminal Code Act; and

The Corrupt Practices and Other Related Offences Act establishes the Independent Corrupt Practices Commission. The commission’s duties include receiving and investigating complaints from the public on allegations of corrupt practices and, where appropriate, the prosecution of offenders.

Similarly, the Economic and Financial Crimes Commission (Establishment) Act establishes the commission and vests it with the responsibility of investigating all offences relating to economic and financial crimes, including bribery, looting and any form of corrupt malpractice.

The Nigerian Extractive Industries Transparency Initiative, established pursuant to the Nigerian Extractive Industries Transparency Initiative Act, has the mandate to ensure transparency and accountability in the management of the country’s revenue from natural resources, including oil and gas.

In addition to the above, it is not unusual for oil and gas companies in Nigeria to have in place anti-bribery policies in place to govern their internal procedures and external interactions.

Law stated date
Please state the date of which the law stated here is accurate.

November 21 2016.