

LICENSING, CONTRACTS AND DISCLOSURES

Licensing and license allocations

Introduction

The Petroleum Act 1969 (as amended) allows for the provision of three types of licenses that permit a company to operate in the upstream sector of the oil and gas industry. An Oil Exploration License (OEL), Oil Prospecting License (OPL), and Oil Mining Lease (OML). In practice, only the OPL and OML are in use¹. The Ministry of Petroleum Resources, through the Department of Petroleum Resources (DPR) is empowered to administer licensing of oil blocks in the country.

An OPL gives its holder the exclusive right to explore for and develop oil and gas within a defined area while an OML gives its holder the exclusive right to explore for, develop and produce oil and gas within a defined area. An OPL is granted for a maximum of 5 years when granted over land and territorial waters. When granted over the continental shelf or an Exclusive Economic Zone, it is for a maximum period of 7 years. An OML is granted for a 20-year term but may be renewed upon written approval by the Minister.

¹ All OELs were converted to OPLs in the 1970s.

To apply for an OML, an OPL license holder will have had to find oil in commercial quantities and has also satisfied all the conditions attached to the OPL². Only companies incorporated in Nigeria are eligible to apply for either license.

Section 2 of the Act confers on the Minister for Petroleum Resources the power to grant licenses and provides general criteria for the assignment of licenses. However, it gives limited guidance on the licensing process. In the absence of statutory guidance, DPR issues guidelines for the conduct of licensing rounds. For details on guidelines issued by DPR in the licensing round (2007) including details of the application modalities, pre-qualification requirements, documentation to be provided, application fees payable, deadline for submission of bid documents and criteria for the evaluation of technical and commercial criteria (including weights)³. We are unable to establish details of any technical and financial criteria used for assessing license awards outside of the formal licensing process.

Either license can be revoked if any of the circumstances below occur;

² Holders of OPL must comply with the provisions of paragraphs 30 (b) and 31 of the Petroleum (Drilling and Production) Regulations of 1969 which states that; “within six (6) months of the date of grant of a license, drilling operation shall commence with a modern oil well drilling outfit and shall drill on the average of one (1) well each year commencing from second year and that an average of three wells shall be drilled through all the prospective zones in the relevant area to satisfy the minimum work obligations for an application for conversion of an OPL to OML”. In line with the Guidelines for acreage allocation, the following minimum work programme required in accordance with paragraph 30 (b) and 31 for the conversion of OPL to OML.

Terrain	Seismic coverage	Drilling
Inland	1,000 km	2 wells
Niger Delta	1,000 km	3 wells
Deep Offshore	4,000 km	2 wells

In accordance with the provisions of paragraphs 8 (b) and 9, Schedule 1 of the Petroleum Act No. 51, 1969, an OPL is required to be capable of producing a commercial quantity of at least 10,000 BOPD for inland basin and continental shelf OPLs and 25,000 BOPD for Deep Offshore OPLs before conversion to an OML.

In line with the provisions of paragraph 58 (c) of the Petroleum (Drilling and Production) (Amendment) Regulations 1996, a bank draft of \$ 500,000.00 per OML made payable to Federal Government of Nigeria (DPR Fees Accounts) must be attached to the application.

³ [Guidance Notes for 2007 Licensing Round](#)

- a) At the expiration of the block, the operator fails to operate the block in line with what is stipulated in the relevant Petroleum laws and Regulations.
- b) The operator fails to meet the stipulated minimum work programme for the conversion of the OPL to OML in the case OPL blocks.

There are no provisions for the renewal of an OPL in the petroleum laws. However, OML blocks can be renewed for another term of 20 years upon payment of the relevant statutory fees provided the blocks justify the need for the renewal. Holders of OPLs are required to relinquish 50% of the block at conversion to OML. The relinquished portion is returned to the Government. Similarly, holders of OMLs are required to relinquish 50% of the lease ten (10) years after conversion to OML.

Abandoned or unproductive fields in lease areas covered by OMLs are farmed-out to independent leaseholders and indigenous companies periodically as Marginal Fields through a similar competitive licensing round⁴.

Divestment or transfer of assets

Under the Petroleum Act (section 14, 35 (2c)), a holder of a license or a lease granted under the Petroleum Act is prohibited from transferring such license or lease or any right, power or interest in the same without the consent of the Minister and the payment of the prescribed fee or premium.

The consent of the Minister is granted when he is satisfied that;

- a) The proposed assignee is of good reputation or a member of companies of good reputation or is owned by a company or companies of good reputation;

⁴ [Guidelines Marginal Fields Specifics Requirements](#)

- b) There will be available to the proposed assignee sufficient technical knowledge, experience and sufficient financial resources to effectively carry out a programme satisfactory to the Minister in respect of the operations under the lease; and
- c) The proposed assignee is in all other respects acceptable to the government. Such transfer will attract the payment of stamp duty, which is assessable on the basis of the amount of consideration involved. The duty is payable directly to the Federal Inland Revenue Service. There is no capital gains tax payable on the transfer of an interest.

Open blocks in 2015

The table below shows the total number of allocated and open blocks in Nigeria in 2015. This does not include blocks in the joint development zone operated by Nigeria and Sao Tome & Principe.

Table 1: Allocated and open blocks in 2015

S/N	Basin/Terrain	Allocated	Open	Total number of blocks
1	Niger Delta and Benin (Deep offshore)	40	54	94
2	Niger Delta (Continental Shelf)	55	6	61
3	Niger Delta (Onshore)	71	5	76
4	Anambra (Inland) Basin	7	12	19
5	Benin (Inland) Basin	3	6	9
6	Chad (Inland) Basin	7	39	46
7	Benue (Inland) Basin	2	41	43
8	Sokoto (Inland) Basin	0	28	28
9	Bida (Inland) Basin	0	17	17
	Total	185	208	393

Source: DPR 2015 Oil and Gas Annual Report⁵

⁵ [Oil & Gas Industry Annual Reports \(OGIAR\)](#)

Reform in the licensing process

The last licensing round was conducted in 2007. The licensing rounds of 2005, 2006 and 2007 were fraught with complaints of irregularities⁶. Since then, DPR has prepared for a licensing round to hold in 2013 and is preparing for another potentially in 2018. The Department has indicated that the next licensing round will be conducted electronically to enhance transparency and due process.

Licensing in the JDZ between Nigeria and Sao Tome and Principe

Nigeria maintains a Joint Development Zone (JDZ) with São Tomé and Príncipe, managed by a multinational Joint Development Authority. The Nigeria-Sao Tome and Principe Joint Development Authority (NSTPJDA) is responsible for managing the activities relating to exploration and production of resources in the Zone. One production sharing contract was signed by the Authority in 2015. However, the information we gathered was not sufficient for us to establish the technical and financial criteria that was used to evaluate the awardees. We were also unable to determine the precise procedure that was followed in the license award.

License ownership in 2015

Data from DPR populated templates shows that there were 65 OPLs and 99 OMLs held in 2015. Ownership of licenses was by one or more entities. The list of existing OMLs, OPLs, equity holders, and type of commercial arrangements, effective date of subsisting ownership and other field data are contained in⁷.

⁶ [Federal Government will hold an oil licensing bid round this year - DPR](#)

⁷ [OPL and OML Data 2015](#)

The data shows further that while there were no new licenses issued in the year, there is evidence of payments made by companies as premium for license renewals and signature bonus. See Section 8.10 of main report for more details.

In September 2017, the Nigerian Government announced a new set of guidelines for a marginal field bid round scheduled to take place later this year or early 2018. 46 oil acreages will be available for indigenous investors⁸.

Register of licenses

DPR publishes a 2D map⁹ showing all concession areas and leases in the country. It provides contact information to the public for purchase of map for a token fee¹⁰. It also displays a map of Marginal Fields on its website¹¹ including information such as name of marginal field operator and its equity partners, their % interest, license number, terrain and status of production. We are however unable to get information from DPR on coordinates of license areas and dates of application¹². However, a private initiative by individuals seeking to aggregate information for Nigeria's oil and gas sector run a platform where coordinates of license areas can be retrieved. This information is on a publicly available website http://oilmapng.com/discover_page.php.

We are unable to independently source dates of application of license areas. A civil society organization also provides a publicly accessible website designed to track gas flares through satellite data. This application also displays concession areas in

⁸ [FG Sets Bid Round Guidelines for Award of 46 Marginal Oil Fields](#)

⁹ [Concessions & Leases](#)

¹⁰ NEITI has attempted to purchase map through this platform without success

¹¹ [Map Of Marginal Fields](#), [List Of Awarded Marginal Fields](#)

¹² This is after requesting for same information via data gathering templates and correspondences to DPR

Nigeria super imposed on a map of Nigeria and highlights information such as license area, basin, terrain, operator, date of award and status of operation.

Click on link to view website [Gas Flare Tracker](#).

Overview of Operating Contracts Disclosure in the Nigerian Oil and Gas Industry

There is no government policy on contract disclosure in the Nigerian Oil & Gas Industry. NEITI contacted the Department of Petroleum Resources (DPR) on information about government policy on contract disclosure and the response by DPR reaffirmed there was no known government policy on contract disclosure. See correspondence here [FW Contract Transparency in the Oil and Gas Industry](#).

However, there are publicly available contracts by private initiatives which are available on the [Resource Contracts website](#) and [Open Oil](#) for contracts in Nigeria.

In alignment with the anti-corruption stance of the administration, President Muhammadu Buhari made a number of commitments at the May 2016 London Anti-Corruption Summit. These commitments under the Open Government Partnership (OGP) included the fiscal transparency on contract disclosure. The progress made on this is evident in the thematic area of commitment two of the fiscal transparency section (item 2) of the OGP Nigeria National Action plan (2017-2019) which states that “there would be a full implementation of [Open contracting and adoption of Open contracting data standards in the public sector](#).”

The 2015 NEITI Oil & Gas report therefore sought for the completion of contract data templates and full text of actual contract documents as part of the EITI requirements for implementing countries to publicly disclose Contracts and Licenses that provide the terms attached to the exploitation of Oil and Gas.

54 upstream companies were covered in the audit. 45 of them completed the field legal contract templates showing type of commercial arrangements, shareholding structure between companies in the arrangement, OPL/OML number and date granted. See details in summarized table here [field legal contract data as completed by companies](#).

The operating contracts in the Nigeria oil and gas industry are classified into Joint Venture Agreements (JVs), Production Sharing Contracts (PSCs), the Service Contracts (SCs), Farm-out agreements and the Modified Carry Agreements (MCAs). The Department of Petroleum Resources (DPR), which is responsible for the issuance and regulation of licenses, also has the complete listings of licenses and the type of contractual arrangements. The NNPC usually signs the agreement on behalf of the Federation and has copies of the agreements entered into on behalf of the Federation. Details of contracts and licenses provided by DPR are contained in [OPL and OML Data 2015](#).