RESOURCE JUSTICE NETWORK

budgIT

Policy Brief

Strengthening the Decommissioning and Abandonment Framework in Nigeria's Oil and Gas Sector

Background and Rationale

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Background and Rationale

Nigeria's upstream oil and gas sector is characterised by maturing fields, legacy infrastructure, and ongoing divestments from international oil companies (IOCs) to indigenous operators. With many assets approaching the end of their economic life, the obligation to safely retire wells, platforms, pipelines and other installations has become ever more pressing. Added to this are existing and emerging energy transition policies that significantly influence divestments and potentially limit future oil and gas investments.

Under the Petroleum Industry Act 2021 (PIA), specifically Sections 232–233, each licence or lease-holder is required to decommission and abandon petroleum operations "in accordance with good international petroleum industry practice." The law further mandates the establishment of a dedicated Decommissioning and Abandonment (D&A) fund (often via escrow account) managed by a third-party financial institution and accessible by the regulator. Further to this, the Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations, 2023 and its amendments aim to ensure the country is not left with heavy environmental and infrastructural liabilities.

More so, proper enforcement of D&A regulations can help protect communities in oil-producing regions, particularly those often left to deal with the social, environmental, health, and economic consequences of abandoned oil and gas infrastructure. Moreover, as the world gradually moves away from fossil fuels, it is pertinent that Nigeria's energy transition plans comprehensively capture all costs and benefits associated with existing and potential oil and gas investments. As stated by the commission, "without robust mechanisms, Nigeria risks inheriting significant environmental liabilities, stranded assets, and social/community harm, as seen in other jurisdictions where decommissioning costs have soared". (NUPRC)

Recent disclosures by the NUPRC show that since April 2023, the regulator has approved 94 Decommissioning and Abandonment plans totalling approximately US$4.42 billion in liabilities, to be remitted progressively over the life of the fields into designated escrow accounts. Meanwhile, more than US$400 million in pre-sale liabilities have been secured through letters of credit and escrow arrangements.

Key Legal and Regulatory Framework for Decommissioning and Abandonment

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Key Legal and Regulatory Framework for Decommissioning and Abandonment

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Obligation to Decommission and Abandon (Sections 232 and 233 PIA):

- Every licence/lease holder must conduct decommissioning and abandonment of wells, installations, structures, utilities, pipelines, and plants in line with good international practice, and primary responsibility lies with the operator (lessee/licence-holder)

B

Decommissioning and Abandonment Fund/ Escrow (Section 233 PIA and regulations)

- A fund must be set up and maintained by the licence/lease holder in the form of an escrow account with a financial institution not affiliated with the lessee.
- The fund is to be used exclusively for decommissioning and abandonment costs; if the operator fails to implement the plan, the regulator may access the fund to engage a third-party to perform the obligations.
- The Upstream Decommissioning and Abandonment Regulations (and draft amendments) set timelines for contributions, designate acceptable financial institutions and escrow mechanisms.

C

Field Development Plans (FDPs) include D&A plans

- In submission of an FDP (or equivalent), operators must include a decommissioning & abandonment plan and an estimate of liability.

D

Divestments and transfers: regulatory scrutiny

- For transfers of upstream assets, the acquiring entity must demonstrate technical and financial capacity, and decommissioning liabilities must be secured via escrow or letters of credit before approval

Challenges & Gaps

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Challenges & Gaps

1. **Full Compliance Monitoring:** NUPRC has collected information on large liabilities, transparency into individual operator fund balances, and escrow account domiciliation, but whether every licence holder has complied remains limited.

2. **Asset Divestment Risks:** When IOCs divest, liabilities may be transferred to weaker entities or decay into orphan assets. As indicated in a 2024 Somo report, concerns persist about legacy pollution and funds.

3. **Host-Community and Environmental Restoration:** The D&A fund addresses asset retirement, but related obligations (host-community development and environmental remediation) require further enforcement.

4. **Escrow Domiciliation and Financial Institution Capacity:** Amendments to the regulations change the permissible domiciliation of funds (allowing Nigerian FIs), which may help local anchoring; however, funds are mandated to be domiciled in USD.

5. **Lifecycle Cost Estimation and Actuarial Accuracy:** Estimating long-term decommissioning costs is complex; any material under-estimation could impose a future burden on the state.

Recommendations for Strengthening Compliance

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1. **Regulator-maintained Public Registry:** NUPRC should publish (or require disclosure of) a register of all licence/lease holders with status of D&A plans, compliance, escrow fund amounts, and monitor contributions to enhance transparency and public accountability.

2. **Mandatory Independent Audit and Verification:** Annual verification of the D&A fund by a third-party auditor, with findings submitted to the regulator and host communities. The Nigeria Extractive Industry Transparency Initiative (NEITI) can help fill this gap by including details of the D&A fund in its annual audit reports.

3. **Link Host-community and Environmental Remediation Obligations to D&A Fund:** Ensure that remediation and community trust obligations are factored into the D&A plan and fund contribution rather than handled separately.

4. **Stakeholder Engagement and Community Representation:** Allow public access to D&A plans. Host communities should have access to information about decommissioning plans and funds, and should be involved in oversight to build trust and reduce conflict. This also allows host communities and other stakeholders to verify that such plans integrate ecosystem restoration (including soil recovery, reforestation, and mangrove planting).

5. **Capacity Building and Institutional Strengthening:** Enhance NUPRC's monitoring capacity and financial and technical expertise to evaluate estimates, asset life-extension, and decommissioning cost modelling.

6. **Periodic Review of Cost Estimates and Fund Adequacy:** Require operators to revise decommissioning cost estimates every 5 years (or sooner) to account for inflation, changing technology, and environmental liabilities.

7. **Encourage Pre-funding rather than 'pay-as-you-go':** While the law allows contributions over the lifecycle of an asset, where practical, accelerate contributions into D&A funds so that the funds accumulate ahead of major retirement events.

8. **Sanctions for Non-compliance:** Penalties, enforcement of fund draw-down, and possible suspension of licences if obligations are ignored; regulators should make consequences clear and enforceable.

Conclusion

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Conclusion

For Nigeria to safeguard its oil and gas sector from future financial and environmental burdens, effective compliance with decommissioning and abandonment fund requirements is essential. The legal framework under the PIA provides a strong foundation, and recent actions by the NUPRC (approving D&A plans, securing escrow funding) are commendable.
Gaps in transparency, institutional capacity, monitoring, and community engagement are readily surmountable through the commission's action and collaboration with the civil society community, media, and host communities. By implementing the recommendations above, Nigeria can align with international best practice, protect host communities and the environment, and ensure that the costs of oil-asset retirement are adequately managed.

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